

# 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.

on behalf of an organisation

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".)

*No Response*

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

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).

Buidheann Tigheadas Loch Aillse Agus An Eilein Sgitheanaich (Lochalsh & Skye Housing Association)

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 supportive

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

The climate emergency needs significant and meaningful action and this is one aspect of housing quality we have direct control over.

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.

Yes, Government needs to be prescriptive in the same way as previous administrations back to the 19th century forced the pace of change in public and environmental health. The private sector is not going to do this voluntarily. If anything it needs to be also applied to retrofit in some way, albeit with a price tag.

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 supportive

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

I am not an expert on Passivhaus, so there may be alternatives. However the principle of reducing demand/energy use to the absolute minimum is the way to proceed, and this approach should also be applied to existing housing. I'd appreciate a conversation about this, as the matter is complex and we need to model the impact of retrofit.

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 supportive

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

For most of Scotland, being reliant on fossil fuels, with affordable alternatives like hydrogen some way off, it makes sense to reduce the need for heat generation by improving insulation and heat recovery as per Passivhaus, again adding in a similar approach to retrofit on existing properties. However this is complicated in rural and island Scotland by the fact that these areas are effectively low carbon or net climate positive, and the issue is really about fairness and fuel poverty.

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 supportive

**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.**

I have been through a passivhaus design process and it is essential that an expert in this field advises the design team and contractor. However, we also need a change in mindset within Development Control as part of the planning process. Thinking at local authority planning (and roads) is still stuck in the 80's, so building control changes are not enough. If anything I've found building control more practical and willing to understand. In addition, we need to move away from on-site construction and that will need a carrot and stick approach, and co-ordination from government. As Bill Gates says, the private sector is not set up to deal with this and we need the big state. A number of bodies are now talking about an agency, akin to the Land Commission, a Climate Crisis Commission to help co-ordinate effort in the public, third and private sectors, collaborating with BRE to develop the pattern book and solutions manual we need for new build and retrofit. There is a Passivhaus certificate for retrofit and organisations like EnergieSprong in the Netherlands with expertise in this area, so it need not take long to see action. I recommend talking to Changeworks on this subject.

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

By doing nothing there will be terrible consequences. The market is overheating again, so now is the time to take a more radical approach, but it will probably cost more than you indicate. In time builders will deduct that extra cost off the land value but you will need to think about short term transitional measures. Anyway, this is too urgent and too important to be left to market forces - see Bill Gates' commentary on climate change. Rather than run away from the problem if you get push back from the private sector, get them in the room and ask them politely to make it happen. Similarly, government needs to grow a spine with regards to the second hand housing market and home ownership. RSLs and

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

Councils are already struggling with EESSH2, so this is a tough ask, but a national strategy is needed across all sectors. It doesn't seem very radical or difficult to apply a capital gains tax on housing transactions with tax offset for any climate change related investment, plus minimum requirements for energy efficiency and heat demand reduction.

## 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.**

It's complicated. Once the measure has been in place for a few years land values will have been adjusted and there may be little or no additional cost for buyers.

There is a supply chain problem and island premium on construction in remote and rural areas, so new build prices will go up but those on modest incomes can't afford what is being built now, so this shouldn't concern government. With the current regime there are no volume house builders on Skye, in Wester Ross or Lochalsh because cost to value means there is limited profit margin and so the market is different. Making housing Passivhaus will carry a premium for affordable house builders like LSHA, so grant levels will have to be adjusted accordingly. Could a capital gains tax on private house transactions pay for that extra subsidy? Another option is to explore a social enterprise model akin to Energiesprong for both new build and retrofit, perhaps based on an Energy Services Company, currently being developed by Power Circle. Warmth as a service with minimum standards of insulation and warmth has the potential to produce income streams to pay for the shift in standards and eliminate the worst of fuel poverty. Again, I'd welcome an opportunity to discuss.

## 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.

I think this legislation only impacts negatively on minorities or the vulnerable if the impact on social housing is not addressed through additional funding or a more creative approach to energy/warmth as a service. However, the greatest impact on minorities and vulnerable communities is from doing nothing because those groups are more exposed to the worst effects of climate change.

## 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?

Passivhaus or its equivalents are the best option for protecting and enhancing the environment, being sustainable as communities and as an economy, principally because the measures are not dependent on short term measures or technology change. For most measures and design investment in fabric first has a 60+ year lifespan, unlike say an Air Sourced Heat Pump, with 10-15 years of life in it.

## 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)?

The Bill needs to at least tee up the prospect of a similar approach to fabric first retrofit across all sectors. Only a tiny fraction of buildings are new, over decades 80%+ of the housing stock at any one time were built before any significant change in standards. It's the start of a journey not the conclusion.