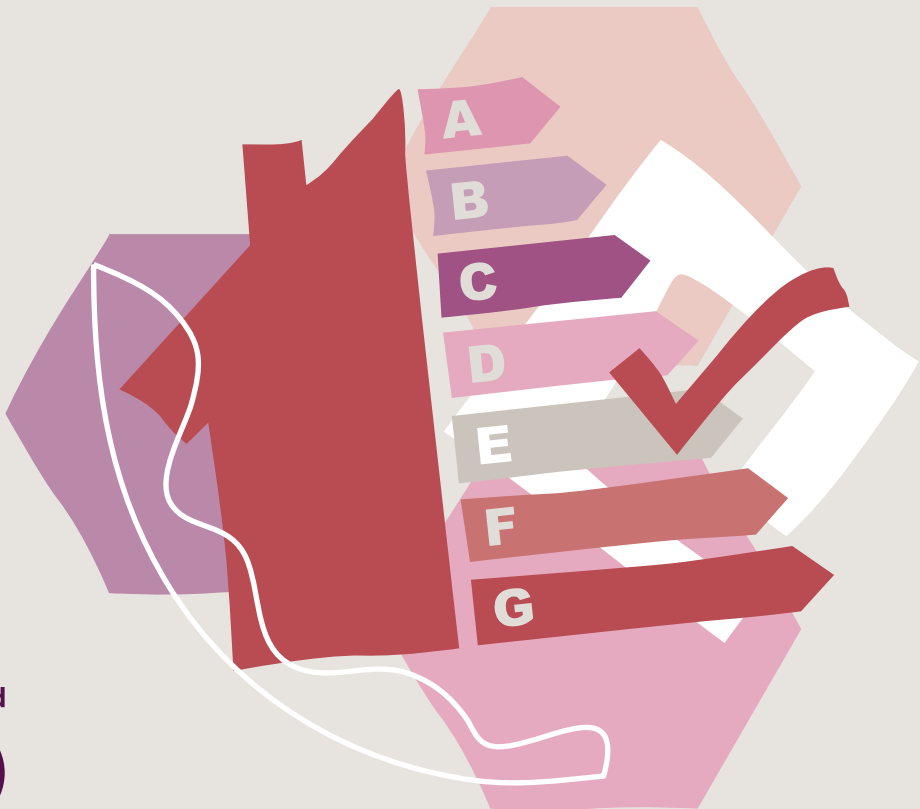


IMPACT REAL ESTATE

Embracing the change in the
Minimum Energy Efficiency
Standard (“MEES”)



Certified



Corporation

Introduction

The next deadline under the MEES Regulations is 1 April 2023. While many articles outline the penalties of not meeting the new standard, we like to see the changes as an opportunity for landlords to accelerate their sustainability strategy and ultimately create long-term positive impact for their tenants as well as the value of their property.

We explore the current situation, the requirement from 1 April 2023, what landlords and tenants should do in preparation and how both parties can work together to create a “win-win” situation for themselves and the planet.



Current and upcoming deadline: the basics

The current minimum requirement for landlords is that their properties must have an EPC rating of E or higher. This requirement applies on any grant, renewal or extension of a lease.

From 1 April 2023, this minimum requirement will apply to all existing leases as well. Landlords of commercial properties will not be able to continue to let out properties where the EPC rating is F or lower. If they continue to do so, they leave themselves open to penalties, though it is important to note that the leases remain valid and in force.

There are **six exemptions** available to commercial landlords which must be registered on the PRS Exemptions Register. These are limited in scope and often provide only temporary relief.



What should landlords do now to embrace the new standard?

- **Carry out an appraisal of their property portfolio.** Check current EPCs and carry out an energy assessment to see whether they are still correct. See if any exemptions apply?
- **Consider what alterations can be made with the short-term focus on straightforward “quick fixes”** e.g. using energy-efficient lighting, installing double-glazing and monitoring heating and air-conditioning systems. If any tenants are going through fit outs or refurbishment, this is an opportunity to see whether improvements can be incorporated.
- **Check the terms of tenants’ leases.** Are there rights to carry out energy efficient works to the tenant’s property, and if so are the costs recoverable via the service charge? Each lease is different but be mindful that the cost of improvements are not generally recoverable through the service charge.
- **Investigate if funding is available.**

