

Proposed New-Build Homes (Buyer Protection) (Scotland) Bill

Introduction

A proposal for a Bill to establish standard missives for the sale of new-build homes, including redress for purchasers in respect of defects in construction. The consultation runs from 5 April 2019 to 27 June 2019. 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 attached to this consultation 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".)

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:

Purchaser of a new-build home

Please select the category which best describes your organisation

No Response

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 name or the name of your organisation. (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).

Walter Patterson

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

Q1. Which of the following best expresses your view of establishing statutory standardised clauses for builders' missives?

Fully supportive

Please explain the reasons for your response.

My experience was that once the builder had my money there was no further interest in addressing issues with the property. I was always referred to the warranty provider. I fully support the proposal to provide these better protections for purchasers of new-build homes. My observations of experiences of friends and family convince me that this problem is getting worse, with shoddy workmanship allowed to go unchecked. It's time to give protection to buyers and make builders more responsible for the quality of what they build (and sell)

Q2. Which of the following best expresses your view of providing a statutory route for home buyers to obtain redress for major failings on new-build property?

Fully supportive

Please explain the reasons for your response

On this estate alone we have had over 20 homes requiring to be decanted and underpinning work carried out. Achieving redress for these owners has been long and difficult and without the support of the proposer of this bill, it is doubtful whether the builder would have acquiesced to remedial works. The failings on my property were not as severe, but involved extensive negotiations to achieve any kind of resolution (and even then I was left out of pocket)

Q3. What do you think would be the main practical advantages and disadvantages of the proposed Bill?

For the purchaser the advantage would be that they could withhold a portion of the price until a satisfactory resolution of issues had been achieved. An unscrupulous purchaser could always have an

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excuse not to pay the hold-back fee on the basis of some small issue - so an arbitration service might be required.

Purchasers would have the knowledge that the builder no longer 'held all the aces' as they appear to do at the moment (and unashamedly play those aces for their own advantage)

Q4. What length of time do you think is most appropriate for a builder's warranty for a new-build home?

Please explain the reasons for your response.

10 years. Often a weakness in the design or the actual construction of a new home is only exposed by a particular set of conditions (eg long spells of inclement weather, strong winds). So need time for the building to have been exposed to a more extensive range of such conditions

Q5. Which of the following best describes your view of having standard missives that provide a right for buyers to carry out a full survey of the property within a specified period, and a right to pull out of the purchase if severe or very serious defects are discovered?

Fully supportive

Please explain the reasons for your response

At the moment the builder's sales agents rush the buyer around the home and press for acceptance of the property (just sign here sir). Most purchasers would not know what to look for anyway - but a surveyor would. I had a friend do that for me (on the condition that I did not divulge his identity to the builder!!)

Q6. If you have bought a new-build home in the past, please tell me about your experience, taking care not to name individuals/companies or the location of the property/development.

Main issue was my roof, with tiles blown off every time there was a strong wind. This issue took 3 or 4 years to be resolved, involving the builder, warranty provider (and eventually my own contractor). And lots of snagging issues that were never dealt with - sloping floors, loose corning, poor water flow in upstairs bathrooms, scratched windows, brickwork with mortar stains, uneven pavers in drive). And of course, the bricks, tiles, plastic bags, pails, cement bags buried in the garden soil

Financial Implications

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
Government and the public sector			X			
Businesses (including housebuilders)		X				

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

Individuals (including new-build house buyers)				X		
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Please explain the reasons for your response.

I don't think that these are the right questions to ask (although I see the reason for them). This is about altering the balance of power between the builder and the purchaser. It's about bringing this commercial transaction into line with every other consumer purchase (eg cars). It's about making builders step up and accept responsibility for the quality of the design and construction of the homes they sell.

Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Please explain the reasons for your response.

The provisions of the Bill are for all purchasers of new homes regardless of age, sex etc

Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Please explain the reasons for your response.

Most definitely. This Bill will help citizens in Scotland approach the purchase of a new-build home with more confidence. And Scottish builders will gain a reputation for high quality build as they adjust their current practice to reduce the risks of significant fund hold-back by unhappy purchasers

General

Q10. Do you have any other comments or suggestions on the proposal?

I look forward to seeing this Bill being supported in Parliament and enacted in statute