

**Scottish Government Consultation on Draft Energy Efficiency (Domestic Private Rented Property)**  
**(Scotland) Regulations**  
**Response from Propertymark**  
**August 2025**

**Background**

1. Propertymark is the UK's leading professional body of property agents, with over 19,000 members representing over 12,500 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.<sup>1</sup>

**Consultation – overview**

2. The Scottish Government are seeking views on proposals to introduce Minimum Energy Efficiency Standard (MEEs) regulations in the Private Rented Sector (PRS) using existing powers within the Energy Act 2011. These regulations would mean all privately rented properties in Scotland, as far as possible, reaching Energy Performance Certificate (EPC) Heat Retention Rating (HRR) band C from 2028 for new tenancies and by 2033 for all privately rented homes. The new minimum standard is based on the Heat Retention Rating (HRR) that will be introduced as part of the reformed Scottish EPC system. This rating focuses on the energy efficiency of a property's fabric and heating system, providing a clearer link between upgrades and actual reductions in energy demand and emissions.
3. Draft Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations were consulted on in 2019 and then laid before Scottish Parliament in 2020. These regulations were agreed to by the Scottish Parliament before being withdrawn due to the impact of the covid pandemic on the sector. At the time of withdrawal, the Scottish Government made clear it would look to bring these regulations forward at a later date.
4. New EPC regulations will also be laid in the Scottish Parliament in Autumn 2025, coming into force in Autumn 2026, which will create a new EPC rating system. Propertymark responded<sup>2</sup> to the consultation on EPC reform in October 2023, welcoming the proposal to digitise EPCs. Propertymark also supported the proposal to shorten the validity period of EPCs to five years, and we encourage property agents to renew their EPCs as often as possible as a matter of good practice.

**Summary**

5. Propertymark welcomes the Scottish Government's intention to improve energy efficiency across property, buildings and houses in Scotland, but we remain concerned about the potential burden on landlords and the capacity of the sector to meet these new obligations. Propertymark wants

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<sup>1</sup> <https://www.propertymark.co.uk/>

<sup>2</sup> <https://www.propertymark.co.uk/resource/property-logbooks-would-be-the-best-solution-to-epc-reform.html>

everyone to have access to efficient and economical homes, and we urge the Scottish Government to ensure this can be achieved by developing realistic, well-supported, and deliverable proposals.

6. Propertymark has consistently argued that improvements in energy efficiency must be fair and achievable. They must also take into consideration the impact on supply of homes to rent in rural, island and urban communities. Landlords in Scotland are not immune to financial challenges from increased mortgage and building costs and will experience further financial challenges with the onset of rent control measures contained in the Housing (Scotland) Bill. We are therefore calling for adequate grant funding, the continuation of low-interest loan schemes, and tailored advice for landlords. Landlords who are making progress and spending money to meet the requirements should be exempt from rent controls in any future Rent Control Areas. Without meaningful support, there is a risk that some landlords may exit the sector, which would reduce the supply of rented homes and worsen housing availability for tenants.

### **Questions**

#### **Q1. Do you agree that the PRS MEES should be EPC HRR band C?**

7. Propertymark accepts the target of EPC HRR band C for properties in the PRS, given that the Scottish Government has provided an exemption framework for properties where it is considered unrealistic that they will achieve EPC HRR band C. The majority of Propertymark members surveyed in August 2025 agreed.

#### **Q2. Do you agree that only new reformed EPCs should be used as a basis for the proposed MEES?**

8. Propertymark agrees that previous EPC ratings should be replaced, and that existing EPC certificates should not be accepted for the purposes of demonstrating compliance. Doing so may in some cases provide the wrong incentives, such as in cases where an existing rating of C exists, but where the property would not achieve a C rating under the new assessment criteria.

#### **Q3. Do you agree that the backstop date for all PRS homes to comply with MEES should be 2033?**

9. Propertymark shares the Scottish Government's concerns that too little time risks the creation of bottlenecks and insufficient availability of skilled labour. Propertymark therefore recommends that the backstop date for all PRS homes to comply with MEES should be 2035. This would still allow a full decade for assessment of the effectiveness of these measures, and for the introduction of any further measures to be considered that may be necessary to meet the Scottish Government's commitment to end Scotland's contribution to global emissions by no later than 2045. There should continue to be an exemption regime for buildings where it is not feasible to reach a C rating, particularly ground floor properties where floor insulation is impractical or highly costly, and certain properties in a conservation area or with listed status.

