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SPF Consultation Response

Minimum Energy
Efficiency (Domestic
Private Rented Property)
(Scotland) Regulations

Submitted 29 August 2025

SCOTTISH PROPERTY FEDERATION

The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. As a part of the wider British Property Federation, we include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers. Our members build Scotland's workplaces, homes, shops, schools and other facilities and the infrastructure that serves them. Our industry is therefore a core component of the Scottish economy.

CONSULTATION SUMMARY

Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations

The Scottish Government has proposed in the Heat in Buildings (HiB) Bill to introduce the Minimum Energy Efficiency Standards (MEES) of EPC C for new lets in Private Rented Sector (PRS) by 2028 and all of the PRS by 2030.

OUR RESPONSE

In our response we have supported the minimum energy standards to be EPC C but highlighted members' major concerns about clarity, feasibility, costs, and unintended impacts on the housing supply. We urge a more pragmatic timeline to allow the sector to adapt and be prepared, alongside better guidance and sufficient government support before implementing binding regulations or penalties.

We agree that EPCs should continue to form the basis of MEES regulations. While responding to this consultation, it is unclear what the reformed EPCs would look like and the absence of details on the new domestic EPC metrics and methodology, and which properties will be impacted. This raises serious concerns about the proposed 2028 timeline for new tenancies. The sector requires a longer lead-in period to properly prepare for such significant changes. We advocate for starting any new MEES regulations for new tenancies no earlier than 2030, to ensure the sector can be effectively prepared for these regulatory changes and avoid unintended harm to Scotland's housing supply.

Consultation Questions

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

Yes, we do agree that EPC C or HRR C should be the minimum standards for the private rented sector. However, it is very hard to determine right now - without clarity on the new EPC metrics and methodology - on what the final EPC framework will look like. It is not clear which properties will fall under EPC C/HRR C. The timeline of 2028 for new tenancies is also too soon. Given that we won't see what reformed EPCs will look like until after this consultation closes or HEM by the UK Government, we cannot support the Scottish Government's preferred approach for setting future MEES against a combination of metrics at this stage.

Additionally, there is limited information for the public on how upgrades should be carried out, what available solutions and technologies are cost-effective, and questions remain around what support the government will provide. The current supply chain capacity also appears insufficient to meet the transition requirements. This uncertainty may risk landlords exiting the market, putting further pressure on housing supply. In question no.3, we have addressed the impact of this legislative proposal.

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

As mentioned in the previous answer, we are answering this consultation in absence of what the final form of reformed EPCs will look like. Although should they form the basis of the new MEES, we believe there is a clear need for greater flexibility. We recognise that the policy intention is to focus on fabric improvements to improve the energy efficiency of the PRS sector as a whole. However, there needs to be recognition that many PRS properties will be difficult to improve for EPC/HRR purposes. We are concerned therefore that through little fault of their own, or ability to make required improvements, many landlords could find themselves with unlettable properties as a consequence of these proposed Regulations.

Our members have also strongly relayed that the general public might not be equipped or will have clear understanding of these proposals and changes. It shouldn't be a repetition of past proposals (from 2013-14) to insulate properties where now we have a vast majority of tenements with issues such as dampness and mould. EPCs should also be reflective of age and character of the building as well as user behaviour such as energy usage. We also encourage the Scottish Government to prepare an information pack for the general public to be aware of these changes, guidance on improvements, resource for upgrades along with an impact library of these changes.

Question 3 Do you agree that the backstop date for all PRS homes to comply with MEES should be 2033?

We agree with the intention of this proposal, but it is not feasible due to supply chain constraints which will result in significantly higher costs associated with bringing about upgrades to EPC C Standards for all PRS sector. As mentioned in the Government's own consultation report, the PRS makes up 48% of EPC D or lower bands, 37% of all PRS properties are pre-1919 and 64% are tenements, contributing to 26% of pre-1919 tenement blocks. Therefore, a significant number of these properties might not be able to reach EPC C with the suggested measures or cost over the maximum spend cap of £10,000. The costs mentioned in the consultation proposal are not reflective of market value of some proposed upgrades such as wall insulation or double-glazed windows.

The proposed regulation would require approximately 20% of PRS properties to be upgraded to EPC C, imposing significant financial implications for landlords seeking to continue letting. SAL (Scottish Association of Landlords) recently concluded that to improve the total of 144,000 PRS that the government believe are below EPC C could cost more than £600 million and according to the government's emissions figures, they would only reduce the country's GHG emissions by 0.04%. The disproportionate cost burden and unintended consequences of this policy risk incentivising landlord exit from the sector, thereby exacerbating the current housing emergency.

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

As explained in Q1, we do not agree with the 2028 deadline for new tenancies. We believe the timeline for evaluation, financing and the required labour and material market is too tight given that the new EPCs are expected to come into force next year and then landlords will have to spend time evaluating how well insulated a property is (be it wall, roof, windows or flooring) or what measures can be utilised to bring the property up to standards. There is currently an information void due to which preparedness for this reform cannot be attained, so we believe the 2028 timeline is unrealistic and might have adverse unintended consequences on the PRS supply and rents.

