

ENERGY EFFICIENCY REGULATIONS

As many of you will have seen in the press, new regulations are coming into force on 1 April 2018 that will make it illegal to let a private rented property to a new tenant if the energy performance certificate (EPC) has a rating of F or G. The new regulations are the MEES Regulations (Minimum Energy Efficiency Standard) which originate from the Energy Act 2011 and which contained the previous government's package of energy efficiency policies.

The banding of EPCs is rated from A to G with F and G being the worst performing. After the changes this April the next stage of the program comes into force on 1 April 2020 when it will be illegal to let a private rented property to an existing tenant with an F or G rated EPC. The final part is for all non-domestic leases which will need to have an EPC rating of E or above by 1 April 2023.

This clearly has considerable implications for a farm or estate which has a number of residential or commercial let properties. However, before you start worrying about the cost implications of new boilers or loft insulation, there are circumstances where an EPC may not be required. These include temporary buildings, non-residential industrial and agricultural buildings with a low energy demand, stand-alone buildings of less than 50m² and residential buildings that are used for less than four months a year. With regards to listed buildings, it is a popular misconception that all listed buildings do not require an EPC. This is only the case where the character or appearance of the property

would be altered by compliance with the requirements, eg replacement glazing or solar panel installations.

Most standard Assured Shorthold Tenancies (ASTs) will fall under the new regulations. A landlord must therefore make improvements to the property which are deemed 'relevant energy efficiency improvements' to improve the standard, or apply for an exemption certificate.

Improvements can be made through so called 'no cost' funding through arrangements such as the Energy Company Obligations (ECO) funding, where the improvements can be wholly financed 'at no cost to the landlord'.

However, the Department of Business Energy and Industrial Strategy has published yet another consultation on further amendments to the MEES Regulations and this consultation ran until 13 March 2018. The main proposed amendments are removing the 'no cost to the landlord' element and introducing a landlord funding contribution where a landlord is unable to obtain suitable 'no cost' funding. In other words, landlords will be expected to contribute some of their own money to improving the energy efficiency of their properties. At the same time the government is planning to introduce a limit on the amount any landlord would need to invest in an individual property and a cap of £2,500 per property (inclusive of VAT), is proposed.

A lot of substandard properties are likely to require less than £2,500 of investment to meet the minimum standard but for some, the level of investment needed may be significant and it will be then that the cap will

come into force. For example, if a property requires £4,000 of investment to improve the property to an E rated EPC, under the proposals the landlord would be only expected to spend up to the cap of £2,500. Whether or not the property achieves an E rating, the property would be deemed to be compliant with the regulations.

It is also worth noting that any funding the landlord can obtain will count towards the cost cap. For example, if a landlord can obtain £1,500 through funding, they would only be expected to pay £1,000 to reach the cost cap.

In summary, landlords are not being asked by the government to spend £2,500 on each of their F or G rated properties, but to improve the EPC ratings of these properties, and to do so as cost effectively as possible. For those properties which require significant expenditure, the government is proposing to cap spending at £2,500 per property.

At the time of writing, the consultation period is still running so it will be interesting to see what decisions are taken, particularly given the new regulations are due to come into force only a couple of weeks later on 1 April. Given the rather tortuous process to date with these new regulations, there is a certain irony that they come into force on April Fool's Day.

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