

Heat in Buildings Bill consultation

Evidence submitted to the Scottish Government 07 March 2024

This is a response to the Scottish Government's consultation on a new Heat in Buildings Bill which would introduce minimum energy efficiency ratings for homes in the private sector and a requirement for homes across tenures to move to renewable heating systems by 2045.

Introduction

We support the introduction of regulations to require improvements in energy efficiency, particularly in the private sector which has fallen behind the standards in the social housing sector. Improving the fabric of our homes can help to reduce the amount of energy needed to heat them and contribute towards reducing fuel poverty. We think that everyone should have a good quality home that is affordable to heat regardless of tenure, and we welcome the move towards alignment of standards across the housing sector. Regulations will also be essential to the Scottish Government's ambitious net-zero targets.

Regulations should set a clear timescale for homeowners and landlords, allowing time to plan for the work needed. They will also provide certainty to industry encouraging investment in the supply chain and upskilling the workforce.

However, the regulations need to be reasonable and achievable, and underpinned by enabling measures including clear communication, advice and information and financial support where needed. The Scottish Government estimates that it will cost around £33 billion to decarbonise all of Scotland's homes and buildings and so far has only committed £1.8 billion. We do not expect the Scottish Government to cover all costs involved, but we need to be realistic about where the funding will come from, and how individuals are supported to get the best value for the money they will be required to invest in their homes. Social landlords also have a duty to their tenants and customers when making investment decisions.

If sufficient funding, advice and information is not put in place to support the proposed measures, there is a risk that costs will fall to those who can least afford to pay. The Scottish Government must also urgently address the cost of electricity

to avoid increasing the risk of fuel poverty for households moving from gas to electric heating systems.

Consultation questions

Q1. To what extent do you support our proposal to prohibit the use of polluting heating systems in all buildings after 2045?

Somewhat support X

We support the principle of improving the energy efficiency of homes and the move towards net-zero and believe that regulations are essential to achieving this. If the Scottish Government is to meet its statutory target of net-zero by 2045, the majority of homes will need to move to renewable heating systems (such as heat pumps or heat networks) and this requires strong regulation underpinned by clear communications, advice, information and financial support across all housing tenures.

The success of the net-zero target will depend on all of the above and can only be achieved if the enabling measures are put in place by the Scottish Government. The Existing Homes Alliance has published research setting out what the ideal customer journey should look like - from awareness raising to a "one-stop-shop" approach, post-installation support and customer redress (<https://bit.ly/3l44uB2>). The Scottish Government should consider how this approach can be achieved, first scaling up existing capacity through Home Energy Scotland, and working with local partners.

We agree with the proposal to apply the prohibition of polluting heat only to the main heating system of the home. This will allow for the use of portable back up heaters and cooking appliances which can be particularly useful in rural areas which may be more vulnerable to power cuts and require alternative heating or cooking sources.

We welcome a more flexible approach for those who are already using bioenergy systems which will account for a small number of homes.



Q2. To what extent do you agree that we should introduce a minimum energy efficiency standard to be met by private sector landlords by the end of 2028 (even if they are already using clean heating)?

Strongly support X

We support the introduction of minimum requirements for private rented homes. Private tenants should be able to expect a minimum level of quality and we support the move towards alignment of standards across housing tenures. The sector has been aware of proposals for minimum energy efficiency standards for some time, with earlier regulations postponed by the Covid-19 pandemic. While we do not feel that the 2028 date is unreasonable, landlords need to be given enough time to comply, and we would therefore urge the Scottish Government to confirm and communicate plans as soon as possible.

We agree that a minimum energy efficiency requirement should be met even if a clean heating system has already been installed. Ensuring a good standard of energy efficiency should help to reduce heat demand and keep bills down – this is especially important if moving from a gas heating system to an electric system with a higher cost per unit of energy. We do not want to see a situation where tenants are left financially worse off because a landlord has installed measures to meet a standard but not considered the impact on tenants.

The challenge will be in ensuring that landlords are supported to comply with new standards, within a relatively short timescale, and that adequate resources are in place to be able to enforce standards where necessary.

The Scottish Government should also consider how these proposals intersect with other policy areas such as the commitment to introduce rent control for the private rented sector (PRS) and the possibility that landlords may decide to leave the market if the cost of compliance is too high risking further loss of residential supply.

