

# 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:**

I am a retired bank manager who specialised in mortgage lending during the 1980s and early 1990s which gave me an interest in property. I have had a second career as a microgeneration and energy mitigation consultant which provided me with technical skills and a basic knowledge of construction and building renovation. Finally, I have renovated several of my own properties and now live in a new-build which has had some issues that I had to resolve myself.

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

**If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):**

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).

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.**

Having bought a new-build seven years ago, I was not entirely happy that the missive was clearly written in the builder's favour with little recourse for any faults that might develop after the two year warranty expires, which has been the case.

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**

When I approached the builder to rectify a small area of render that had dropped off the front elevation after only four years, they referred me to the warranty. An inspector visited and agreed that there had been poor workmanship but because the warranty provider book the builder provided was several years out of date, the minimum claim threshold was understated and the claim was declined because the work required

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would not meet the current minimum threshold. I tried to interest several builders in this small (£1,000) job but all were far too busy so I undertook the work myself.

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

The main advantage would be that homebuyers would no longer have to rely on the guarantee which is virtually worthless and loaded in the builder's favour. At present the two year builder's warranty does not allow time for defects to materialize and in my own case, for example, I have had to undertake my own render work, change various electrical fittings and source and fit door parts which had prematurely rusted, all after three to four years. What most buyers are not aware of is that the windows and doors do not benefit from the usual 10 year warranty as this is superseded by the builder's two year warranty which then ceases leaving the homebuyer exposed.

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

5 years

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

It takes 3-4 years for many significant defects to materialise by which time the builder is no longer on site and tends to resist any involvement with the homebuyers.

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**

New builds tend to be constructed in haste which often leads to defects that disadvantage the homebuyer whose only real protection is the, virtually worthless, warranty. This proposal is an excellent method of encouraging builders to undertake their work in a more professional manner as they will have to always bear in mind that a survey could be undertaken which might kill the sale if problems are found with the build.

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.

I bought my new detached home in December 2011 and everything was fine at that time. There were a few snagging points but these were willingly fixed in good time by the builder. However, after three to four years a number of issues arose. Firstly, a few electrical sockets and switches failed but these were easily changed by me. Then a contractor turned up to move a residual earth mound behind my property on waste land that formed part of the overall development. This raised the earth level and my garden started to flood. I lobbied the builder to insert drainage and eventually encouraged them to meet with me at which time I was made aware that my builder was constructing homes under license on behalf of the administrators of the previous site builder who was now in receivership. This meant that the land was actually owned by the administrators and my builder was not technically responsible as they had no knowledge of any contractor moving the earth on the waste ground behind my property. However, they did the right thing and installed the necessary drainage which has resolved the issue. I then had a

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problem with a small area of render dropping off the front elevation which appeared to be covered by the warranty. However, as the warranty provider book provided by the builder was several years out of date and the minimum claim threshold had risen by about 50% using an index that the public do not have easy access to, my claim was rejected on this basis even though the work would otherwise have been covered under the warranty as there was a building defect. As all the local builders were far too busy to be interested in a small £1000 job, I gave up approaching them and undertook the work myself as I have developed a number of trade skills over the years. Finally, the front door lock keeps rusted prematurely but outwith the builders' two year warranty so I spent 18 months eventually sourcing replacements but only after lengthy exchanges with the door manufacturer who tried to help but sent me the wrong parts. Despite all this, I am now very happy with the property as it is a well-designed and comfortable home that I would buy again despite all the issues that I have had to resolve

## 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			
Individuals (including new-build house buyers)			X			

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

Any added costs would be negated by avoidance of rework and lengthy exchanges between builders and disgruntled homebuyers.

## 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?

Unsure

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

No idea.

## 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.**

See answer to question 7.

## General

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

This is an excellent proposal that is long overdue.