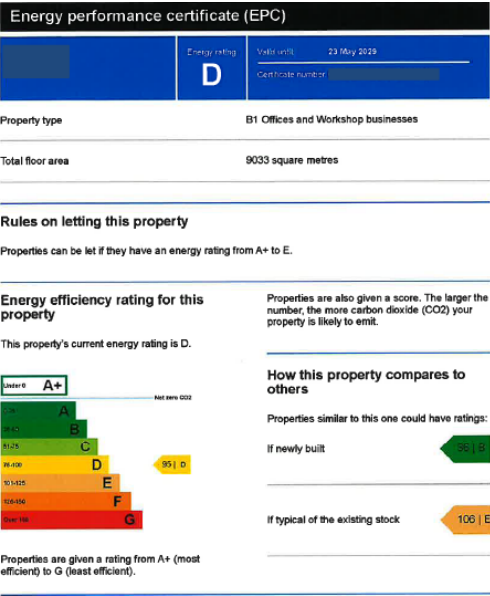


Landlord's Energy Efficiency-'E' Rating

In helping to meet the Government's target of net-zero by 2050, **on or after 1 April 2023**, a landlord of a commercial property must not continue to let a property with an EPC below an 'E' rating (sub-standard). Unless an exemption has been registered, **new Minimum Energy Efficiency Standards (MEES)** Regulations apply to all landlords of non-domestic properties in England & Wales. This does not affect any security of tenure under the Landlord and Tenant Act 1954.



Applies to **all existing** commercial leases and **new leases** from 1 April 2023

Letting for a term of more than six months and less than 99 years?

Non-exempt, must comply

EPC Rating of 'E' or higher required by 1 April 2023

Look to the future it is proposed that it will be a minimum EPC rating of 'C' by 2027, rising to a 'B' or higher by 2030

Landlord Strategies

- EPCs have a lifespan of 10 years. Consider risk mitigation through planned EPC assessment ahead of legislative requirements coordinated with works programme and lease events.
- Voluntary re-certification at least every 5 years to assist in risk mitigation around stricter EPC assessment methodology (noting the risk if the EPC is recertified at a lower rating).
- Using Green Clauses in order to reserve rights to allow for the works needed to bring a building up to standard, ensure cost recovery via service charge and in Rent review negotiations.
- Negotiate a tenant obligation to carry out the upgrade works, at renewal or a reversionary lease.

Exemptions

NB: Any exemptions must be registered, they last for up to 5 years and an exemption does not transfer on a sale

- Consent exemption:** unable to obtain third-party consent
- Devaluation exemption:** installed measures would reduce the asset's market value by more than 5%
- 7-year payback exemption:** cost of a recommended measure does not meet the 7-year payback test
- All improvements made exemption:** all relevant energy efficiency improvements for the property have been made
- Wall insulation exemption:** certain installations are not suitable for modifications
- The Temporary 'Unexpected Landlord'** due to recently becoming a landlord under certain circumstances. – * this *only last for six months*).

Consequences

- Enforcement is the responsibility of the local councils, there has been a real mix of enforcement around the country.
- Penalties for letting a sub-standard property range from 10% to 20% of its rateable value (depending on how long the breach has subsisted), this is subject to a maximum cap per property, and per breach of the Regulations of £10,000 or 20% of the rateable value with a maximum penalty of £150,000
- Non-compliance is also published on a public register, exposing the breach and opening landlords to potential reputational consequences.

Tenant Considerations

- Can the tenant continue to trade without interruption whilst energy efficiency works are carried out?
- Check that historic EPCs, or those carried out where building was shell and core, is still accurate. Likely it may have increased if tenant fit out works have been carried out.
- Will it accept obligations to carry out energy efficiency works in exchange for rent or other concessions?

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