

A consultation on the regulation of electricians

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1. Ministerial Foreword
2. Consultation aim
3. Context
4. Non-statutory approach
5. A regulatory approach
6. Increasing consumer awareness
7. Summary of questions
8. Responding to this consultation
9. Respondent information form



1. Ministerial Foreword

Almost all of us at some stage will need to hire someone to carry out electrical work, and we should be able to do so with confidence that we won't be put at risk when we do. The consequences of substandard electrical work can be devastating, and often it is those who are most vulnerable who are most at risk.

There is already a well-developed framework in place that supports the vast majority of reputable tradespeople to deliver professional and consistently high standards of electrical work. However, these schemes operate on a voluntary basis, and for some time there have been calls from parts of the electrical industry to regulate electricians and recognise the high level of skill required to carry out their duties safely and competently.

In 2017, the Scottish Government established an Electricians Working Group to explore the issue, and invited both industry and consumer experts in Scotland to join. I have chaired the Group since taking up the role of Minister for Business, Fair Work and Skills.

The members brought a great deal of passion to the discussions and I am grateful to all who gave their time to contribute to the work of the Group. There is a strong desire on all sides to protect both consumers and the vast majority of competent electricians. However, we must also ensure that any action we take is proportionate, and that, where we intervene, we genuinely make things better.

Regulation is only one half of the discussion. The ways in which consumers are supported to protect themselves must be the other half. This document describes some of the actions that are being taken to help consumers identify genuine electricians.

We are committed to continue to work in partnership with all interested stakeholders. I look forward to hearing from you on how we can ensure the maximum protection for consumers in Scotland from harm.

A handwritten signature in blue ink, appearing to read 'Jamie Hepburn'.

Jamie Hepburn MSP

Minister for Business, Fair Work and Skills

2. Consultation aim

The Scottish Government is gathering information and views on whether regulations should be introduced in relation to electricians. We want to hear whether you think there is a need for electricians to be regulated. While the focus of the consultation is on domestic work carried out for individual consumers, it will also apply to commercial and industrial work.

There are no restrictions on who can respond to the consultation. We would like to hear all views so that we can better understand whether there is a need for regulation, what form any possible regulation may take and what non regulatory action can be taken to minimise risk.

We recognise that some of the questions may touch on issues which domestic consumers do not have an in-depth knowledge. We are looking for views from as wide a range of people as possible so would therefore welcome views from consumers on what is important to them as well as from those with specialist knowledge of technical issues. There is no requirement to answer every question.

A key aim of our work is to ensure the safety of electrical installations. While many aspects of the relevant matters relating to the regulation of electricians may be reserved to Westminster, the consultation will help to identify gaps or issues with the current regulatory position.

If it is decided that there should be regulations then further engagement with stakeholders will take place on any proposed legislation.

3. Context

Currently anyone can call themselves an electrician, without the need for any qualifications or competency. This can lead to customers, especially domestic consumers, hiring unqualified or less competent individuals, resulting in faults that can lead to fire or personal injury, such as electric shocks.

There are currently voluntary self-regulatory systems in place. Qualified electricians can register with the Scottish Joint Industry Board and there are a number of organisations for electrical businesses or contractors rather than individuals:

- SELECT (Electrical Contractors' Association of Scotland) is a trade association for the electrical contracting industry in Scotland.
- NICEIC (the National Inspection Council for Electrical Installation Contracting) is a registration body that provides assessment and certification services for contractors.
- NAPIT (National Association of Professional Inspectors and Testers) operates an accredited membership scheme in the building services and fabric sector.

In addition, the Construction Skills Certification Scheme provides proof that individuals have the appropriate training and qualifications for the job they are doing on construction sites.

Following representations from bodies in the electrical sector and a lack of independent evidence around the issue, the Scottish Government formed the Electricians Working Group¹ to bring the industry together and attempt to build consensus for a way forward. The membership reflected industry, safety and consumer interests.

Although there were a variety of views on how to take specific issues forward, there was unanimous recognition that the system is complex and there is no easy way for a consumer to quickly determine if individual electricians or electrical businesses are competent to carry out required work. It was agreed that the protection of consumers and raising of awareness among consumers was needed.

Public Attitudes

As part of the work to develop an evidence base, a YouGov survey was commissioned in December 2017 by Scottish Government to better understand the views of the general public. Key findings were:

- 92% of people asked agreed with the statement that ‘People who carry out electrical work should be independently assessed to ensure they have the skills to do the work safely.’ (3% disagreed)
- 58% of people asked said they would ask friends and family for a recommendation when finding an electrician to carry out work in their home.
- There was low recognition of the two industry bodies operating the Scottish Government Approved Schemes in Scotland with 88% of people asked having not heard of SELECT (the Electrical contractors trade association in Scotland) and 87% of people asked have not heard of Certsure (Trading as NICEIC, and a UKAS accredited Certification Body).

