

**Changing the way we heat our homes and buildings – A consultation on proposals for a Heat in Buildings Bill**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

**Respondent Information Form**

**Please Note** this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- ☐ Individual
- ☒ Organisation

Full name or organisation's name

Scottish Chambers of Commerce

Phone number

0141 444 7500

Address

Scottish Chambers of Commerce  
199 Cathedral Street

Postcode

G4 0QU

Email Address

admin@scottishchambers.org.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☒ Publish response with name
- ☐ Publish response only (without name)
- ☐ Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- ☒ Yes
- ☐ No



## Delivering net zero for Scotland's buildings - Heat in Buildings Bill: consultation

### **Response from Scottish Chambers of Commerce, March 2024**

## **Introduction:**

As per The Climate Change (Emissions Reductions Targets) (Scotland) Act 2019, Scotland is required to reach net zero by 2045, as well as to achieve a 75% reduction in emissions by 2030 and a 90% reduction in emissions by 2040.

The Scottish Government states that the third largest cause of greenhouse gas emissions in Scotland are produced by the way we heat our homes, workplaces and other buildings, through “direct emissions heating systems” (such as gas and oil boilers).

To meet their legal obligations, the Scottish Government proposes to introduce legislation which will require all homeowners and businesses to transition to zero emissions heating systems by 2045. The prohibition on polluting heating systems will only apply to the main heating system of a property.

**Specifically, the Heat in Buildings (Scotland) Bill proposes that new laws will be established to confirm that the Scottish Government will:**

- Reconfirm that the use of polluting heating systems will be prohibited after 2045
- As a pathway to 2045, require those purchasing a home or business premises to end their use of polluting heating systems within a fixed period following completion of the sale
- Introduce a new law that will require homeowners to make sure that their homes meet a reasonable minimum energy efficiency standard by 2033 (will NOT apply to non-domestic buildings)
- Private landlords will be required to meet the minimum energy efficiency standard by 2028

In summary, the consultation outlines proposals on new laws around the heating systems that can be used in homes or business premises – reconfirming that the use of polluting heating systems will be prohibited after 2045; and they also propose new laws on minimum energy efficiency standards for homeowners and private landlords. This therefore impacts existing buildings and future retrofit solutions.

The Scottish Government estimate that around 49% of non-domestic buildings are using polluting heating systems at present. This will clearly have a significant impact on many SMEs in Scotland if introduced.

The Scottish Chambers of Commerce (SCC) response to the bill consultation will focus on how the consultation proposes to support businesses to make the regulatory changes and whether the needs of business have been properly considered, on top of the impact that these changes will have on firms.

As the consultation document itself, as well as the bill, focuses heavily on homes as opposed to non-domestic properties, SCC has chosen to respond outside of the consultation format on this occasion to highlight and share the views of the business community.

## **Views of SCC:**

We welcome the Scottish Government's commitment to setting out a long-term plan for achieving zero carbon heating in buildings. We agree that decarbonising the built environment will be a key part of achieving the 2030 and 2045 targets.

The pathway set out for achieving the interim 2030 target is ambitious and will require significant investment to ensure that Scotland's infrastructure can support the electrification of heat. This will require a step shift in action from both the public and private sectors in Scotland and must be handled in a way that ensures our built environment can continue to attract investment and remain competitive.

Without this necessary investment, there is concern that introducing new standards in the time frames proposed could make the proposals unworkable. This could lead to a knock-on impact on the supply of housing and commercial property in Scotland, and adversely affect the property market by introducing significant financial obligations on property owners (particularly those with older buildings).

We note that the anticipated 100,000 installations per year as noted in the consultation document is still short of the Scottish Government's ambition to achieve over 200,000 installations per year by the late 2020s as set out in the 2021 Heat in Buildings Strategy.

We therefore support efforts to speed the pace of clean heat installations.

Reducing emissions from heating homes and non-domestic properties is a complex process and involves a range of stakeholders and partners.

