

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

Representative organisation (trade union, professional association)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Property and Land Law sub-committee welcomes the opportunity to consider and respond to Alex Rowley MSP's consultation on a Proposed Domestic Building Environmental Standards (Scotland) Bill . We have the following comments to put forward for consideration.

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).

Law Society of Scotland

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.

Do not wish to express a view

Please explain the reasons for your response.

We have no comments.

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.

We have no comments.

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?

Unsure

Please explain the reasons for your response.

We have no comments.

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?

Unsure

Please explain the reasons for your response.

We have no comments.

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)

Neutral (neither support nor oppose)

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.

In relation to the proposed verification process, we note the importance of ensuring consistency in the approach taken to verification. This may be more challenging to achieve if verifiers independent of the Building Control Department are undertaking the process than if the process is carried out by those connected to a Building Control Department. We therefore consider that it is most appropriate for verification to be undertaken by the relevant Building Control Department either directly and/or via contracting qualified verifiers to ensure consistency and reliability. We highlight the resource implications that this may have, both in terms of costs and also availability of suitably qualified independent verifiers. While we consider that there are a range of different approaches which could be used by Building Control Departments to check building standards, for example as demonstrated during Covid-19 lockdowns, we recognise the benefits of carrying out on-site reviews of properties to ensure a robust verification process.

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

We highlight the need for certainty and clarity in the law. In particular, there is a need for certainty and clarity for the housing development sector given that plans are made some time in advance to enable projects to be costed, planning permission obtained and other preparatory work for developments undertaken. Uncertainty or a lack of clarity as to the law in the future has the potential to have impacts on the market.

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?

Skip to next question

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.

We have no comments.

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?

We have no comments.

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)?

We have no further comments.