**Q5. Do you agree that the MEES should apply to properties being let to new tenants from 2028?**

10. Propertymark is concerned that this gives insufficient time for landlords to make the relevant improvements. As set out in the response to question three, too little time risks the creation of bottlenecks and insufficient availability of skilled labour. It is also possible that the current timespan would create an intense period of demand and artificially inflate prices for energy efficiency measures. Propertymark therefore recommends a date of at least 2030 for the application of MEES to properties being let to new tenants, rather than the proposed date of 2028.

**Q6. Do you agree that, regardless of changes to the repairing standard, that crofters, small landholders and agricultural holdings should be excluded from PRS MEES?**

11. Rural communities already face significant challenges, and as PRS MEES regulations will introduce a prohibition on the letting of a property where the standard is not met, and meeting this standard would not be appropriate for the nature of many of these tenancy agreements, Propertymark agrees with the exclusion of the above categories from PRS MEES.

**Q5. Do you agree that the regulations should exclude short-term holiday lets from the PRS MEES?**

12. Propertymark would draw a distinction between short-term holiday in rural and urban areas. In the case of rural short-term holiday lets, these properties are often an essential income stream for rural Scottish residents and are often historic buildings which it would be unviable to bring up to a reasonable standard of energy efficiency, and which would not be suitable to live in on a full time basis.
13. Propertymark members were generally against excluding short-term lets when surveyed. One member commented that “if you exclude a portion of the sector then you are driving investors that would provide long term housing into the arms of an alternative sector, exacerbating the supply issues in the PRS.” Another noted that “short term lets are more likely to have heating and electrical systems running more often, as tenants are not concerned about paying the energy bills. Allowing short terms to continue with poor energy efficiency is unfair to the landlords who may be forced to make these changes.”
14. The Scottish Government could include urban short-term holiday lets within the PRS MEES regulations on the basis that the effect of heat from buildings is especially pronounced in urban areas, creating the urban heat island effect. It is also the case that the shortage of private rental sector properties is more acute in urban areas, and the Scottish Government should consider whether including urban short-term holiday lets within PRS MEES may act as an incentive for some of these properties to be let on a long-term basis.

**Q6. Do you agree with the proposed exemptions covering consent, the fabric requirements of the home and temporary exemptions?**

15. In Propertymark's 2019 response to the previous Scottish Government consultation on this matter, Propertymark argued that there will be many properties, largely due to the age of the stock, that will never reach the proposed EPC targets. Propertymark also sought clarification on listed buildings, properties where it is not technically feasible to make improvements, and where funding cannot be obtained.
16. Propertymark therefore welcomes the detail and clarity provided by the Scottish Government on exemptions in this consultation and agrees that exemption criteria should include the issue of tenant consent, and instances where relevant measures would create a negative impact on the fabric or structure of a property.
17. Propertymark also agrees that temporary exemptions for circumstances where there are changes to the landlord of a property. However, Propertymark would encourage the temporary exemption to last for a year from the date at which the new landlord inherits or purchases the property, rather than the proposed six months. This is particularly important given the relative lack of skilled workers to install energy efficiency measures, leading to longer waiting times for building work. The Construction Industry Training Board has said that an additional 26,100 workers will be needed to meet demand in Scotland by 2028, yet apprenticeship starts have remained flat.<sup>3</sup>

**Q7. 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?**

18. Propertymark welcomes the proposal for Heat and Energy Efficiency Technical Suitability Assessments and agrees that this would mitigate concern at potential risks dampness, condensation or mould if energy efficiency measures were recommended which would not be appropriate for a building. This proposed technical suitability assessment would provide an additional level of safeguard for consumers, particularly those in more complex to decarbonise buildings such as traditional or protected buildings, those in rural areas, or tenements.

**Q8. Do you agree that the cost cap level should be £10,000?**

19. Under the proposals set out in 2019, the Scottish Government proposed a cost cap of £10,000, but did not provide clarity on grant funding or loans. Accordingly, Propertymark objected and called for a "no third-party funding" exemption, whereby if a landlord cannot get external funding, they should be exempt from the minimum energy efficiency requirements. Members surveyed in August 2025 were unanimous in their view that £10,000 was too high, and unrealistic. There was particular concern about the notion that landlords had this kind of capital available in savings and emphasised the need for grant and loan schemes.

