



Property Updates

Residential Tenancies Update for Managing Trustees – MEES and Electrical Safety Checks

🕒 Updated 10 Dec 2020

The statutory requirements placed on landlords of residential property are ever changing. In this update we would like to draw your attention to two changes that impact on Managing Trustees who let out residential property; (1) the application of the Minimum Energy Efficient Energy Standard (MEES Regulations) to existing tenancies and (2) the coming into force of the [Electrical Safety Standards in Private Rented Sector \(England\) Regulations 2020](#) (Electrical Safety Regulations).

1. MEES Regulations

Managing Trustees will be aware of the Minimum Energy Efficient Energy Standard (MEES Regulations) which came into force on 1 April 2018. The Regulations were brought into force to encourage landlords to improve the energy efficiency of their residential and commercial properties.

Initially the MEES Regulations applied to all new lettings and the continuation of existing lettings with an EPC rating of below E. See TMCP's guidance note [The MEES Regulations and how they impact on Managing Trustees](#) for more information on the MEES Regulations.

Change in Law

Since 1 April 2020 the MEES Regulations have applied to ALL “domestic private rented property” (as listed below) meaning it will not be possible for the Managing Trustees to let a property with an Energy Performance Certificate (‘EPC’) rating of ‘F’ or ‘G’.

- Assured Shorthold Tenancies (AST's)
- Regulated Tenancies
- Certain forms of Agricultural Tenancies

This includes any **existing** tenancies of residential property which are already let (*including lettings which have been ongoing for many years*) and all new and continuing tenancies.

As well as being concerned to play our part in improving energy efficiency standards, Managing Trustees will also want to avoid the sanctions that can be imposed where the MEES Regulations are not followed. Please note that failure to comply with the new MEES Regulations can result in the Local Authority imposing a fine of up to £5,000 per property per breach by the landlord. Details of the breach may also be published on the PRS Exemptions Register which is publically available. This could of course have implications in terms of reputational damage.

Steps which need to be taken

Further to the guidance provided in Section G of the [The MEES Regulations and how they impact on Managing Trustees](#) guidance note, it is hoped that Managing Trustees had already been taking steps, prior to the new rules being in force, to review their properties and identify any issues. However, given that the law has now changed, it is imperative that, if properties continue to be let, steps are taken, to ensure that the energy efficiency rating is at least ‘E’ and to improve the energy efficiency if necessary.

As mentioned above this includes periodic/rolling tenancies which sometimes arise once the fixed period has ended and before a new agreement is entered into.

Tips for improving the energy efficiency in properties include:-

- Installing double glazing
- Replacing an inefficient boiler
- Loft and Wall insulation
- Switching all lightbulbs to LED

If you identify that works are required, please also bear in mind the need to follow the usual requirements in terms of repairs/improvements and logging projects where necessary. Please refer to the general guidance and links on the [Developments and Works](#) page on TMCP's website.

Exemptions

Since 1 April 2019 there has been a cap in place for improvement works with a limit of £3,500 (inclusive of VAT). If you are unable to raise the energy efficiency of a property to a rating of 'E' or above for less than £3,500 then Managing Trustees will be required to carry out all measures up to the value of £3,500 and then register an exemption.

Exemptions are limited and details of these are available in the Government's guidance on [PRS exemptions and exemptions register evidence requirements](#).

Exemptions can be applied for online and are valid for a period of 5 years with the exception of the new landlord exemption which applies for 6 months.

Exemptions are personal to the Managing Trustees and will not be transferable should the property be sold.

Legal Advice

It is strongly suggested that Managing Trustees who let out Methodist Model Trust property seek legal advice if they have any concerns about how the new MEES Regulations affect property.

Information on the panel of solicitors which has been set up to assist Managing Trustees can be found on the [Panel Solicitors](#) page on the TMCP Website.

TMCP Legal can also assist Managing Trustees in relation to the charity law and Methodist law and policy requirements which need to be fulfilled when letting Methodist Model Trust property. Guidance on these requirements can also be found on the [Residential Tenancy](#) page on the TMCP website.

Managing Trustees should ensure that they are aware of the energy rating of any residential property which is let or which they propose to let and that the EPC is in date. Managing Trustees can check this using the Government's [EPC search register](#). If you have been delayed in obtaining an EPC or carrying out works to improve the energy efficiency rating during the COVID-19 outbreak, please ensure that you keep records of all the steps that you have taken and any cancelled appointments so that you can show that you have done what you can to try to comply.

Non-Residential Lettings

The MEES Regulations already affect new non-residential lettings and will affect existing non-residential leases from 1 April 2023. Managing Trustees may wish to prepare themselves for this change by taking necessary steps to improve ratings of commercially let properties now.