Landlords cannot control when tenants choose to move out, under the proposed MEES legislation they would be required to bring properties up to the latest standards at the point of a new tenancy. This could impose significant unanticipated costs, alongside a loss of rental income during the upgrade period. The legislation should also be considered in the context of the Housing (Scotland) Bill, particularly in relation to provisions for joint tenancies. In multi-occupied flats, this may compel existing tenants to vacate, cause disruption due to upgrade works, or lead to higher rents if costs are passed on by landlords. A more pragmatic approach would be to extend the compliance deadline to 2030, thereby providing adequate time for preparedness and minimising negative impacts on both landlords and tenants.

QUESTION 5 Do you agree that the regulations should exclude short-term holiday lets from the PRS MEES? - less of a priority given the policy intent is to reduce fuel poverty.

Yes. We feel that this is less of a priority given that one of the primary policy aims is to reduce fuel poverty and costs for tenants, and this would not directly benefit those in short-term lets. Whilst we agree that it could be a longer-term ambition to help improve and scale up the reduction in emissions in Scotland's wider housing stock, this needs to be separately legislated for and consulted on properly with the sector to mitigate any unintended consequences.

QUESTION 6 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?

If a property goes through an additional scoping assessment, we agree that HEETSA can be utilised as an option to present as evidence for an exemption or reflect negative impacts on property upgrade.

QUESTION 7 Do you agree that the cost cap level should be £10,000?

The cost cap is in reality an obligation on small landlords to pay up to £10,000 before being able to let their property from 2028. For many such landlords this will be a considerable challenge. It must be also considered in the context of wider regulatory reforms proposed for landlords. If a landlord is subjected to rent controls which may curb his or her ability to recover significant capital outlay, then there will be less likelihood of significant investments to improve energy efficiency. We suspect that if faced with irrecoverable regulatory costs, private landlords will instead seek to exit the sector which will mean a smaller PRS and increased pressure on availability and demand for rental homes.

It is hard to understand how the cost cap was arrived at from the consultation paper, if this could be linked to cost of property and upgrades. As we imagine these costs would vary from location, size and other various factors such as extend of upgrades required. Landlords should not feel obligated to spend the maximum amount of the cap, the financial support should be proportionate and reflect of market rate as well.

QUESTION 8 Do you agree with the proposed 12-month lead in time period for works to contribute to the total cost cap?

The lack of supply of appropriate skills or materials requires that some flexibility is built into these regulations. There will, for example, also need to be assessments made to identify viable options for fabric improvements. The landlord may also not be able to enter and make changes to his or her property easily if the property is multi-tenanted and tenants oppose improvements on the grounds of disruption to their private or working livelihoods.

QUESTION 9 Do you agree that that all actual costs, and the cost of an EPC, should count towards the cost cap?

Yes, it is appropriate to include all relevant costs within the overall cost cap. Consideration should also be given to additional expenses such as surveys, assessments, and the loss of rental income borne by the landlord. Including these costs ensures that the cap reflects the true financial burden associated with compliance, provides a fairer measure of affordability, and reduces the risk of unintended consequences such as landlords withdrawing properties from the sector or passing on these costs.

QUESTION 10 Do you agree that landlords should receive Scottish Government support to make the required changes?

Yes. It is vital that landlords have access to the right knowledge and expertise to bring their properties up to the correct standard, and the government should help to facilitate this. In addition to financial help, support for the wider supply chain is equally important particularly in ensuring access to affordable materials and skilled labour. Without this, meeting the proposed deadlines may prove challenging for many landlords.

QUESTION 11 Do you agree that this should be in the form of a loan?

Yes. Access to a low or no interest loan will be vital for some landlords especially where they are expected to make improvements that result in significant costs or don't necessarily have access to upfront capital. Without such support, some landlords may be forced to sell, increasing the risk of tenant evictions. We agree with the current conditions of the scheme.

QUESTION 12 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 agree that local authorities should be responsible for compliance as they do for existing building standards. The resource and upskilling should be supported by central government funding.

QUESTION 13 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.

We understand the approach to penalise in order to support compliance, but this cannot be done in isolation to avoid wrongfully penalising. It has to be evidenced, and context accounted for such as

consideration for tenants and neighbours, availability of materials and contractors. Also, it should be assessed whether the landlord/owner has been provided with information, guidance and correct assessments.

QUESTION 14 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?

No. We understand that a penalty regime will help to improve compliance, however the highest level of fine proposed at £30,000 is unreasonable and not in accordance with other fines applicable in Scottish PRS legislation. Whilst it is helpful to see the breakdown in the types of fines for those up to £5000, there is no justification of when a £30,000 could be imposed and it is difficult to see why this is inflated to six times the previous amount.

There may be instances where the landlord may struggle to have the financial means to carry out the work and an additional cost burden of potentially up to £30,000 would unlikely solve the issue of attaining a MEES.

Therefore, we recommend a more proportionate penalty framework, with clear guidance on when higher fines would be applicable.

-End of questions-