

# 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.

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

Commercial organisation (company, business)

**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).**

Our company has been building new homes in the Scottish Borders since 1946, and currently employs 45 directly and a significant number of sub-contractors. Our homes are recognised by customers and selling

Please select the category which best describes your organisation

agents as being constructed to the highest standard. Under the missives our houses are inspected by the warranty provider and building control prior to handover. Often an additional inspection is carried out by a surveyor appointed by the building society prior to release of mortgage.

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).

Rural Renaissance Ltd, J.S.Crawford Contratcs (Borders) Ltd.

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 opposed

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

We do not use standard builders' missives, instead they are tailored for each developemnt and often to suit an individual customer. One size fits all approach through statutory clauses is overly prescriptive.

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 opposed

**Please explain the reasons for your response**

Building warranty providers have very robust procedures for dealing works which fall beneath their standards - major and minor, and requiring that they are rectified. Building Control and the warranty provider will not release completion certificates if there are defects - without these the solicitor and building society will not release funds.

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

The process covering inspection prior to handover/occupation and on-going after-sales - is already well regulated, there are robust procedures and insurances in place, paid for by the builder. This bill seeks to complicate and duplicate. If there are issues with builders refusing or ducking their existing contractual obligations, I would contend that their solicitor has failed in his duty.

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.**

Builders Warranty is currently 10 years with a two year remedial works period. Buying a new house has more inherent protection than buying existing stock - I have bought a number of existing properties and many of the defects are not discovered, despite a "home report", until floors are lifted or walls opened up. The inspection regimes by Council and Warranty providers are carried out at various stages during the construction process.

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 opposed

**Please explain the reasons for your response**

Operating in a dispersed rural area, in a secondary or even tertiary markets, where demand is weak; to secure sales we offer a degree and flexibility in design and customisation that large national builders developing in primary markets do not. A clause as suggested above, would tip the balance in favour of the purchaser, we would be unable to operate our current business model, resulting in either us withdrawing from building in some settlements and/or reducing customer choice. Giving the option that a customer may withdraw prior to completion provides an opportunity for the purchaser and their solicitors to exploit housebuilders operating in areas of weaker demand.

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.

*No Response*

## 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.**

Potential to lose a house sale and tip the company into insolvency. Banks would be unwilling to lend finance or require significant and costly insurance to protect against a client withdrawing. Damage the local housing market, less new homes being built, greater need for state provide housing.

## 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.**

Reduce choice in the market place, which tends to impact upon those with less equity and lower earnings. As a mitigation measure to this bill housebuilders may demand a higher level of cash deposit, or interim payments through the build process. This type of contract is not suitable for those requiring a 70%+ mortgage.

## 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.**

At the worst it may stop us building houses. It will require significant changes in our business model. In rural areas, such as the Scottish Borders, it would impact upon choice and quality, favouring those with the equity and income over young and aspiring families and individuals. The system as exists in our experience works, biased slightly towards the purchaser. If it is failing elsewhere then perhaps those operating within the system should be scrutinised and therefore performance questioned.

## General

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

Sort the existing system - this bill proposes a new & untried process, which will undoubtedly have unintended consequences.