

# The path to greater efficiency

Energy efficiency ratings are set to increase. Ben Strange offers practical guidance to landlords and investors on how to achieve a B rating

The Minimum Energy Efficiency Standards (MEES) regulations are currently set to hit the UK commercial leasehold property market hard and, rightfully, many stakeholders are turning their attention to the question of: "How can we get all of our properties up to a 'B' rating?"

## Dates for the diary

As it stands, the regulations mean that:

1. Since 1 April 2018, it has been unlawful to grant a new lease, a renewal lease or lease extension of a property which has an EPC rating of F or G (a "sub-standard property");
2. From 1 April 2023, it will be unlawful to allow a lease of a sub-standard property (which may otherwise have been lawfully granted prior to 1 April 2018) to continue.

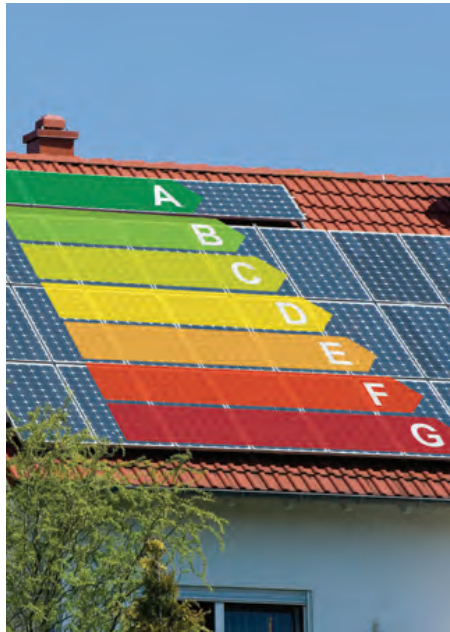
Looking further ahead, the UK government's Energy white paper (December 2020) confirmed the minimum standard under MEES is to become an EPC rating of B by 2030. There has since been consultation around the trajectory to successfully achieve this, with the clearest current proposal of an interim step of C in 2027.

There remains, however, the suggestion that there will be a further interim measure of raising the minimum standard to D in 2025, and that this will fall concurrently with a compliance window whereby all properties with ongoing leases will be required to hold a valid EPC (this currently not being the case and instead EPCs only needing to be valid for construction, sales or new leases).

The conjecture around the matter has only grown since COP26, and most recently there has been the suggestion that the next measure – from 2025 – will be that only B-rated properties will be able to be freely transacted, and that any properties sold or let from that time with a rating poorer than B will require the landlord or new owner (through sale) to instigate an action plan to improve the rating to B within two years or secure an exemption.

## Steps to consider

The proposal of the minimum standard being B in 2030 is a significant concern; the suggestion of this effectively coming into force in 2025 will draw immediately into focus the need for all stakeholders to



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fast-track plans to improve their buildings.

Here we set out an outline for how to address this:

1. **Audit:** Portfolio lists/schedules need to include EPC ratings and their expiry dates; with this information, alongside other property data such as size, property age and lease data, an initial strategy can be put in place to set out which properties need prioritising for further action.
2. **Baseline:** EPC ratings can be subject to significant change through seemingly innocuous factors, including a tenant's fit-out, better building documentation being provided, an existing EPC having been carried out several years prior, or a previous EPC simply being poorly prepared. Therefore, it is imperative that an existing EPC is completely accurate before using it as your baseline and acting on it (ie considering improvement measures).
3. **Context:** Several factors can affect the urgency with which you should consider addressing a property's EPC rating. For example, if there is a lease end on the horizon, before looking at improvements, you should consider whether the rating may improve through the tenant removing their fit-out (or whether it is only poor because of the fit-out). Similarly, if an existing EPC is due to expire, it may not be in your interests to immediately lodge another rating (you may be unnecessarily putting yourself prematurely in breach of MEES).

**4. Draft:** Obtaining accurate advice on the current EPC position is now critical; this does not mean that you have to lodge a new EPC. Find a competent professional able to undertake an EPC in draft only – this does not have to be lodged. If it is suitably accurate, you can then use it to inform next steps.

**5. Enhancements:** Do not rely on a "recommendation report" to guide on required improvements; this is a report automatically generated by EPC software, which does not consider practicalities of measures proposed. It also does not guide on what outcome rating may be achieved by undertaking such works. Instead, a reputable professional should be engaged to provide a report to propose practical improvement measures (or package of measures) and advise on what outcome rating those measures will achieve in order that certainty can be gained before expenditure is considered.

**6. Finance:** Where expense on improvements is unavoidable, seek out means of sharing or recovering that expenditure. It may be that a tenant is bound or willing to contribute; equally there may be funding schemes available for certain improvement measures. For those UK tax paying entities, your accountant should be consulted over your ability to write off related expenditure as capital allowances.

## Cause for optimism

Amid the concern among investors and landlords, there is cause for hope. Later this year it is proposed that means of EPC assessment will change to take account of the "carbon factor of electricity".

This is essentially a measure of how much CO<sub>2</sub> is apportioned to the production of grid-supplied electricity. The current level assumed in EPC assessments has not been changed in nearly 10 years, during which period the reported actual level of carbon generated per kWh in the grid has reduced sharply.

The result of this change being reflected in EPC assessment (as proposed) will be significant and – for those properties largely or wholly reliant on electrical supply as opposed to fossil fuels – will result in significant rating improvements simply through EPC reassessment.

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