While this is only a snapshot, it highlights that although consumers believe that electricians should be assessed as competent to carry out work, there are some key challenges around consumer attitudes to using registered electricians and awareness of registration bodies. These challenges are also mirrored in research conducted across the UK. Statistics from Electrical Safety First² suggest that a quarter of UK adults do not use registered electricians, and a third of adults have hired an electrician recommended to them without checking their credentials. It is likely that price is often a key determinant, with consumers assuming that work will be done in a competent and safe manner.

Research report

Pye Tait Consulting were appointed to independently assess evidence of the current extent of unregulated electricians in Scotland and build a business case to determine if regulation is required. The findings were published in June 2019.³

¹ <https://www.gov.scot/groups/electricians-working-group/>

² <https://www.electricalsafetyfirst.org.uk/what-we-do/registered-electricians/>

³ <https://www.gov.scot/publications/regulation-electricians-scotland/>

The evidence covered injuries, defects and costs. Five potential options for action were identified:

- Do nothing
- Awareness campaign
- Protection of Title
- Licensing of electrical firms
- Licensing and individual registration

The report said that Protection of Title alone was not enough. It recommended statutory protection of title and a comprehensive registration and licensing scheme along with a related awareness campaign.

The report identified that the fundamental question was proportionality – what would be a proportionate response to the problems of defective electrical installations? The report went on to say:

“Protecting title might help but would do nothing to prevent unqualified people using different titles to do electrical work. Protecting the title and requiring updating and re-registration could improve or maintain the competence of practising electricians but would, again, not resolve the issues of untrained, unqualified people undertaking electrical work.

“While limited in scope and coverage, this research has also demonstrated a significant belief among members of the public and electricians that there would be considerable benefits from further regulation and possibly licensing of electricians and their companies.”

4. Non-statutory approach

An alternative to legislation would be to pursue voluntary measures to raise standards, give greater protection to the public and reduce the level of poor electrical workmanship by a persistent rogue trader element.

This approach would allow those who are currently qualified or competent to continue carrying out work without placing onerous requirements on electricians or their employers, be it training, administrative or financial. It would also avoid creating unnecessary barriers for entrants into the electrical profession and would allow those currently carrying out domestic electrical work incidental to their main job to continue eg kitchen fitters, plumbers.

Trade bodies already exist, which allow for recognition of both qualifications and competence; and ensure members meet required standards to carry out work safely. There is also a robust four year apprenticeship training scheme and an Optional Advanced Competence Assessment. In addition there are a growing number of local authority schemes managed by trading standards, which support a wide range of service provision, including electricians.

The current position allows for a high degree of consumer choice but if concerns are to be addressed then new measures will require to be developed. These could include:

- empowering consumers to make good choices by highlighting the importance of employing suitable electricians and businesses,
- raising awareness among the public of existing trade bodies,
- ensuring that adequate deterrents to bad practice exist and are enforceable,
- developing a voluntary customer charter, including the need for warranties to cover work completed.

Questions

1. Are there any changes that could be achieved by voluntary means?
2. If voluntary measures are pursued and implemented effectively, would this significantly reduce the need for statutory measures?

5. A regulatory approach

Legislative Powers

If any new legislation is brought forward by the Scottish Government it needs to be within the legislative competence of the Scottish Parliament and must relate to devolved matters alone. Legislation relating to the regulation of electricians, and specifically to protection of title and associated measures, must therefore not relate to matters reserved to the UK Government.

The regulation of consumer protection is reserved to the UK Government, with a framework of regulations currently in place. There is already UK legislation that covers false statements etc. in respect of qualifications, for example the Consumer Protection from Unfair Trading Regulations 2008 enforced by local Trading Standards.

However, the potential legislation which could be put in place following this consultation would in the view of the Scottish Government be to ensure that persons contracting for electrical services get a service to a suitable standard, with a focus on safety for building occupants and users, and ensuring the safety of electrical installations. Such legislation would therefore go beyond consumer protection (which is a reserved matter) and concern matters devolved to the Scottish Government. We are of the view that legislation which would have the purpose of ensuring the safety of electrical installations is likely to be within the powers of the Scottish Parliament.

The UK Internal Market Bill is currently being considered at Westminster. A number of provisions relate to providers of services. Although the Bill would not prevent the Scottish Parliament regulating in respect of electricians, providers of services affected by any regulation that contradicts the principles outlined in the Bill may be able to challenge those regulations in the courts. Therefore any potential legislation would need to be assessed against the Bill provisions. A definite view could only be

taken once the provisions of the Bill have been finalised by being passed into law, and once it is seen how the powers in the Bill will be used.

