
PEPA Minimum Energy Efficiency Standards Exemptions Guidance
(Domestic & Non Domestic Properties in E&W)

2020 Edition

Document Control

Change History

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Approval History

Name	Role	Organisations	Date	Version
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Distribution List

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Code	Reason For Issue:
-	Not issued.
I	For information only – no action required.
R	For review – comments to be directed to the Project Manager.
S	For sign-off approval.
A	Approved for issue (electronic approval via e-mail or meeting minutes)

Property Energy Professional Association –

Minimum Energy Efficiency Standards Exemptions Guidance for domestic and non-domestic properties (E&W)

This document outlines guidance for PEPA members to clarify the Exemptions requirements for the Minimum Energy Efficiency Standards (MEES), Private Rental Properties (PRS) Regulations in England and Wales.

This document has been written by the management of PEPA (the Scheme Owner) for the use of EPBR Accreditation Bodies (The Scheme Operators) that are members of PEPA.

Ownership

This document is managed by PEPA, who may use a Working Group to manage it moving forward.

PEPA will:

- Review the guidance document and consider any updates that may be required, and
- Any working group will be made up of all Certification Schemes representatives and if necessary invite any external experts to help contribute.

Oversight

The working group will provide management oversight for the Guidance document. The PEPA board will be stakeholders in the overseeing of the document.

All proposed changes to the Guidance Document will be clearly flagged and highlighted to the board of PEPA. The working group will apply version control and effective go live dates to the document; this is to ensure that all stakeholders are always aware of the latest version.

Definitions:

Minimum Energy Efficiency Standards (MEES) is a Band on an EPC and over time the Government have stated that the band will get progressive better e.g.E, D, then C etc.

Private Rental Sector (PRS) is a term used to cover private rented properties

Exemptions are allowed from the Regulations, only for a specific number of reasons, which are detailed in Government guidance and in this standards document

The Client, from an energy assessors perspective this will normally be the Landlord

Energy Performance Certificates (EPCs) are legal documents required for the sale, rent or construction of buildings.

The Landlord, is the person who owns the property and whom the exemption is assigned to in the Regulations, not the property. The landlord or their appointed agent is permitted to register a property for an exemption.

Background:

Since c2007, accredited energy assessors have been creating Energy Performance Certificates (EPCs) for domestic and non-domestic rental properties to fulfil the European Performance of Buildings Regulations (EPBR).

In 2015 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 established a minimum level of energy efficiency for privately rented property in England and Wales. These regulations came into force on 1st April 2018. The government have stated that the minimum levels will improve over time to ensure that rental properties become more energy efficient.

Energy Assessors have been producing EPCs to specifically demonstrate compliance to the MEES regulations, and in some cases energy assessors have also helped landlords seek exemptions from the regulations.

Who is this for:

This guidance is for:

- Accredited Energy Assessors (domestic and non-domestic) who wish to aid landlords in applying for exemptions from the Regulations.
- England and Wales domestic and non-domestic properties only. (At the time of writing there is no such requirement in Northern Ireland and Scotland have different legislation.)

Exemptions Overview:

If a property can't get to the require minimum energy efficiency standard the Landlord can exempt that particular property from the requirements. In order to do so, they must demonstrate that there are genuine reasons why the property in question can't meet the necessary energy efficiency standards. The 'exemption' has to be recorded at the official government PRS Exemptions Register. <https://prsregister.beis.gov.uk>

There are currently a number of different legal reasons why an exemption can be granted, they are detailed further in Annexe 1.

The regulations state that the exemptions sit with the Landlord not the property.

Any exemption is always time bound, as new technologies and innovations will come along making it reasonable to bring the property up to the minimum standard required.

The Government have stated that the minimum standards will increase over the coming years to help meet climate change commitments.

Insurance Implications

Energy Assessors creating EPCs for sale or rent through an approved Accreditation Scheme will be covered by PI and PL insurance. Energy Assessors are covered in explaining the information on the EPC and the process by which the data was collected and the recommendations indicated on the EPC.

When Energy Assessors 'go beyond' the EPC and start to give wider energy efficiency advice to clients e.g. how best to meet the minimum standards, what are the various options and paybacks; then they must themselves ensure that they carry appropriate PI and PL insurance. If in doubt energy assessors should contact their Accreditation Scheme.

Enforcement and penalties

The MEES Regulations are enforced by local authorities, who have a range of powers to check and ensure compliance.

If a local authority believes a landlord has failed to fulfil their obligations under the MEES Regulations, they can serve the landlord with a compliance notice. If a breach is confirmed, the landlord may receive a financial penalty.

Annexe 1: Exemption Options

The following are the only currently available exemption options.

Some of the options are available for domestic only (number 1), some for non-domestic only (number 2) and the majority (numbers 3-7) for both property types.

1. 'High cost' Exemption

The prohibition on letting property below an EPC rating of E does not apply if the cost of making even the cheapest recommended improvement would exceed £3,500 (inc. VAT).

Applies only to domestic property only.

2. '7 Year Payback' Exemption

Where a recommended measure is not a "relevant energy efficiency improvement" because the cost of purchasing and installing it does not meet the 7 Year Payback test (Regulation 28(3)).

Applies only to non-domestic property only.

