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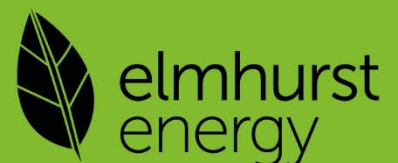


Consultation Response

**Draft Energy Efficiency (Domestic
Private Rented Property) (Scotland)
Regulations consultation**

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1. Introduction

Elmhurst Energy are pleased that Scottish Government are seeking a consultation on the Draft Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations and as such we are delighted to respond to each question in turn.

The Consultation asked 17 questions and we have answered them all below. We hope you find the responses considered and useful for taking Energy Efficiency in private rented property in Scotland forward in a progressive manner.

2. Questions and Answers

1. Do you agree that the PRS MEES should be EPC HRR band C?

Agree – Elmhurst supports the use of alternative EPC metrics as a foundation for setting higher Minimum Energy Efficiency Standards. However, we recommend that the selection of headline metrics be approached with care. This ensures that while the value of new metrics is acknowledged, the core emphasis remains on cost, carbon, and energy consumption. Elmhurst fully endorses the importance of all metrics in providing occupants with clear, transparent information about a building's performance, and believes this clarity should extend to all stakeholders and the wider public.

2. Do you agree that only new reformed EPCs should be used as a basis for the proposed MEES?

Elmhurst believes that there are advantages and disadvantages to using the reformed EPC for the proposed new Minimum Energy Efficiency Standards (MEES).

The new reformed EPC gives a clearer and more accurate picture of how a building uses energy. Using these updated metrics ensures that compliance is fair and reflects the latest understanding of energy use, carbon emissions, and running costs in the dwelling.

Allowing older EPCs to be used during or after the transition could cause confusion. These certificates might not reflect recent improvements to a property and could lead to mixed messages, with some EPCs using old methods and others using the new system.

To help make the change smooth, Elmhurst recommends:

- Setting a clear date after which only reformed EPCs can be used for MEES.

- Providing landlords with support and guidance to get updated EPCs.
 - Running a public awareness campaign so everyone understands the changes.
- **3. Do you agree that the backstop date for all PRS homes to comply with MEES should be 2033?**

Elmhurst agrees with this backstop date as it is intended to give landlords time to plan and invest in improvements, while also ensuring that the sector contributes meaningfully to national energy efficiency and net-zero goals. The 2033 deadline aims to balance ambition with practicality, especially given the scale of upgrades needed across the PRS.

4. Do you agree that the MEES should apply to properties being let to new tenants from 2028?

Elmhurst supports the proposal for the new Minimum Energy Efficiency Standards (MEES) to apply to properties being let to new tenants from 2028.

Introducing the standards for new tenancies first is a practical and effective approach. It encourages early action from landlords, helps build momentum toward the wider 2033 backstop, and ensures that improvements begin to benefit tenants sooner. This phased implementation also allows time for the sector to adapt, while maintaining progress toward the UK's energy efficiency and net-zero goals.

Clear communication and support will be essential to help landlords prepare for the 2028 requirement and ensure a smooth transition.

5. Do you agree that, regardless of changes to the repairing standard, that crofters, small landholders and agricultural holdings should be excluded from PRS MEES?

Elmhurst recognises the unique nature of crofts, small landholdings, and agricultural properties, and understands the challenges these types of homes may face in meeting the proposed Minimum Energy Efficiency Standards (MEES). However, we believe that blanket exclusions should be approached with caution.

While some exemptions may be appropriate due to the specific characteristics or constraints of these properties, excluding them entirely from MEES could risk creating

disparities in housing quality and energy efficiency across the private rented sector. It may also undermine broader efforts to reduce emissions and tackle fuel poverty in rural areas.

We recommend that:

- Exemptions be considered on a case-by-case basis, supported by clear criteria.
- Support and tailored guidance be made available to help these landlords improve energy performance where feasible.
- Any exclusions be temporary and subject to regular review to ensure alignment with long-term sustainability goals.