The Scottish Government's own estimates suggest that there are approximately 230,000 non-domestic buildings in Scotland, and this commentary also notes that these vary widely in terms of construction, size, and particularly their use, whether it's as shops, offices, factories, warehouses, or hotels.<sup>1</sup>

While it is appropriate to have a consultation exercise focused on decarbonising how we heat our buildings, we believe that this consultation exercise could have been approached more efficiently by looking separately at domestic and non-domestic properties in the separate parameters that they each require.

As this bill and consultation focus heavily on homes, it fails to cover and respond to the distinct differences that exist in the marketplace between domestic and non-domestic properties.

As a result, we believe that some of the key proposed measures and regulations will have unintended consequences upon businesses which we urge the government to engage with industry to address and correct as soon as possible.

Success of the policy hinges on many pillars including raising public awareness, providing appropriate advice and financial support to homeowners and businesses, securing public and private finance, and growing supply chain capacity, but we also believe that this policy direction will not succeed if it cannot differentiate for the significant differences between domestic and non-domestic properties.

---

<sup>1</sup> *Energy efficiency in non-domestic buildings*. (n.d.). The Scottish Government. <https://www.gov.scot/policies/energy-efficiency/energy-efficiency-in-non-domestic-buildings/>

This is made more significant during a period of economic uncertainty and where energy costs may continue to be unstable due to unpredictable geopolitical events and conflicts around the world.

This submission will now highlight specific sections of the bill that will impact businesses.

### **3. Property Purchases**

There is a suggested date of 2045 for all non-domestic buildings to stop using “polluting heating” but there is also the proposal below, which could require earlier action based on a trigger event eg following a sale.

A sale is defined as the process to either purchase or take a “large lease” which is a lease of 20 years (whether by initial term or term plus options to extend).

A seller can sell (or lease) a non-compliant property but a buyer (a buyer or tenant taking a large lease) will need to convert to non-polluting heating within possibly 3-5 years – or face civil penalties.

#### **3.6**

***The Scottish Government is therefore proposing to introduce a new law which will: Require those purchasing a property to comply with the prohibition on polluting heating within a specified amount of time following completion of the sale.***

SCC believes that this is an overly simplistic approach to the complex nature of most non-domestic properties.

There are clear cost implications (and other practical implications) for businesses occupying non-domestic property (sellers/buyers and landlords/tenants) and the potential risk that the emerging legislation (were it to follow the approach suggested in the consultation) will be misaligned with the legal arrangements which regulate most landlord/tenant relationships.

Under most commercial leases tenants are obliged to meet the cost of complying with statute, potentially extending to notices which may be served on the landlord/owner. This may be unreasonable if, for example the tenant has only a short period remaining on its lease and therefore will not benefit from any improvement works.

It will be necessary therefore to look beyond the building and understand the nature of the relationship between all tiers of tenure including heritable, long leasehold, and leasehold (to include tenancies, sub-tenancies and licences to occupy).

Any failure to fully address these characteristics before looking at the introduction of new standards will result in confusion, frustration of transactional market activity and lack of action.

### 3.5

***Potential sellers may similarly consider investing to meet the Heat in Buildings Standard in order to make their property more attractive to buyers, and potentially achieving a higher sale price as a result.***

We share concern that suggesting such a precedent sets a 'green premium' for properties fitting this standard, inflating their value and potentially instilling a competitive advantage in a free-market property marketplace.

Research by CBRE indicates that even this subjective 'green premium' would be likely to go out of date quickly, because as the supply of green buildings grows, measured premiums for any given green feature would be likely to fall.<sup>2</sup>

Similarly, as CBRE also highlight, there are methodological problems in establishing that a building's green features are in fact driving the increase in value – and not (for example) its otherwise generally high specification.<sup>3</sup>

We would also advise that upon the sale of a non-domestic building, there is potential for a change of use which could mean that specific heating (or cooling) solutions specific to the future use will be needed.