Q3. To what extent do you agree that we should introduce a minimum energy efficiency standard to be met in owner occupied homes (which still have a polluting heating system) by the end of 2033?

Strongly support X



As above, we support the introduction of regulations to improve the energy efficiency of homes and the move towards alignment of standards across housing tenures.

We understand the reasoning behind the proposal not to impose minimum energy efficiency standards where a clean heating system has already been installed, but have some concerns about homeowners receiving the right advice and information to make an informed decision about investing in their homes. We do not want to see clean heating systems installed in isolation in order to meet legal requirements if this is not the right solution for the property and could result in poor performance or significant energy bills.

The Existing Homes Alliance has published research setting out what an ideal customer journey should look like from awareness raising, a one-stop-shop approach, trusted advice and information through to post installation support and customer redress (<https://bit.ly/3I44uB2>).

Q4. Do you agree with our proposal to set a minimum energy efficiency standard that can be met by either installing a straightforward list of measures, or showing a good level of energy efficiency based on a reformed EPC fabric efficiency metric?

Strongly support X

Using a list of measures to achieve compliance has the advantage of being simple to understand but perhaps lacks flexibility so we welcome the option of a fabric efficiency metric as suggested.

We do have some concerns that the list could lead to a “tick box” approach to energy efficiency where owners may carry out the cheapest or easiest measures to achieve compliance rather than the optimum measures for the property. Again, we repeat the need for the provision of trusted advice and information to support people to make informed choices about investment in their homes.

With regards to the proposed fabric efficiency target of 120 kWh/m²/year, it is not clear that this would result in all properties meeting a “good level” of energy efficiency as it does not differentiate between the performance of solid wall and cavity wall properties. This could enable cavity wall buildings to meet the standard by carrying out little or no improvements.

We understand that the proposals as they stand would not create undue burdens for solid wall homes, but this may risk setting the bar too low for the majority of homes that could make further improvements. The Scottish Government should consider whether a single standard applied across all house types is appropriate.

Q5. What is your view on the initial proposed list of measures to meet the minimum energy efficiency standard?

Somewhat support X

As set out above, the list of measures has the advantage of being easy to understand and should be achievable for the majority of homes. However, it does risk becoming a “tick box” approach to energy efficiency if not presented in the right way or supported by tailored advice and information.

The list should be presented as a minimum standard with owners being encouraged to carry out measures that would lead to the optimum performance for their home and to maximise the heating system. Again, consideration of the Existing Homes Alliance customer journey work would be beneficial here.

Q6. Do you think that properties for which most or all of the measures on the initial proposed list are not relevant should be required to meet an equivalent minimum energy efficiency standard?

c. Yes - they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), but they should only be required to install some of these where feasible and cost effective. X

As set out above, we think that the Scottish Government should consider the appropriateness of the proposed energy efficiency metric set out above and whether it is set too low to encourage improvements in all properties. Where the measures on the list are not relevant to a property, consideration should be given to additional measures but subject to feasibility and cost-effectiveness. Otherwise, there is a risk that a significant proportion of older homes will fall outwith the proposals and will not benefit from improvements.

Q7. Do you think that an alternative approach to setting the minimum energy efficiency standard is required?

No X

Q8. Do you agree that the use of bioenergy should continue to be permitted in certain circumstances?

d. Yes, it should be permitted for those buildings already using it and for those buildings who have no other clean heating system available. X

Yes, homes that are already using bioenergy or have no clean alternative should be permitted. These will make up a small proportion of housing stock.

Q9. To what extent do you support the requirement to end the use of polluting heating following a property purchase?

Somewhat support X

The sale of a property provides a convenient trigger to upgrade heating systems and spread compliance over time (rather than too many owners waiting until the 2045 backstop). It could encourage sellers to carry out work to make their property more attractive, but allowing the option for the buyer to take on the obligation will prevent sellers who cannot afford or do not have time to carry out the work being trapped.

Again, it will be essential to support the seller and buyer through the process, provide advice, information and ensure that financial products are in place to encourage compliance before a sale or enable it after.

The consultation does not suggest a start date for the point of sale obligation. Adequate time must be allowed for the market to respond (availability of financial products etc.) but also to prevent heating systems that have been recently installed being replaced.

Q10. We are proposing to give those purchasing a property a 'grace period' to end their use of polluting heating. Do you agree with this proposal?

a. Yes - the grace period should be two years. X

Yes, we agree with providing a grace period which will allow time for the work to be planned and carried out. A two-year period should allow ample time.