Any limitations on legislative powers in relation to consumer protection does not prevent consumer awareness activities from taking place.

Protection of Title

SELECT proposes that the Scottish Government should enact protection of title for the profession of Electrician. In other words, no-one would be permitted to call themselves an “Electrician” unless they can prove that they are qualified to the UK National Occupational Standards. Such legislation could include prohibitions to such effect so as to make it a criminal offence not only to call oneself an “Electrician” but deliberately to create a false impression of being properly qualified without using the actual term. However, people other than “Electricians” would still be able to carry out electrical work.

Regulation of Electrical Work

An alternative approach would be to regulate the work, rather than the use of the title of “Electrician”. Such legislation could provide that a person had to hold certain qualifications and be registered in order to carry out certain prescribed electrical work. Doing so may raise practical issues as, unlike protection of title, it would be preventing handymen, kitchen fitters etc. who did not hold the prescribed qualifications from doing the work at all. Apprentices and labourers should, if properly supervised, be able to carry out their duties in a safe and competent manner. It is likely that there would need to be criminal sanctions attached for those carrying out the work without holding the necessary qualifications.

Licensing of Electrical Firms

The above two options would affect individuals, but as the Pye Tait report noted, domestic consumers often contract with a company and would wish to be assured that the firm is permitted to operate as an electrical contractor. A firm could be licensed to employ only suitably qualified electricians and could be penalised for shoddy work. However, the licencing of electrical firms is likely to be outwith the competency of the Scottish Parliament. This is because the regulation of business associations is a reserved matter. Any licensing requirement would affect the rules and conditions under which a type of business association (companies engaged in electrical work) may pursue a business activity (electrical work).

Other examples of regulation

Other professions and trades have been regulated using different types of regulation. Examples include:

Farriers

Under the Farriers (Registration) Act 1975 only Registered Farriers, Approved Farriery Apprentices, Veterinary Surgeons or Trainees, and persons giving first aid in

an emergency situation may practice farriery. For others to do so is a criminal offence which can result in a fine of up to £1000, plus legal costs and a criminal record.

The Farriers Registration Council (FRC) is a corporate body established under the Act as regulator. It maintains the Register of Farriers and sets the qualifications required to join the Register. It approves training establishments, investigates complaints and will take out prosecutions against unregistered persons when the evidence is sufficient to do so. The annual fee for farriers to register pays for the administration required.

<https://www.farrier-reg.gov.uk/registration>

Architects

Under the Architects Act 1997, the provision for protecting title states, 'a person shall not practise or carry on business under any name, style or title containing the word 'architect' unless he is a person registered under this Act.' The Architects Registration Board (ARB) is responsible for registration and prescribes qualifications for entry on to the register. All architects must adhere to a Code of Conduct, and can be removed from the Register if they fall below the required standards of conduct or competence.

www.arb.org.uk

Security Industry Authority

The Security Industry Authority (SIA) was established as an organisation responsible for regulating the private security industry in 2003. It has two main duties: the first is the compulsory licensing of individuals undertaking designated activities within the private security industry and the second is to manage the voluntary Approved Contractor Scheme. This scheme measures private security suppliers against independently assessed criteria. SIA reports to the Home Secretary.

www.sia.homeoffice.gov.uk

Gas Safe Register

This is the official list of gas businesses which are registered to work safely and legally on boilers, cookers, fires and all other gas appliances. By law all gas businesses must be on the Gas Safe Register.

Gas engineers must be employed by a registered business and are issued with a license to undertake gas work if they hold valid and current qualifications. This evidence of competence relates only to matters of gas safety and is obtained by every engineer through a recognised route of training and assessment. Gas Safe Register replaced CORGI as the gas registration body in 2009.

<https://www.gassaferegister.co.uk/who-we-are/what-is-gas-safe-register/>

Conclusions

The Electricians Working Group has already concluded that protection of title alone would be insufficient to bring about the level of behavioural change required, both from individual traders and consumers. However, as a package of actions to ensure the continued safety of electrical installations in Scotland, effective implementation of protection of title could be delivered if the following measures were developed:

- Creation of an Oversight Body which would be responsible for overseeing the implementation of any necessary actions. Such a body would be a newly established independent organisation with a clear purpose to oversee any new regulations and promote the highest standards of workmanship and competence. It would aim to enhance the reputation of electricians and protect consumers against unsafe and unsound electrical installations work, for example by acting as a central hub for registration and certification of qualified or competent electricians, and to oversee development of a code of conduct for electricians. It could also provide a redress guarantee to the consumer.
- Development of a well-resourced and effective enforcement scheme to tackle those trading as an electrician who do not meet the criteria to do so. This would address any rogue trader element who may ignore regulations.
- Clear sources of funding to enable administration and enforcement to take place.
- Likelihood of successful prosecutions to act as deterrents.