We would also raise concern that as soon as the legislation is enacted, this may see property values fall, causing potential problems for businesses with borrowing secured against such assets (and for lenders).

### 3.8 to 3.10

***Under this proposed law, the purchaser of a property will be given time – known as a 'grace period' – to have the work carried out (including time to have their building assessed and/or to receive quotes from installers, as necessary).***

The concept of a fixed grace period could be impractical for multi-tenanted non-domestic property and may be similarly so for single tenanted non-domestic property.

Access to carry out extensive works may not be possible whilst tenants are in occupation and such works may not be capable of implementation until a lease expiry event or a series of lease expiry events.

### 3.25 to 3.30

***Our proposals to require homes to meet a minimum standard of energy efficiency by 2033 (or by 2028 in the private rented sector) and transition to a clean heating system following the purchase of a property may need us to create a ceiling or cap on the potential cost of meeting the Heat in Buildings Standard.***

As the following sections make clear, none of the proposed cap models can be applied fully with any great deal of certainty without risk of unintended consequences.

---

<sup>2</sup> CBRE. (2022, August 12). *Does it matter if we can't prove there's additional value in green building features?* <https://www.cbre.co.uk/insights/articles/does-it-matter-if-we-cant-prove-theres-additional-value-in-green-building-features>

<sup>3</sup> IBID

Another potential model would be to operate the cost cap on a scale, tapering the maximum amount landlords / occupiers will be expected to contribute relative to the local market conditions.

However, this also has the potential disadvantage in that it would establish differing rates across the country and see those in areas that see higher property prices paying more to meet the Standard than those in similar buildings in other parts of Scotland.

If landlords / occupiers are to be required to retrofit older properties across the board, then new, innovative ways to mitigate the costs will be required, and ways to make sure funding is made available where it is most needed.

We support the Home Energy Scotland (HES) Scheme, which provides £7,500 (and £9,000 rural uplift) for upfront costs to install heat pumps. This funding has increased installations which has helped to scale up the sector, including upskilling and training installers. Many homeowners are struggling with the process of the HES grant scheme, and, as numbers of installations ramp up, there is a need for a new grant scheme that is easier for consumers to access and navigate.

Proposals to increase uptake of heat pumps in Scotland must be accompanied by the development of a parallel supplier-led version of the scheme. Such a scheme would allow experienced companies to process applications for customers to streamline the process, reduce wait times and improve customer experiences for larger numbers of applicants. It would also relieve administrative burdens on the existing grant scheme.

### 3.34

*We are therefore proposing that the Heat in Buildings Bill will:*

***Provide Scottish Ministers with the ability to require homes and non-domestic buildings to end their use of polluting heating in other circumstances (beyond the purchase of a property).***

While the bill does clarify that this would be a matter for future governments to determine, as well as being subject to the consent of Parliament, we have concern at the wide-ranging nature of such a power which if not applied appropriately, could pile additional pressures on businesses, homeowners, and landlords.

We would advise the government to expand with more detail on exactly what circumstances could trigger the usage of such a power, in keeping with maintaining sensible checks and balances on legislation.

## 4. Connecting to Heat Networks

Heat networks will be an important element in the decarbonisation of heat in new homes, particularly in areas within the immediate area of an existing network. However, our position remains that developers should be afforded flexibility to decide on what the best zero carbon heat solution is for each project. We would therefore caution against a blanket requirement to connect to a heat network within certain zones.

It should be noted that there may be cases when district heating is unlikely to deliver real benefits through the poor efficiencies of distribution. In addition, other technologies, such as

shared ground arrays and heat pumps, will offer better ‘upstream’ emission reductions than a connection to a heat network that is powered by gas or waste incineration.