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<sup>3</sup> <https://www.citb.co.uk/about-citb/news-events-and-blogs/over-250-000-extra-construction-workers-required-by-2028-to-meet-demand/>

20. Propertymark is therefore pleased that the Scottish Government do not propose to increase the cap. Propertymark welcomed the Scottish Government's introduction of the PRS Landlord Loan Scheme in 2020. This provides financial support through loans. Landlords with up to five properties in their portfolio can borrow a maximum of £100,000 and will not be subject to interest. Applicants with more than five properties in their portfolio can borrow a maximum of £250,000, subject to interest at a rate of 3.5% APR. However, Propertymark letting agents surveyed in August 2025 said that to the best of their knowledge, none of the landlords with whom they work had taken advantage of the loan, and cited low awareness of the scheme, as well as rejected applications and concern about the terms of repayment from some landlords. The Scottish Government should consider reviewing the terms of the loan to make it more attractive and ensure that it is widely publicised.

21. The risk of placing the costs for these upgrades on landlords is that the costs will simply be passed on to tenants in rent increases; rents may also increase due to a restriction of supply if landlords exit the market because they are unable to make the requisite investment in their property. A substantial majority of letting agents surveyed by Propertymark in August 2025 said that if no action is taken by the Scottish Government, landlords will increase rent and spend less on other property renovations; a substantial minority were also concerned that landlords would exit the market rather than meet the anticipated costs of upgrading their properties. It is also unclear what exemptions will be allowed should a Rent Control Area under the proposals in the Housing (Scotland) Bill be in place and the incentives for landlords to carry out improvements and be able to recoup any costs.

**Q9. Do you agree with the proposed 12 month lead in time period for works to contribute to the total cost cap?**

22. Propertymark welcome the decision to allow expenditure on energy efficiency improvements to count towards the total cost cap where the expenditure took place up to twelve months in advance of the regulations taking effect. This will extend the time available to landlords and remove the risk of a pause in the installation of energy efficiency measures while landlords wait for the regulation to take effect.

**Q10. Do you agree that that all actual costs, and the cost of an EPC, should count towards the cost cap?**

23. Propertymark agrees that all costs, including building surveys, and the cost of an EPC, should count towards the cap. Landlords may wish to undertake incremental changes and seek new EPCs after each substantial measure so the Scottish Government should consider the maximum number of EPC assessments which may count towards the cost of the cap. Any future Rent Control Areas as set out in the Housing (Scotland) Bill should provide exemptions from rent control for properties investing in energy efficiency upgrades.

**Q11. Do you agree that landlords should receive Scottish Government support to make the required changes?**

24. To aid landlords in making energy efficiency improvements, the Scottish Government should consider re-directing Energy Company Obligation (ECO) funding towards the private rented sector. Billions of pounds have been given in grant aid to social landlords whereas private landlords have seen little benefit from grant funding. 69% of social housing is in band C or better, which is higher than both the private rented sector at 52% and the owner-occupied sector at 51%. Around 5% of dwellings in the social sector are within EPC bands E, F or G, while 11% of owner occupied dwellings and 14% of the private rented sector are within these EPC bands.<sup>4</sup> This is despite the increasing number of low-income households living in privately rented property due to the lack of available social housing. In order for the Scottish Government to achieve its objectives in tackling fuel poverty, ECO funding to social housing should now be stopped, and all future funding from energy suppliers should be dedicated to supporting the private sector.

**Q12. Do you agree that this should be in the form of a loan?**

25. While PropertyMark welcomes the availability of loans for landlords, PropertyMark would encourage the Scottish Government to consider grant funding, as well as ECO funding as set out in the response to question eleven.

**Q13. 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.**

26. PropertyMark agrees that Local Authorities are best placed to monitor compliance with these regulations, particularly given that local authorities are already the enforcement authorities for EPC regulations.

**Q14. 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.**

27. PropertyMark broadly agrees with the levels at which financial penalties have been set. However, while the financial penalty imposed for a breach for less than six months is £600, a breach of more than six months is substantially more at £3,000. PropertyMark suggests that a more realistic figure would be £1,200; the Scottish Government could consider another category where a breach is more than one year.

28. PropertyMark is also of the view that breaches should be punished less severely than the submission of deliberately false or misleading information under the regulations. We would

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<sup>4</sup> <https://www.gov.scot/publications/scottish-house-condition-survey-2023-key-findings/pages/2-energy-efficiency/>

therefore argue that the financial penalty for this should be higher than for a breach for less than six months, rather than the same amount of £600 as currently proposed.

**Q15. 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?**

29. While Propertymark does not think a financial penalty of £30,000 would be proportionate to the harm caused by failure to comply with the regulations, a higher fine clearly provides a higher incentive for compliance. Propertymark would encourage any fine of this level to be an absolute last resort after substantial engagement, with protections to prevent such fines being seen as a revenue source for local authorities.

**Q16. 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.**

30. As discussed in the response to question five, Propertymark would emphasise the need for caution in respect of rural and island communities, who are likely to find it more difficult and costly to meet the required standards.