Q11. To what extent do you support our proposal to apply a cost-cap where people are required to end their use of polluting heating following a property purchase?

Somewhat support X

The regulations need to be reasonable and not create undue burdens on buyers or potentially be passed on to tenants through increased rents. For that reason, the Scottish Government needs to ensure that a range of incentives and financial support (grants and low-cost loans) are available to support the vast majority of people to comply with regulations. Without knowing what support can or will be put in place, we cannot rule out the use of cost caps if alternatives (support and exemptions) are not sufficient.

If cost caps are to be used, all possible improvements up to the cap should be required to be carried out up to the maximum cost.

Q12. Which of the following methods of applying a cost-cap do you support?

- a. A flat cost-cap.
- b. A size-based cost-cap.
- c. A purchase price-based cost-cap.
- d. None.
- e. Another, please suggest below.

All of the proposed methods have limitations, primarily that they do not take the requirements of the home into account. A cap linked to the purchase price would appear to be the most attractive as it would be easy to calculate and more closely linked to ability to pay – as those buying higher value properties are more likely to be able to afford greater investment in improvements.

However, as the consultation points out, this would place a higher burden on those purchasing homes in more expensive parts of the market and potentially limit investment at the lower end of the market. As per our answer above, careful consideration should be given to limiting the use of cost caps as far as possible.



Q13. To what extent do you support the proposal that the Scottish Ministers should be given powers to extend the circumstances in future (beyond a property purchase) in which people could be required to end their use of polluting heating?

This could be, for example, preventing the installation of new fossil fuel boilers when replacing the heating in your home or business premises?

Strongly support X

As with the selling point, other triggers could help to spread the transition to clean heat over time and prevent too many people postponing work until the 2045 target. Appropriate trigger points could include planned replacement of a gas boiler at the end of life or as part of major renovation. The extension of any requirements separate to this legislation should be subject to consultation.

Q14. To what extent do you support our proposal to provide local authorities (and Scottish Ministers) with powers to require buildings within a Heat Network Zone to end their use of polluting heating systems by a given date?

Somewhat support X

We support measures to expand heat networks where the volume of homes and buildings connected can support viability and potentially cost effectiveness of networks. This should be a key driver of the Scottish Government's approach to net-zero.

However, we also acknowledge that requiring owners to connect to a heat network limits consumer choice and could have affordability implications. Heat networks need to be developed in a co-ordinated way with local authority oversight and consumer protections in place.

Where Heat Network Zones (HNZs) are being planned, homes should be exempt from ending their use of polluting heating systems with the understanding that they will connect to the heat network when this becomes available. The situation of such exemptions should be regularly reviewed to ensure they remain relevant.

The Scottish Government and local authorities also need to clearly communicate requirements and future plans to avoid confusion between requirements for the installation of heat pumps or connection to heat networks.



Q15. To what extent do you support our proposal to provide powers to local authorities (or Scottish Ministers) that require developers to connect new buildings within Heat Network Zones to a heat network?

Strongly support X

Yes, we agree that new buildings should be required to connect to existing heat networks where this is possible. This will help with viability of heat networks, supporting their development.

Q16. To what extent do you support our proposal to require occupiers of non-domestic properties to provide information about unused heat on their premises?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don't know

Please include any additional comments below.

No comment

Q17. To what extent do you support our proposal to potentially require buildings with unused heat to provide this to a local heat network?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don't know

Please include any additional comments below.

No comment

Q18. We will need to have a way to monitor if people are meeting the Heat in Buildings Standard, and discussed two options for this. Which do you support?

- a. Submitting EPCs alone.
- b. Sampling a percentage of buildings.
- c. A combination of the two. X

Effective monitoring will be essential to tracking progress, indicating whether current approaches are working, and tracking compliance. Requiring the submission of EPCs will help to evidence improvements to homes and sampling will help to provide accurate and up to date information on the condition of our homes and buildings which could also help with other policy areas e.g. targeting financial support.

Monitoring and data collection will require adequate resources.

Q19. We will need to have a way to enforce the Heat in Buildings Standard. We discussed possible options to help achieve compliance. What are your views on these ideas?

