

# Proposed Domestic Building Environmental Standards (Scotland) Bill

## Introduction

A proposal for a Bill to introduce new minimum environmental design standards for all new-build housing to meet the Passivhaus standard or a Scottish equivalent in order to improve energy efficiency and thermal performance.

The consultation runs from 4 May 2022 to 27 July 2022

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (\*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

## About you

Please choose whether you are responding as an individual or on behalf of an organisation.

Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Professional with experience in a relevant subject

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

**Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation**

32 years experience in affordable rented housing. 26 Years of which relate to Development activities. 14 Years of which relate to design and construction.

Please select the category which best describes your organisation

*No Response*

Please choose one of the following:

I would like this response to be published anonymously

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).

(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

**Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").**

Q1. Which of the following best expresses your view of the proposed Bill? Please note that this question is compulsory.

Fully opposed

**Please explain the reasons for your response.**

The intended requirement is excessive, unnecessary, restricting and potentially damaging to the ability to deliver affordable rented housing in Scotland. While Passivhaus has its merits it should not be regarded as the only approach to deliver energy efficient homes. Other methods can produce SAP energy ratings at 100+ along with Similar Environmental (CO2) ratings. While Passivhaus may be appropriate in some, it will not be appropriate to all build circumstances when examining location, aspect situation. Cost of Passivhaus exceeds other construction design standards and would cause either (or all) increased development costs, reduced provision of units nationally (due to cost), greater demand for grant

Q1. Which of the following best expresses your view of the proposed Bill? Please note that this question is compulsory.

assistance, extended time required to achieve national targets, technical issues for production and delivery due to lack of skills, expertise and resources both in design and construction delivery.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

Legislation is not required. Heat in Buildings Strategy (allied to grant systems available) and Building Standards provide more effective approaches to deliver environmental standards.

Delivery of energy efficient and environmentally responsible design of housing should be achieved within existing frameworks for development. Introduction of separate legislation will require amendment to existing frameworks as noted above, which are already subject to consultation, review and development, so could therefore increase requirements for time and resources of Scottish Government to be used.

Q3. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to eradicating fuel poverty?

Fully opposed

**Please explain the reasons for your response.**

Existing approaches exist within Heat in Buildings Strategy and the introduction of further legislation would override the consultation, review, decisions and guidance thus produced.

Q4. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to a reduction in emissions?

Fully opposed

**Please explain the reasons for your response.**

As noted in previous answers the Heat in Buildings Strategy seeks to deliver on this, but also review of SAP standards addresses the issue.

Evidence suggests that non-Passivhaus approaches can deliver significant and equivalent outcomes to Passivhaus without some of the required measures and potential costs.

Q5. Which of the following best expresses your view of the process set out to ensure that the new standards are met in all new build housing? (see pages 14 to 16 in the consultation document)

Fully opposed

**Please explain the reasons for your response, including your views on how effective the process would be in removing the 'performance gap' and on how the proposed verification process might work in practice.**

Without regard to the opposition to the principal issue (that is adoption of Passivhaus or Scottish equivalent as standard) the proposal for removing the 'performance gap' as suggested would not be competent in achieving its aim. Upon completion an expert, independent or otherwise would not be able to determine fully whether or not the gap had been closed. Upon inspection the inspector can examine the equipment types, nature condition etc at that point in time based upon what has been designed and then

Q5. Which of the following best expresses your view of the process set out to ensure that the new standards are met in all new build housing? (see pages 14 to 16 in the consultation document)

seen on site. Performance of a dwelling is significantly dependent upon the user household. The best specified property built to 100% condition may still not perform as intended if not used in the optimum way. Different households with within identical properties may, will and do act and behave in different ways. Doors and windows being open, use of lights and heating / ventilation set to accommodate personal preference. This additional inspection and associated time / cost may at best simply confirm the belief that the design performance can be achieved.

There may also be items hidden from view that affect performance at the time of completion. These could only be viewed during construction and before being hidden from view.

All in all, the proposed approach is unlikely to be fit for purpose.

Q6. What could be the market effects of the introduction of this proposal?

This will be dependent upon a number of issues relating to timing of introduction and preparation prior to this. In general though:

Significant increase in demand for skills, labour and supply chain resources.

Increased cost of production.

Potential shortage of design and construction sector skills.

Shortage of supply chain resources due to demand for equipment from all developers simultaneously.

Reduced potential to meet housing supply targets.

Increased demand for grant support within the social housing sector.

Reliance upon mechanical ventilation will require frequent (once or twice a year) inspection, maintenance and repair of ventilation equipment to ensure working appropriately. NB If ventilation (MVHR) systems do not work properly then reduced air quality within the home potentially leading to ill health or more significant issues.

In the private sector, increased house prices, with potential increased in private and social rented sector demand.

Private sector rents in new-build may increase and similarly in older homes if demand increases.

## Financial Implications

Q7. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

a significant increase in costs

**Please explain the reasons for your answer, including whom you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.**

Significant increased cost per unit of every house built.

Short to medium term increase in demand for materials and specialised design and labour skills will increase costs.

Q7. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

Increased production costs will increase retail costs to consumers for build to sale.

Increased rents in build to rent properties.

Increased costs to social rented new-build may require increased rental charges.

Impacts will be felt by developers, both public and private; consumers - both purchasers of new build homes but also tenants of build to rent and potentially also social rented if costs demand.

Performance standards rather than a single design specification should be used. Not only will this achieve efficiency but prevent the need to adhere to a rigid single design type/specification (i.e. Passivhaus). It would also allow designers to optimise design for houses based on the locally specific requirements rather than potentially limiting development of particular sites because Passivhaus may not be possible on a particular plot e.g. aspect to allow adequate solar gain.

## Equalities

Q8. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

*No Response*

## Sustainability

Q9. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? If you do not have a view then skip to next question

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

While the environmental outcomes sought are agreeable, I believe that this approach will delay the potential for achieving them as this can be achieved by other means at a lower cost.

The approach also has economic issues as it is restrictive in nature by allowing a single approach to property design standards which may similarly restrict innovation.

## General

Q10. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

Simply that the Bill, while seeking a broadly agreed outcome requirement to future proof new homes to support environmental and social benefits, addresses this in the wrong manner. Existing approaches to developing new energy efficient and environmentally beneficial homes can be achieved via existing standards - Net Zero, highly insulated, energy efficient homes can and are being produced without resorting to the potentially additional costs of Passivhaus.

Setting a single standard is also restrictive in nature with potential issues relating to competitive choice in design while also potentially impacting on market pricing of new homes.