

# 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".)

*No Response*

Please select the category which best describes your organisation

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?

Partially supportive

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

I agree that this will more clearly outline builders' responsibilities to the consumer and will assist with providing better quality homes, however I feel this may impact on smaller independent companies resulting in a reluctance to develop new homes (particularly one off builds). This could result in large organisations having an even greater presence in the market and gaining an unfair advantage. As a result, consumers looking for a 'non standard' new build (i.e. not a Persimmon or a Muir etc) could end up having to pay a greater premium.

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**

I fully agree that there should be a system in place to protect new build homebuyers from major failings. A list of what constitutes as a major failing must be clear to the buyer and the builder prior to agreement. Legal wording and technical jargon should be avoided (as far as possible) to prevent crafty Lawyers providing advantageous positioning (get out clauses) for larger new build companies.

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

This depends on who would be appointed to determine if the property is acceptable / suitable during construction and at completion stage. If the Building Standards role is to be changed to incorporate this act then much greater funding will be required for Local Authorities to carry out these additional duties. From my experience, Building Standards departments throughout the country are already stretched and I feel that these proposals will most likely create a need for mandatory inspections, rather than the current system of reasonable enquiry. An advantage with this will be that the limitations of Building Standards influence will be made more apparent to home buyers and issues will be noted at an early stage allowing contractors the opportunity to rectify mistakes and issues prior to completion. The disadvantage is that this will cost money. Surely this extra cost will be shouldered by the buyer? If this is the case it could impact the new build market.

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

Unsure

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

A quality warranty for minor issues should be for a relatively short period? (1 year) A quality warranty for major issues should be for a longer period? (5 years)

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?

Neutral (neither agree nor oppose)

**Please explain the reasons for your response**

I feel if a proposed warranty scheme is in place which protects the buyer (post purchase) then this will be unnecessary. If a serious defect occurs within a defined period then the buyer should be compensated from the builder. If the buyer wishes to carry out a survey prior to purchase I feel that they should be allowed to do so but at their own cost. If the survey reveals no concerns then surely the contractor can't be held liable if something goes wrong. This may shift the liability to professional independent Surveyors.

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.

N/A

## 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					

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

<b>Businesses (including housebuilders)</b>		X				
<b>Individuals (including new- build house buyers)</b>		X				

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

As per previous responses.

## 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.**

I feel this question is completely unnecessary in this survey as I fail to see how these proposals could influence any of the above.

## 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?

No

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

The proposals will cost money to implement. Also, house sales could collapse causing potential financial strain on parties involved. Environmentally there will likely be a greater presence of individuals on site throughout construction potentially leading to increased CO2 emissions.

## General

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

Ultimately I agree with the spirit of this proposal and that homebuyers should be protected. I also agree that the limitations of Building Standards influence should be made more apparent to home buyers, particularly the fact that Building Standards has very little to do with quality control. If it's safe and

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

habitable then it gets a completion certificate and clients need to be aware of what this means.  
Reasonable enquiry requires definition regardless of the outcome of this proposal. Rogue builders should be punished more heavily and be held accountable for poor quality construction.