2. Electrical Safety Checks

From 1 July 2020 The Electrical Safety Standards in the Private Rented Sector (England) Regulations (Electrical Safety Regulations) started to apply to residential tenancies meaning that new safety checks now need to be carried out every 5 years.

Although the changes introduce another layer of regulation for Managing Trustees to fulfil, they should help to ensure that the residential properties Managing Trustees let out are safer for their tenants and free from electrical hazards. Please note that the Electrical Safety Regulations will apply:

- to all new tenancies commencing on or after 1 July 2020 (including any statutory periodic tenancies that arise after the end of the fixed term from the slightly earlier date of 1 June 2020); and
- from 1 April 2021, to all existing tenancies (including existing contractual periodic tenancies) granted before 1 July 2020.

As you can see, the timescales are quite complicated in relation to contractual and statutory periodic tenancies i.e. tenancies that continue after the end of the initial fixed term. Please speak to your agent or contact TMCP Legal for clarification if you are unsure.

However, given that the overriding aim of the Electrical Safety Regulations is to ensure that properties are safe and it has been best practice with Methodist lettings for some time to carry out electrical safety checks in any event, Managing Trustees should take the next steps to comply sooner rather than later to ensure that everything is in place in good time.

Requirements

Managing Trustees who let residential property will be required to:

- Ensure that the electrical safety standards (being those in the 18th edition of the Wiring Regulations, published by the Institution of Engineering and Technology and the British Standards Institution as BS 7671: 2018) are met during any period when their property is occupied by a tenant as their main or only home. These came into force in early 2019.
- Ensure every electrical installation in the property is inspected and tested at least every 5 years by a qualified person who will provide a written report. Managing Trustees can find a suitably qualified person using the [Electrical Safety Roundtable](#) or the [Registered Competent Person Electrical single mark](#). If you decide to use somebody who is not registered through these schemes you will need to ensure that they sign a checklist confirming their competence, qualifications, experience and that suitable insurance is in place. Please keep this in a safe place.
- Ensure the first inspection and testing is carried out before the tenancy commences in relation to a new tenancy or by 1 April 2021 in relation to an existing tenancy. Where you have already carried out electrical safety checks in accordance with best practice/before the new Electrical Safety Regulations came into force, and prior to seeking to rely on an existing check, please make sure that those checks meet the current requirements for safety.
- Keep the inspection/Testing Report in a safe place and provide a copy to:
 - All new tenants before they occupy the property.
 - Existing tenants within 28 days of the inspection and test
 - Prospective tenants within 28 days of a request for the report
 - The Local Housing Authority within 7 days of receiving a written request for the report.
- Carry out any further or investigative work recommended by the report within 28 days or any lesser period specified in the report and obtain written confirmation that the work has been done to the correct standard.

Enforcement

Local Housing Authorities will be responsible for enforcing the Regulations.

If the Local Authority has reasonable grounds to believe that private landlords are in breach of the Regulations, they must serve a remedial notice within 21 days on the landlord, setting out the breaches and action required to remedy them. The Managing Trustees must take action within 28 days of the notice being served.

Managing Trustees can make written representations against the notice, in which case the notice would be suspended until the Local Authority has considered the representations made and informed the Managing Trustees of the outcome.

Failure to carry out any required remedial works could result in the Local Authority carrying out the works themselves (with the tenant's consent) and charging all costs to the Managing Trustees as landlord of the property. These must then be paid within 21 days. Again the Managing Trustees would have the right to appeal against the Local Authority to the First Tier Tribunal and there is dispensation for landlords who are prevented from gaining access to the property by the tenant in order to carry out any required works.

Managing Trustees should be aware that the Local Authority also has the power to impose civil penalties up to a maximum of £30,000 if they are satisfied beyond reasonable doubt that a landlord has breached the Regulations.

Again, these penalties can be appealed to the First Tier Tribunal.

Steps to be taken

The Managing Trustees should take steps to ensure that the required electrical safety checks as set out above are fulfilled in relation to all new tenancies and existing tenancies from 1 April 2021.

If you have any queries in relation to the guidance in this document, please [contact TMCP Legal](#) for further assistance.

© 2021 TMCP
Registered Charity No. 1136358
A body corporate established by
the Methodist Church Act 1939

Trustees For Methodist Church Purposes
Central Buildings, Oldham Street, Manchester, M1 1JQ

[Privacy Notice](#) [Cookie Policy](#)

Telephone: [0161 235 6770](tel:01612356770)
Fax: 0161 236 0752