

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Alex Rowley MSP  
The Scottish Parliament  
Edinburgh  
EH99 1SP

By email

Copied to: [ngbu@parliament.scot](mailto:ngbu@parliament.scot)

11 December 2024

Dear Alex,

**Proposed Domestic Building Environmental Standards (Scotland) Bill: Statement under Rule 9.14.13. Update on review progress.**

It was good to meet with you on Wednesday 4 December to provide you with an update on the progress of this current review to deliver a response to your Final Proposal. I am now following our discussion up with a summary of the matters we covered and some further detail of the pending changes to regulations.

We noted the informed response to our recent consultation on the principles behind the delivery of amended standards to deliver 'a Scottish equivalent to the Passivhaus standard'. This has provided much for us to consider in the development of detailed proposals for change of performance targets and supporting processes.

My Officials have had extensive engagement with stakeholders across the construction sector and through the review working group, we are now in a position to confirm what regulatory change is needed to give effect to your final proposal.

In respect of how we set performance requirements, the Scottish Government is content that the current regulations and schedule of mandatory standards within The Building (Scotland) Regulations 2004 already provide the necessary legislative provisions to give effect to your final proposal for a proposed Domestic Building Environmental Standards (Scotland) Bill. The outcome sought being 'to introduce new minimum environmental design standards for all new-build housing to meet a Scottish equivalent to the Passivhaus standard, in order to improve energy efficiency and thermal performance'.

Changes that are necessary to legislation have been identified and these relate to building standards processes. In particular, the mandating of information needed to demonstrate to verifiers that compliance in both the design and the construction of buildings is being taken

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

forward correctly. To this end, I can confirm that regulations amending The Building (Procedure) (Scotland) Regulations 2004 will be laid on 12 December 2024. These will introduce a requirement for developers to provide an “energy and environmental design statement” with building warrant applications 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 are the mandatory standards relevant to the delivery of energy and environmental performance.

We discussed the support across consultation responses for a 2028 implementation of the new standards and you noted you were also content with this approach, to enable the construction sector to prepare for the changes once confirmed and published in early 2026.

We note that this area of change is well aligned with the emphasis within your Bill proposal on the reduction in the performance gap, which was also discussed again yesterday. This will be further supported by non-legislative changes being developed on how targets are set and how performance is reported via approved calculation methodologies.

There was strong support in the responses to our recent consultation to amend standard 6.1 (energy demand) to recognise Passivhaus certification as an alternative means of compliance. We discussed this as one further useful change that we can make to support the standards, but it is not needed to give effect to your proposal. It will be progressed as a separate change next autumn, once the second consultation in summer 2025 has set out full proposals for revision of performance targets and supporting processes.

In terms of next steps, beyond the laying of these regulations, it was noted that the review working group had also met during the consultation period and a consensus report on their views on next steps was prepared. This will be reviewed and published shortly alongside other documents such as the consultation report and Scottish Government response.

Officials noted that the review would continue in the new year, starting with detailed analysis of the themes and elements covered by the consultation. This will enable a plan of work to be agreed with the working group, to develop detailed proposals for the summer 2025 consultation.

We agreed to arrange a further meeting for March/April 2025 to report further on progress and set out the main actions being developed in detail and how this will work to deliver the improvement in building performance sought. In the meantime, please contact myself or Officials if you wish to discuss this further.

Yours sincerely,



**PAUL MCLENNAN**  
**Minister for Housing**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)

**INVESTORS IN PEOPLE**™  
We invest in people Silver