6. Do you agree that the regulations should exclude short-term holiday lets from the PRS MEES?

Elmhurst supports the inclusion of short-term holiday lets within the scope of the Minimum Energy Efficiency Standards (MEES). Ensuring that all rented properties—whether let on a short- or long-term basis—meet minimum energy performance standards is essential for consistency, fairness, and progress toward national energy efficiency goals.

Excluding short-term lets could create a loophole, encouraging landlords to shift properties into this category to avoid compliance. This would undermine the intent of the regulations and delay improvements to the energy performance of the housing stock.

We recommend that short-term lets be included within MEES, with appropriate guidance and support provided to landlords operating in this part of the market.

7. Do you agree with the proposed exemptions covering consent, the fabric requirements of the home and temporary exemptions?

Elmhurst agrees in principle with the proposed exemptions covering consent, fabric requirements, and temporary situations, provided they are clearly defined, evidence-based, and time-limited.

- Consent exemptions (e.g. where third-party permission is refused) are reasonable, but should require documented evidence and regular review to prevent misuse.

- Fabric exemptions should be supported by robust assessments—such as through HEETSA or similar tools—to ensure that improvements would not cause damage or negatively affect the building's structure or heritage.
- Temporary exemptions (e.g. for new landlords or during property transfers) are practical, but should be short-term and accompanied by clear expectations for compliance within a set timeframe.

To maintain the integrity of the MEES framework, all exemptions should be registered, transparent, and subject to audit. Elmhurst also recommends that guidance and training be made available to assessors and landlords to ensure consistent application of these exemptions.

8. Do you agree that HEETSA should be available as an option to evidence potential negative impacts on the fabric of a property and to support an exemption?

Elmhurst supports the idea of using the Home Energy Efficiency Technical Suitability Assessment (HEETSA) to help evidence cases where energy efficiency improvements might negatively affect a property's fabric.

Some homes—especially older or traditionally built ones—can be sensitive to certain upgrades. HEETSA offers a structured way to assess these risks and make sure exemptions are based on solid technical evidence, not assumptions.

We believe this approach will help maintain the credibility of the MEES framework, ensuring that exemptions are justified and consistent. It's also important that assessors carrying out HEETSA are properly trained and qualified, so the outcomes are reliable and trusted.

9. Do you agree that the cost cap level should be £10,000?

Elmhurst agrees that having a cost cap is important to keep things fair and manageable for landlords. A £10,000 cap seems like a reasonable balance—it's enough to make meaningful improvements to a property without placing an unrealistic financial burden on landlords.

That said, it's important the cap is reviewed regularly to reflect changes in costs and technology. We also think landlords should be encouraged to focus on the most effective upgrades within that budget.

Support and guidance will be key to helping landlords make the most of their investment and meet the new standards confidently.

10. Do you agree with the proposed 12 month lead in time period for works to contribute to the total cost cap?

Elmhurst supports the idea of a 12-month lead-in period where any qualifying improvement work can count toward the £10,000 cost cap. This gives landlords a fair chance to plan ahead and rewards those who take early action.

It's a practical approach that helps spread the cost over time and avoids penalising landlords who start work before the regulations come into force. To make it work well, there needs to be clear guidance on what types of work qualify and what evidence is needed.

11. Do you agree that that all actual costs, and the cost of an EPC, should count towards the cost cap?

Elmhurst supports the proposal to include all actual costs, including the cost of obtaining a new EPC, within the £10,000 cost cap. This is a fair and transparent approach that reflects the full financial commitment landlords make when improving their properties.

Including the EPC cost also reinforces the importance of assessment as part of the upgrade process. It ensures landlords are not discouraged from getting an up-to-date EPC, which is essential for understanding a property's current performance and identifying the most effective improvements.

12. Do you agree that landlords should receive Scottish Government support to make the required changes?

Yes, we believe landlords should receive support from the Scottish Government to help meet the new energy efficiency standards.