3. 'All Improvements Made' Exemption

Where all the "relevant energy efficiency improvements" for the property have been made (or there are none that can be made) and the property remains sub-standard (Regulation 25).

Applies to domestic and non-domestic property.

4. 'Wall Insulation' Exemption

Wall insulation exemption (Regulation 24(2)).

Applies to domestic and non-domestic property.

5. 'Consent' Exemption

Third party consent exemption (Regulation 31(1) and Regulation 36(2)).

Applies to domestic and non-domestic property.

6. 'Devaluation' Exemption

Property devaluation exemption (Regulation 32(1) and Regulation 36 (2)).

Applies to domestic and non-domestic property.

7. 'New Landlord' Exemption

Temporary exemption due to recently becoming a landlord (Regulation 33(1) & Regulation 36 (2)).

Applies to domestic and non-domestic property.

Appendix 2 - Exemptions Assessment Report

In order for an energy assessor to provide evidence that a property can't meet the minimum energy efficiency standards they should produce an Exemptions Assessment Report which shall include:

- Which exemption(s) are applicable
- An appraisal of the dwelling's energy efficiency using the appropriate approved national calculation methodology RdSAP or SAP or SBEM
- An EPC
- a list of all appropriate potential energy efficiency measures that could improve the energy efficiency of the dwelling, taken from the EPC
- the impact on the energy efficiency rating or 'each' of the potential measures (e.g. SAP/SBEM score and band improvement)

In addition, any specific exemption criteria should included in the report as per Appendix 3.

Reporting the assessment

The Exemption Assessment Report, including all of the above shall be recorded and reported to the Client.

Exemption Assessment Report

Energy Assessors will need to create the following

Data:

- Address of Property
- Date of Assessment(s)
- Energy Assessor Details

RdSAP, SAP or SBEM Results: (prior to any new measures)

- SAP/SBEM score
- SAP/SBEM rating (A-G)
- Running costs estimate
- CO2 estimate

RdSAP, SAP or SBEM Results: (following any energy efficiency measures applied)

- SAP/SBEM score
- SAP/SBEM rating (A-G)
- Running costs estimate
- CO2 estimate

Document(s)

The following supporting documents can be uploaded to support the Exemptions Assessment Report:

- Initial EPC
- Post measure installation EPC (where applicable)
- All measures indicated
- Energy Report - which provides a SAP score, estimated costs and CO2 emissions, recommendations for improvement and the levels of savings possible
- RdSAP Inputs – the data that was collected and assumed in the production of the energy report
- Floor Plan
- Description of property
- T&Cs / Caveats

Please note the documents:

- do not have to be singular, they can be combined, as long as the information above is covered
- are likely to be PDFs or similar

Appendix 3 – Specific Requirements for Exemptions

1. High Cost Exemption

The Exemptions Assessment Report shall also include;

- the cost of implementing each measure
- the number of measures that can be undertaken within a cost cap
- the number of measures that can't be undertaken within a cost cap
- a clear statement of what measure(s) need to be undertaken
- a clear statement of the measures that couldn't be undertaken
- The potential SAP/SBEM result (and Band) of the dwelling after all applicable measures that could be installed

Where the minimum band is not reached but some improvement was possible within the cost cap. The Energy Assessor shall produce an updated:

- appraisal of the dwelling's energy efficiency using RdSAP, SAP or SBEM / and
- a new EPC

Table 1: Cost of implementing any measure:

- A way to demonstrate the likely cost of implementing a measure is to use the lowest/median of the costs on the EPC.

Measure	Yearly Savings	SAP/SBEM improvement	Lowest Cost
Solid Wall	350	+10	10,000
Boiler Upgrade	299	+9	2,000
PV	165	+5	5,000

Where the cost of the measure in isolation is within £500 to the £3,500 cap (up or down), then the assessor landlord should seek 3 quotes to validate that the measure is/isn't possible.

Where a package of measures will improve the energy performance of the property but fall short of the minimum standard, the EAR should demonstrate that all measure possible within the spend cap of £3500 have been installed. This will require a before and after EPC.

2. '7 Year Payback' Exemption

The EAR must include a 7-year payback calculation for all possible measure at the property.

Need something specific on this

3. 'All Improvements Made' Exemption

The EPC must show that there are no improvements possible at the property.

4. 'Wall Insulation' Exemption

A chartered surveyors report must be included in addition to the EAR that shows that Wall Insulation is a measure that cannot be installed in line with the regulations.

It is essential to display that all the other appropriate recommendations have been installed or considered. This exemption is simple to except wall insulation from occurring at the property

5. 'Consent' Exemption

A signed statement from the tenant, refusing consent to improve the property must be provided

6. 'Devaluation' Exemption

A chartered surveyors report must be included in addition to the EAR that shows that a recommendation(s) on the EPC will devalue the property by more than 5%

7. 'New Landlord' Exemption

Evidence of the Exchange date of the property should be supplied in addition to the EPC.

Appendix 4 – Competence Requirements

To produce the Exceptions Assessment the person must be a suitably accredited Energy Assessor (DEA or NDEA) and be up to date with annual CPD including evidence of learning around MEES and the exemption process. The below table highlights key knowledge and understanding that must have been covered.

Key Knowledge and Understanding
Overview of MEES Regulations
Overview of the Exemptions Process
All Exemptions Options
Producing an Exemption Assessment Report
Fines and Penalties
Advice