We are also concerned about the potential time lag between the intended completion date of the building/development and the eventual connection to the heat network. In circumstances where a connection to a heat network would take additional time, it is conceivable that a property would be required to have a heat pump installed initially, only for it to then be connected to a heat network at a later date. This would not only be inefficient and costly, but there would be an embodied carbon cost resulting from the duplication in heat technologies.

A delay to being able to connect into some heat networks, particularly those that require anchor loads (i.e. district heat models), could also have cost and time implications for a development. This could occur if there is a constraint on getting the necessary infrastructure to the development or if there is a capacity restriction.

Currently, the business rates system can disincentivise investment to increase the energy efficiency of a building or to introduce new more efficient zero carbon heat systems. This is because such actions can increase the rateable value of the building and make the owner or tenant liable for higher business rates.

It is therefore important that the Scottish Government reviews its business rates system to ensure that the tax does not inhibit private investment into Scotland’s commercial building stock and instead incentivises investment by potentially offering a discount to offset the capital required to make the necessary improvements.

We would also flag concern that the bill does not cover once the other key element of modern building temperature regulation, which is cooling.

As noted by the International Energy Agency (IEA):

***Absent firm policy interventions, there is no doubt that global demand for space cooling and the energy needed to provide it will continue to grow for decades to come. However, there is an enormous opportunity to quickly influence the growth of cooling-related energy demand through policies to improve equipment efficiency.***<sup>4</sup>

In its [2022 Climate Ready report](#) for the Scottish Parliament, the Climate Change Committee highlighted two headline predictions for climate change in Scotland.

- ***Temperatures:*** *all seasons will be warmer, there will be less frost and snow. In a medium emission scenario, the annual chance of a heatwave like that seen in 2018 will be about 50/50 by 2050 (in the recent past it was <10%).*
- ***Extreme weather events:*** *There are expected to be more extreme weather events (including heat waves and downpours). While there will be less rain in summer overall, rainfall intensity could, for example, as much as double in Eastern Scotland (in a high emission scenario).*<sup>5</sup>

The potential implications of these predictions should necessitate policymaking that considers the alignment of both cooling and heating networks, as a balance of each will be

---

<sup>4</sup> *The future of cooling – Analysis - IEA.* (n.d.). IEA. <https://www.iea.org/reports/the-future-of-cooling>

<sup>5</sup> Committee on Climate Change. (2022, March 14). *Is Scotland climate ready? - 2022 Report to Scottish Parliament - Climate Change Committee.* Climate Change Committee. <https://www.theccc.org.uk/publication/is-scotland-climate-ready-2022-report-to-scottish-parliament/>

critical to decarbonising but also dealing with the impacts of carbon emissions to date that we cannot change but should mitigate for.

## 5. Monitoring and Enforcement

Further clarity is needed within the regulatory framework on how compliance, enforcement and potential penalties will feature to ensure suitable action is taken to address the new regulatory requirements. While there are already greater enforcement mechanisms in sectors such as the private rental market, owner-occupied homes and non-domestic private properties will likely require the greatest monitoring and motivation.

It is therefore confusing and surprising that the draft regulation indicates that the government does not currently intend to physically inspect any properties.

### 5.7

***Costs of sampling properties are likely to fall to public finances, however these costs to government can be minimised by our current plan not to physically inspect any properties.***

While businesses and landlords will be obligated to ensure they meet the required standard, at a significant expense, this paragraph suggests that the monitoring aspect of the process has been significantly overlooked to 'minimise the costs to government'.

Landlords are already obligated to carry out a series of periodic inspections, for example electrical inspections and maintaining the 'repairing standard',

A potential solution to address this challenge could be the creation of a national infrastructure agency tasked with ensuring essential infrastructure, such as enhanced energy networks, are delivered at scale and pace.

There are currently a number of different agencies and government funds that are available to help the transition to net zero, and an overarching body could help to pull these different stands together to deliver the infrastructure needed to support the Heat in Buildings Strategy.