- a. I support relying on market and financial product mechanisms such as mortgages or home/ building insurance.
- b. I support extra Council Tax and Non-domestic Rates charges, in future, for those who don't comply.

c. I support the introduction of civil penalties, in future, if compliance is not achieved.

d. I support a mixture of the above options. X

The Scottish Government should continue to focus on positive support for compliance through the provision of advice, information and financial support. However, we do appreciate that effective regulation will require enforcement and we think a range of measures should be used as a last resort. Again, we would encourage the Scottish Government to consider the Existing Homes Alliance customer journey work for examples of how to support proactive compliance.

Improvements can also be supported by the market and consumer preference as more people become aware of energy efficiency and emissions standards and begin to seek out high quality homes in the rented sector and owner occupation market.

It will be particularly important to take strong enforcement action in the PRS where a minority of landlords may seek to avoid regulations resulting in poorer conditions for some tenants.

We do not think the use of new civil penalties would be appropriate at this point in time. There are already a range of measures in place to take action against private landlords who do not comply with regulations in the sector.

Q20. To what extent do you support our proposals to modify the Standard or exempt certain people from the need to meet the Heat in Buildings Standard?

Somewhat support X

While we strongly encourage the Scottish Government to focus on putting enabling measures in place, we do think that exemptions will need to be made in some cases. However, these should be minimised to avoid creating different tiers of quality and particularly to avoid poorer standards at the lower end of the housing market.

In some circumstances exemptions could be time limited – allowing extra time for compliance or for a change of circumstances that would allow measures to be carried out at a later date – rather than a final and comprehensive designation.



Q21. Which people, businesses, or types of buildings, if any, should be eligible for a modified standard or exemptions?

We agree with a range of technical exemptions outlined in the proposals including where there are plans for demolition or extensive renovation in the near future, where grid constraints will not allow connections and where measures are not technically feasible for the property.

We are less convinced that whole groups of people, such as first-time buyers suggested in the consultation, should be granted exemptions. If the Scottish Government agrees on a set of minimum standards, these should apply to the property regardless of the tenure of the inhabitant, in line with the principle of alignment of standards across housing tenures. If the Scottish Government has identified that first-time buyers will be disproportionately affected, financial support should be made available to help them meet the standard. Not doing so while exempting first time buyers could entrench low standards in certain parts of the market.

Q22. To what extent do you support our proposals to give certain people extra time to meet the Heat in Buildings Standard?

Somewhat support X

Allowing additional time for compliance could be beneficial in some circumstances and would be preferable to blanket exemptions.

Q23. Which people, businesses or types of buildings, if any, should be eligible for extra time?

Extra time could be considered in a range of cases, particularly where barriers are outwith the control of the owner e.g. where neighbours in a mixed ownership block are refusing to co-operate, where tenants are refusing access, or where infrastructure (such as grid capacity) will not support measures.

Q24. To what extent do you support our proposal to require all buildings owned by a Scottish public authority to be using clean heating systems by 2038?

Strongly support

Somewhat support



Neither support nor oppose

Somewhat oppose

Strongly oppose

Don't know

Please include any additional comments below.

No comment

Q25. We are considering the following further duties on public sector organisations to support planning for the transition by 2038:

- a. Placing a new duty on public sector organisations which would, from 2025, prevent them from replacing a polluting heating system with another (unless impractical);
- b. Creating a new duty for each public body to develop and implement a plan to decarbonise their buildings;
- c. Placing a new statutory reporting duty on public sector organisations to demonstrate progress towards their 2038 objective (with the potential for the 2038 then to be non- statutory); and/or
- d. Placing no further statutory requirements on public sector organisations (instead relying on their ability to plan alongside our delivery and funding programmes to meet the 2038 objective).

Please tell us which option(s) you would support.

Please include any additional comments below.

No comment

Q26. Do you agree with our proposals to include powers in the proposed Heat in Buildings Bill to change the current requirement in legislation for a narrowly-defined renewable heat target?

Don't Know x

Please include any additional comments below.



It is not clear how the definition would be modified in future. The consultation suggests an “alternative target and set of metrics” to better reflect progress but we cannot comment on whether this would be beneficial without knowing what alternative would be put in place.

Q27. Do you agree that the Heat Networks (Scotland) Act 2021 should be amended in light of the passage of the Energy Act 2023?

Yes x

We support amendments that will ensure alignment between the Scottish and UK legislation.

Q28. Are there any further amendments to the Heat Networks (Scotland) Act 2021 that the Scottish Government should consider?

No comment.

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