The examples of other professions show that this is a complex area but barriers are not insurmountable if there is cooperation and commitment from a range of organisations, including industry, where Scottish Government does not have direct control.

The alternative approach outlined earlier would be to regulate certain types of work, with a requirement for individuals to be registered to carry out the work. Similar practical measures would be required as outlined above in order to ensure it was effective. In both cases there is a distinction between the regulation of an individual and the licensing of businesses. While regulation would only apply to individuals, the concept of competent businesses is also important in ensuring the safety of electrical installations, and they complement each other.

Questions

3. Are there any legislative changes apart from protection of title or regulation of electrical work that would have a similar impact that the Scottish Government should explore?
4. What measures would be essential to make protection of title or regulation of electrical work effective?
5. Would both protection of title and regulation of electrical work be required or would only one be necessary?
6. Where measures, for example relating to consumer protection, could not be put on a legal footing, would this weaken the effectiveness of introducing regulations?
7. How should “electrician” or “electrical work” be defined in any regulations in order to prevent unnecessary restrictions on workers, reflect the current wide variety

of activities and take into account possible future development due to advances in technology?

8. How would administration and enforcement of regulations be carried out and financed?

9. Would introducing new statutory measures help in the enforcing of existing consumer protection and health & safety legislation? If so, would that be a sufficient justification in itself for legislation?

10. How should any new statutory measures interact with existing regulations?

11. If regulation is introduced, what should the industry do to support those who will need to upskill to meet the new requirements?

6. Increasing consumer awareness

There is agreement that, regardless of whether any regulatory measures are taken, action is needed to help consumers identify or verify competent and qualified electricians. At present there are a number of avenues for consumers to seek help to find competent individual electricians and businesses, but there is no comprehensive database, and there is low recognition among consumers for the databases that do exist. A number of options are currently available to consumers:

- registers of qualified or competent electricians provided by SELECT, NICEIC, NAPIT and the Scottish Government Approved Certifier of Construction;
- a portal developed by the charity Electrical Safety First at findanelectricianscotland.com which lists the above registers;
- advice routes for consumers such as Citizens Advice Bureaux, consumeradvice.scot and Trading Standards;
- Trusted Trader type schemes operated either by local authorities (accessed through SCOTSS' Local Authority Approved Trader online portal) or online commercial providers.

It is important that future efforts to protect consumers must empower them to make good choices. Raising awareness among consumers on hiring electricians is important but it will not have the required impact unless there is a clear, easily identified mechanism to allow consumers to identify suitable electricians.

Therefore two measures need to be addressed before consumer awareness can be successfully increased:

- development of a single, easily identifiable means for consumers to use to determine if an electrician has been assessed as qualified or competent;
- establishment of a public education campaign on hiring electricians safely, with buy-in from industry bodies and consumer organisations.

The Scottish Government welcomes the creation of the findanelectricianscotland.com website which provides consumers with a straightforward way of accessing information on suitable electricians.

The Electrical Safety Working Group has been established by the Scottish Fire and Rescue Service (SFRS) to build on the work of last year's safe use of white goods campaign by seeking to improve consumer awareness of the need to hire qualified

and competent electricians. The Scottish Government supports the work of this Group to increase recognition of this issue by the public. SFRS ran a short, focused campaign in October 2020 to encourage the public to use registered and trusted electricians.

Questions

12. What actions will be most effective in raising standards and increasing consumer protection?
13. Are there any actions not listed that are necessary to increase consumer awareness?
14. How can any new actions be used to build on and supplement the existing system?

7. Summary of questions

1. Are there any changes that could be achieved by voluntary means?
2. If voluntary measures are pursued and implemented effectively, would this significantly reduce the need for statutory measures?
3. Are there any legislative changes apart from protection of title or regulation of electrical work that would have a similar impact that the Scottish Government should explore?
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10. How should any new statutory measures interact with existing regulations?
11. If regulation is introduced, what should the industry do to support those who will need to upskill to meet the new requirements?
12. What actions will be most effective in raising standards and increasing consumer protection?
13. Are there any actions not listed that are necessary to increase consumer awareness?
14. How can any new actions be used to build on and supplement the existing system?

8. Responding to this consultation

We are inviting responses to this consultation by 12 February 2021.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/energy-and-climate-change-directorate/a-consultation-on-the-regulation-of-electricians>

You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 12 February 2021.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and, with the response, send to: electriciansregulationconsultation@gov.scot

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to electriciansregulationconsultation@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online or by email.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

9. Respondent Information Form



A CONSULTATION ON THE REGULATION OF ELECTRICIANS

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Do you work or have you worked as an electrician?

- Yes
 No

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

- Publish response with name
- Publish response only (without name)
- Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No



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