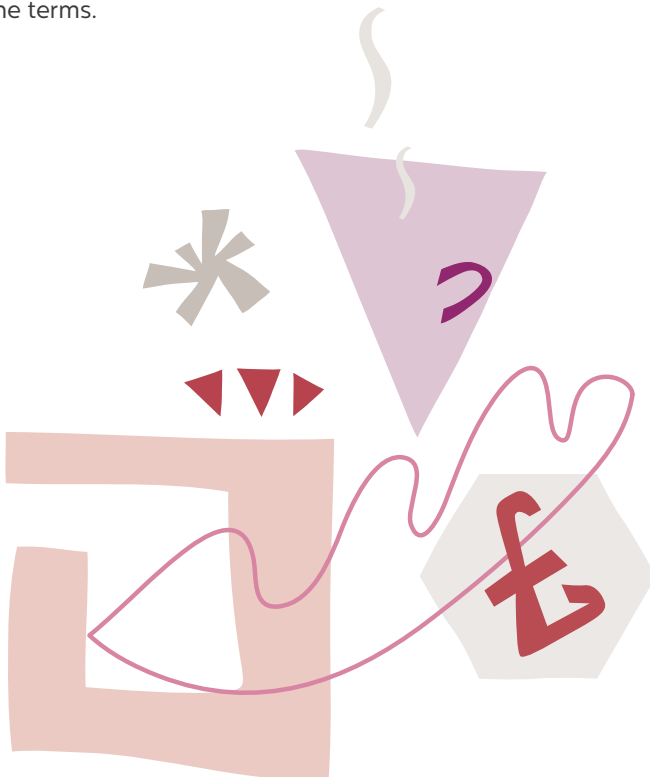
Our Stepping stones to sustainability guide outlines how to improve the sustainability of your real estate in just 5 steps



How can tenants work with their landlord to lower their energy costs?

The MEES regulations mostly affect landlords, but tenants would be wise to check their lease to see whether the landlord can recover the costs of any related alterations through the service charge or require the tenant to carry out such work. Once again, each lease is different so seek help if you are unsure on the terms.

Any tenants going through a fit-out or refurbishment should aim for alterations to be as energy efficient as possible – this benefits both the tenant and the landlord.



Improved sustainability can be a win-win for landlords and tenants

Initially it seems that landlords and tenants are on opposite sides of the coin – landlords must upgrade their properties which costs money otherwise they will face penalties and tenants do not want to bear the costs. A stalemate. However, there are various factors at play which suggest landlords and tenants should be working together:

- A more energy efficient building helps both parties reach **net zero**
- It's more likely both parties will have increased **reporting requirements** in the future (at the moment these are limited to large companies, but this is changing)
- A more **energy efficient** building is cheaper to run and occupy, **addressing the challenges of the cost of living crisis.**

Landlords can incentivise tenants to instal energy efficient measures.

Ways to do this include:

- **Contributing towards the cost** when tenants are carrying out works
- **Providing loans**, e.g. interest free or low interest loans
- Other forms of initiatives such as a **lower service charge**
- Work with the tenants to agree on a planned preventative maintenance programme to help **manage and spread the cost** of any required works.

In doing this the landlord will gain a more energy efficient property, the property will become more attractive and marketable and will in turn command higher rents. The tenant will have lower energy costs. The energy efficient works will also enable both parties to advance all aspects of their ESG agenda.



A greener future

The MEES regulations don't stop with the 1 April 2023 deadline. There are government proposals suggesting that the minimum EPC rating for commercial properties will be C or higher from 1 April 2027 and B or higher from 1 April 2030. Start your discussions now so all parties, including the planet, can benefit from energy efficient and sustainable properties which can be taken into the net-zero future.

The Real Estate team at Bates Wells are skilled at supporting businesses in making practical changes to reduce and monitor carbon emissions and to manage and occupy their premises in a more sustainable way. As the first law firm in the UK to certify as a B Corp, we bring first-hand insight and experience to our legal advice.

We review titles and any lease documentation and can flag any restrictions that could impact on making changes to the premises, or where particular consents could

be required with a focus on environmental requirements. Our Real Estate Disputes team is on hand to provide strategic advice on how to vacate your property in a more sustainable way with more of a focus on applying the principles of the circular economy to the dilapidations process.

Regardless of what stage you are at in the life cycle of property, we're ready to review your options through a sustainable, climate-conscious lens and to advise on planning and implementing a sustainable property strategy fit for the future. Get in touch today to find out how we can help you.

Contacts:



Jamie Huard
Partner, Real Estate

E: j.huard@bateswells.co.uk
T: 020 7551 7866



Will Scott
Head of Real Estate Disputes

E: w.scott@bateswells.co.uk
T: 020 7551 7855



Making a profit is core to all businesses but our goal is to combine this with a real social purpose. Our values are pivotal to us, they shape our decisions and the way we live and work.

We focus on positive social impact as much as we focus on being a successful law firm. Our top tier legal advice is coupled with a real desire to drive change and we were the first UK law firm to achieve B Corp certification, awarded to businesses that balance purpose and profit.

Today, our clients are diverse – from corporate household names, to public bodies, to start-ups. We're also the firm of choice for thousands of charities and social enterprises. We continue to lead the market we helped to shape.

Bates Wells challenges what is possible in legal expertise delivery.

Get in touch:

+44(0)20 7551 7777

hello@bateswells.co.uk



www.bateswells.co.uk