Making improvements—especially in older or harder-to-treat homes—can be expensive and sometimes complicated. Financial help, clear guidance, and access to trusted advice will make a big difference in helping landlords do the right thing.

Support will also help avoid unintended consequences, like landlords leaving the market or passing costs onto tenants. With the right backing, landlords can play a key role in improving housing quality and cutting carbon emissions.

13. Do you agree that this should be in the form of a loan?

Elmhurst agrees that financial support is essential—but we believe it shouldn't be limited to loans alone.

While loans can help spread the cost of improvements, they may not be suitable for all landlords, especially those with limited income or smaller portfolios. A one-size-fits-all approach could risk discouraging investment or even lead to landlords exiting the sector.

We recommend a mix of support options, including grants, low-interest loans, and targeted incentives. This would give landlords the flexibility to choose what works best for their circumstances and help ensure the success of the MEES rollout across the sector.

14. Do you agree that local authorities should be responsible for monitoring and compliance of these regulations? If no, please provide details of an alternative with your reason(s) as to how this would support the delivery of these regulations.

Yes, we think local authorities are the right people to handle monitoring and enforcement of MEES. They already deal with housing standards and know their local areas well, so it makes sense for them to take the lead.

That said, they'll need proper funding, training, and tools to do the job well. Without that support, enforcement could end up being patchy across different regions.

If local councils can't take on everything themselves, a shared service or central support model could help keep things consistent across the board.

15. Do you agree with the proposed level of financial penalties to support compliance with the regulations? If no, please provide detail on suggested amendments that should be made, outlining how the changes would increase the impact of penalties to achieving compliance with the Regulations.

Elmhurst agrees it is important the penalties are applied fairly and proportionately. There should be a clear distinction between landlords who are deliberately avoiding the rules and those who are genuinely trying to comply but facing challenges.

We'd also like to see penalties used alongside support—so landlords are encouraged to do the right thing, not just punished when they don't. A balanced approach will help drive real improvements without pushing people out of the sector.

16. Do you agree that the Scottish Government should seek to amend the Energy Act 2011 to increase in maximum financial penalties that could be imposed up to £30,000 in future, should this be deemed necessary?

Yes, Elmhurst Energy supports the idea of increasing the maximum penalty to £30,000, as long as it's used fairly and only when needed.

We believe stronger penalties can help encourage landlords to meet energy efficiency standards, especially in the private rented sector. However, it's important that:

- Penalties are proportionate—not every case should be treated the same.
- There's clear guidance so landlords understand what's expected.
- Landlords get support to make improvements, not just face fines.
- The rules are consistent with those in the rest of the UK.
- Energy assessors are involved and supported in helping landlords comply.

Overall, we see this as a positive step, but it needs to be part of a balanced approach that includes education, support, and fair enforcement.

17. In what way could these regulations have a specific or different impact, positive or negative, on a particular group of people? This could be based on protected characteristics, such as age or disability, or geography, such as island communities.

Elmhurst Energy supports the Scottish Government's efforts to improve energy efficiency in the private rented sector. However, we recognise that the proposed regulations may affect certain groups differently.

Positive Impacts:

- Tenants in fuel poverty, including older people and families with young children, could benefit from warmer homes and lower energy bills.
- Disabled and elderly individuals may experience improved health and comfort due to better indoor temperatures and reduced dampness.

Potential Challenges:

- Landlords in rural and island communities may face higher costs and limited access to contractors, making compliance more difficult.
- Tenants with mobility issues or health conditions could be negatively affected by disruption during retrofit works.

- Properties with traditional or listed features may require more complex and expensive upgrades, which could impact affordability or availability.

Recommendations:

Elmhurst recommends that the Scottish Government:

- Provide targeted financial and logistical support for landlords in remote areas.
- Ensure tenant protections during retrofit works, especially for vulnerable groups.
- Offer flexibility and guidance for upgrading older or heritage properties.

With the right support in place, these regulations can deliver meaningful benefits while minimising unintended consequences for specific communities.

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