

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)

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).

J S Crawford Contracts (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.

There are enough inspections by local authorities and Insurance Guarantee providers (along with specialised inspections by consultants and professionals) to ensure that the majority of building work in Scotland is to a very high standard. By introducing this extra procedural hurdle could have a strong risk of seriously damaging the housing market and jobs within the industry.

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?

Partially opposed

Please explain the reasons for your response

Through the Guarantee Insurance provider policy provided by the majority of developers give the home owner 10 years of cover for major structural issues that the developer must fix or remedial works will be done by others and billed to developer. Make it a stipulation that all new builds must have this cover and not optional. Before the house can be passed over to clients it would have been through a huge amount of investigation works, professional certification and inspection and passed for habitation. To have all this work undermined by a surveyor working on behalf of owner (who may be looking for a reason not to buy house or has second mind for buying) it could delay payment or lose a sale for no reason causing serious cash flow issues for the industry. This is an incredibly dangerous Bill to introduce and is looking to punish the majority of extremely high standards due to one poor site this particular MSP has within his ward - go after that developer and not risk the Industry in full - who are struggling to cope due to Brexit uncertainty.

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

Disadvantage - (touched on in previous question) is that the sort of issue is already covered by procedures within our industry and inspected throughout what is already an incredibly detailed procedure from concept to completion. We have a great standard of building work in Scotland and this should be highlighted and not brought into disrepute due to one site in a MSP ward. Have a get out clause for client after completion is incredibly dangerous for the industry. This MSP obviously has a limited knowledge of the procedures and quality within our Industry by bringing his bill like this. How could it be practical for a surveyor employed by new home owner to be allowed to state house is not fit for occupancy after house has passed numerous statutory inspections by various Professionals. Serious latent structural defects are already covered by procedures for 10 years - make it a requirement that every development has to have this cover.

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.

This question worries me but the lack of understanding. Developers Insurance providers give 10 years for major defects which main contractors are liable for and most companies will also provide a 2 year warranty for snagging / small scale items.

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

Refer to previous questions as all linked. The process of buying and selling a house is already full of reports for Political tick box requirements. Serious defects are already covered under the developers Insurance Guarantee (paid for by developer and not public as MSP indicated) and therefore having this extra level of reporting especially in this manner could have a critical effort on jobs within the industry. Any defect is covered and should be rectified by contractor and / or insurance guarantee provider. If you want to address this issue put the power back to Building standard to use their Enforcement team by introducing a method of recourse if latent serious defects are identified.

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.

Yes I have and normal snagging issues were suitably dealt with as per my contract with developer which is a legal obligation.

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.

By adding in this potential "get out clause" or route for an owner to delay or not pay for a house due to employing a surveyor to over rule all the other professional inspectors. The risk associated to developers will lead to higher house prices as risk of this will fore this to happen. Insurance providers will increase fees due to this extra risk also. Developers will bring out law suits against Public sector who have inspected and passed a house that is then deemed un-suitable for occupation. Buyers will end up paying more due to all the other professionals / legals adding on up front costs just in case client pulls out or delays after completion.

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.

This has nothing to do with Equality and shouldn't be asked.

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.

Don't punish the whole industry who are already suffering under the increased requirements to building standards, Planning requirements and endless reports, material costs / shortages, labour shortage, sustainability requirements to be carbon free etc. The price of building new homes is already increasing

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rapidly due to all the hurdles that is required and thus affordable homes for owners or young people are already becoming un-sustainable.

General

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

MSP needs to understand the risks to the Industry on a whole and engage first without publishing this Bill which is causing a lot of panic, uncertainty and difficult in a struggling industry that needs support. Suggest he deals with the problems on the site in his own Ward directly without rocking the Industry or is this a Political stance - either way procedures are already in place without this new idea which could potentially cause lots of job losses.