

Scottish Building Regulations: Proposed changes to energy and environmental standards

The Building (Procedure) (Scotland) Amendment Regulations 2024

Determining the principles for a Scottish equivalent to the Passivhaus standard

Equality Impact Assessment

Title of policy:

Amendments to the Building (Procedure) (Scotland) Regulations 2024 – Determining the principles for a Scottish equivalent to the Passivhaus standard

Summary of aims and desired outcomes of Policy:

Buildings have significant implications for health, safety, the environment and our communities. Through the appropriate application of minimum building standards, set by regulations and supported by published guidance, the design and construction of Scotland's built environment can benefit all owners, users and people in and around our buildings.

The aim of these proposals is to investigate the potential for amendment of Building Regulations to meet the requirements of taking on the effect of Mr Rowley MSP's final Bill proposal – to deliver a Scottish equivalent to the Passivhaus standard. As indicated above the outcomes are:

- Improvements to the setting of energy and environmental (ventilation) performance standards for new buildings, leading to lower energy demand (and reduced running costs) and a healthy indoor environment and
- Improvements to the design and construction process to give a greater assurance that compliance, and therefore the performance sought, is delivered in practice.

Directorate: Housing

Division: Building Standards

Team: Technical Unit

Executive summary

Regulatory changes will be set out in The Building (Procedure) (Scotland) Amendment Regulations 2024. The regulatory changes proposed introduce a formal requirement for those delivering building work which is the subject of a building warrant to provide information to demonstrate how compliance is achieved for a range of mandatory standards which address energy and environmental performance.

Background

Building regulations directly affect all those who undertake construction work to build new buildings or to alter, extend or convert existing buildings.

As they dictate a wide range of standards applicable to such work (to secure the health, safety, welfare and convenience of persons in or about buildings, further the conservation of fuel and power and the achievement of sustainable development), the outcome of the building standards process affects all people who then occupy or use buildings where construction work was undertaken.

The subject of this review – improvements to energy and environmental performance of buildings and building work, the Scottish Equivalent to the Passivhaus Standard – is a subject that both benefits and affects all building users. For those undertaking work, improvement has a related additional capital cost but, for parties retaining an interest in the building, offers onward benefits in both running costs and improved comfort.

Positive outcomes from this review are reduced ongoing costs relating to fuel consumptions due to improved compliance measures which ensure the building as constructed performs as designed.

It is however important to note that these standards are developed after the introduction of the New Build Heat Standards (NBHS) that came into force in April 2024. The NBHS focusses on using only zero emission heat solutions such as electricity which rely on higher cost fuel or energy sources. The current proposed amendments to Procedure regulations will further the reduction in energy use for the available heating solutions post the implementation of the NBHS.

It is also recognised that changes will affect the cost of undertaking development, including planned alteration or improvement of premises. This can have a greater adverse impact on the ability to act for those with lower incomes or wealth, a factor which may be varied or potentially more acute based on protected characteristics (age, disability, sex, gender reassignment, sexual orientation, race, religion or belief, pregnancy and maternity).

The Scope of the EQIA

This current review of building regulations is being undertaken in two stages.

This document reports on the first of those two stages and the regulatory amendments required to support the overall outcome of the review.

A full understanding of the impacts and benefits of change will only be evident once the detail of changes to standards and performance targets and processes are set out in 2025. A full assessment will be presented in support of the second stage consultation in summer 2025.

For this stage, we sought consultation responses to enable confirmation of any changes to current building regulations needed to enable the actions that would define the improved targets and processes of a revised standard. There are therefore limits to the available evidence at present.

New research remains in progress and, due to the limited nature of the regulatory changes now identified, initial data that has been gathered is presented below.

Regulatory changes will be set out in The Building (Procedure) (Scotland) Amendment Regulations 2024. The regulatory changes proposed introduce a formal requirement for those delivering building work which is the subject of a building warrant to provide information to demonstrate how compliance is achieved for a range of mandatory standards which address energy and environmental performance.

Amendment will be made to The Building (Procedure) (Scotland) Regulations 2004 to introduce a requirement for developers to provide an 'energy and environmental design statement' with applications for a building warrant or applications to amend a warrant and an 'energy and environmental construction statement' with each completion certificate. These statements will describe how the design and construction of the building complies with paragraphs 3.13, 3.14, 3.28, 6.1 to 6.7, 6.10, 7.1

and 7.2 of schedule 5 of the Building (Scotland) Regulations 2004. These being the mandatory standards relevant to the delivery of energy and environmental performance.

The regulatory amendments do not change the standards which must be achieved but will, through a supporting guidance document define the minimum levels of action and reporting expected in providing such information. Formalisation of reporting is expected to have an impact on the actions of both developers and verifiers and this impact will be codified as part of an updated Equality Impact Assessment as part of the stage two consultation in summer 2025.

Key Findings

A full understanding of the impacts and benefits of change will only be evident once the detail of changes to standards and performance targets and processes are set out in 2025. A full assessment will be presented in support of the second stage consultation in summer 2025.

For this stage, we sought consultation responses to enable confirmation of any changes to current building regulations needed to enable the actions that would define the improved targets and processes of a revised standard. There are therefore limits to the available evidence at present.

Recommendations and Conclusion

That regulatory changes will offer a minor, but positive benefit to those who occupy and use buildings as well as broader environmental benefits

through reduced associated greenhouse gas emissions . No negative benefit has been identified at this stage.

This review is being undertaken in the context of broader work across The Scottish Government to deliver change in support of Ministers' climate change objectives; reducing energy demand arising from use of buildings and action to decarbonise the heat sources we use in our buildings. The assessment has again highlighted a known issue – that the setting of standards which impose a regulatory and cost burden can deliver relatively universal benefits but can be more challenging for persons of more limited resources. There remains a degree of inherent inequality within Scotland's population on income and resources, particularly in relation to age, disability, sex and race.

A full assessment will be presented in support of the second stage consultation in summer 2025.



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