

# 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".)

Professional with experience in a relevant subject

**Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:**

Chartered Building Engineer (MCABE)

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.**

Building should be held accountable for any defects within a building they construct for a reasonable period of time.

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**

At the moment, many homeowners have issues making claims with warranty companies. The issue is then often transferred to the local authority as the verifier under the Building (Scotland) Act. This act is not well suited to assisting with homeowners as the "relevant person" under the act is them once the purchase has been made. This means formal action would have to be taken against them if we pursue an issue. Also, I am personally not supportive of public monies being used to rectify issues when better legislation can ensure this burden is passed to the private developers.

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

The main advantage is to give legal recourse to owners who have purchased a sub-standard or defective property. A disadvantage I can see is that, without an enforcing body, private owners will still likely have to pay significant legal fees to enforce this privately which may deter people. Also, house builders may

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

start to use this as a justification for no longer using insurance based schemes, which may leave the homeowner in a difficult situation should a company become insolvent.

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

Other (please specify)

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

I think different elements of the building will need different timescales, for example, the structure of the building (foundations, structural members within a timber kit, steelwork etc) should be subject to a lengthy period, i.e. 25 years. Another part of the building, for example a door or window, may only be covered by a warranty for 5 years or so. There would also need to be an agreement about what is deemed reasonable maintenance - i.e. what steps the homeowner has to take to maintain their building to ensure the warranty is preserved.

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**

Homeowners shouldn't be forced to buy something just because they have committed to a purchase "off-plan" if it is found to be defective in any way. There probably is a grey area to be defined about what is considered "defective" and what may just be seen as poor workmanship (i.e. untidy work which is still fit for purpose)

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
<b>Government and the public sector</b>		X				
<b>Businesses (including housebuilders)</b>		X				

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

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

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

Government will need to implement legislation and probably appoint an enforcing body of some variety. House builders will need to amend their legal documentation and process.

## 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 can't see it having much impact either way

## 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.**

It can't see the bill having any negative impact on the above

## General

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

*No Response*