

# 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).**

This response from Local Authority Building Standards Scotland (LABSS) was prepared in consultation with the LABSS Executive Board. LABSS is a voluntary organisation with represents the interests of all 32 Local Authority Building Standards Services, the views of LABSS are not necessarily the views of any Local Authority as a whole.

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).

Local Authority Building Standards Scotland (LABSS).

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.

Partially supportive

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

While the details of the proposed bill have merit and the challenges of rising heating costs and the climate crisis are real and present, it is the opinion of LABSS that the proposed changes to building regulations from the 1 December 2022 provide a balanced approach between ambition and practicality. LABSS will continue to work in partnership with the Scottish Governments Building Standards Division (BSD) to ensure a successful implementation of these changes. We will also work closely with the BSD on the planned move to 'zero direct emissions' heat in new buildings from 2024.

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.

LABSS position outlined in response to Q1.

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?

Partially supportive

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

While the Passivhaus standard (or Scottish equivalent) is recognised as a 'gold standard' level, it is the opinion of LABSS that minimum levels set within building regulations should be performance based and as such the use of a prescriptive code may not be appropriate or provide the necessary design flexibility permitted by the current performance-based approach, which includes aspects which seek to limit energy demand and contribute to eradicating fuel poverty.

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?

Partially supportive

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

Refer to response to Q3.

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.**

The BSD is already making significant changes to how compliance is achieved on site and while this is initially directed at high-risk buildings, the clarification on the duties of the building owner and relevant person will focus attention on the need for compliance in all new building work. In terms of the use of an 'accredited verifier' this principle is already available through the certification of construction route. The principle of such a person sitting within the Building Standards Department may conflict with the Local Authority verifiers duty for reasonable inquiry and would also detract from the primary duty of compliance which rests with the building owner/relevant person. It is noted that the diagram on page 15 of the consultation document does not include reference to checks made by the Local Authority verifier under the duty of reasonable inquiry.

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

LABSS is not able to respond to this question which would be best answered by other stakeholders.

## 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?

some 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 has been estimated that the proposed changes to energy standards from the 1 December 2022 would result in increased costs of 4%, should the Passivhaus standard be adopted it would be expected that the increase in costs would be in excess of 4%. LABSS would anticipate excess costs being passed to the purchaser.

## 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 view expressed.

## 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?

No view expressed.

## 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)?

No further comments.