Alternatively, the government could consider the future expansion of the Heat and Energy Efficiency Scotland agency, due to be in place from September 2025, from a currently planned virtual agency to one with the capacity to conduct work such as supporting compliance through periodic heating standard inspections.

Indeed, we would welcome clarification on Scottish Government's plans for the future of Heat and Energy Efficiency Scotland, given the importance of communication and the need to ramp up engagement.

## 5.14

**We have considered additional charges on council tax and non-domestic rates for those buildings that haven't met the Heat in Buildings Standard when they are required to. However, we don't wish to increase costs for households and businesses at this time, and there is evidence that similar charges have not been an effective incentive for people in the past. At the same time, reliefs and additional charges are something which we may wish or need to consider in future – particularly as the latter may help to finance work in local areas, for example.**

While it is welcome that the government are not considering additional charges at this time, we do not believe that the Non-Domestic Rates system is fit for use in relation to this proposed policy area.

If new 'green(er) buildings' were to attract higher rents, which the government itself suggests is likely to happen as covered in 3.5, there is a concern that complying with the Standard would be penalised with a higher rates bill as rents drive rateable values.

Penalising non-compliant buildings with a higher rates bill is also counterintuitive, as when the occupier completes the required works they will most likely receive a higher rates bill (for the reasons noted above).

It is therefore important that the Scottish Government reviews its business rates system to ensure that the tax does not inhibit private investment into Scotland's commercial building stock and instead incentivises investment by potentially offering a discount to offset the capital required to make the necessary improvements.

## 5.15

***One thing that we are exploring is whether banks and buildings societies can – or already do – make complying with laws relating to your property a condition of mortgage and/or home and buildings insurance.***

We are keen to also understand whether banks and buildings societies can do this, or if not, if this is something that the government will attempt to implement through legislation.

It is our view that such a condition imbedded into mortgages and insurance cover, could have implications for a competitive property market in Scotland compared to other parts of the UK, particularly if Scotland became an outlier on this issue.

Exposing lenders and borrowers to some risk of change or restriction to an existing or new debt facility could have significant consequences, which underscores the importance of the work being undertaken by the Green Heat Finance Taskforce.

## 5.24

***In Chapter 3, we suggested that exemptions may be appropriate for first time buyers, or for certain businesses to protect the local or national economy.***

While exemptions for first-time buyers is a sound approach, no explainer or qualifying conditions are set out in the bill for what the government can or would designate as a business worth protecting for the local or national economy.

It is unclear whether this just be left to the judgement of government ministers, or whether there would be guidelines in place, to ensure that no unfair competitive protection is provided to one business over others.

## **Conclusion:**

The Scottish Government has committed £1.8 billion of public money over the current parliamentary term to delivering the strategy.<sup>6</sup>

Given this significant amount and the competing spending priorities faced by the government, it should carefully consider how much public money to invest in this area and how to maximise its impact and ensure value for money.

While it is appropriate and right that the government has provided for grants and loans for homeowners to install heat pumps, as well as targeted support for those in rural areas, we would advise the government to consider what financial incentives it could deliver for businesses and landlords over the next decade to support non-domestic properties to decarbonise their heating systems.

It should also consider how it can help to enable the private sector to roll out funding and finance mechanisms that will support businesses & people to make the necessary changes to how they heat their premises & homes respectively.

While businesses appreciate the ambition and intent of the strategy in driving towards Net Zero targets, we believe that additional work is required to flesh out the significant disparities between the domestic and non-domestic property market.

In its current form, this proposed regulation will not be suitable for the non-domestic property market and could lead to challenging unintended consequences for businesses, landlords and tenants.

## **ENDS**

**ABOUT SCC:** The Scottish Chambers of Commerce Network sits at the heart of local business communities, representing over 12,500 businesses in Scotland. With 30 local Chambers rooted in communities across Scotland, the Chamber Network provides practical advice and support to Scottish companies through unrivalled expert leadership, business-to-business connections, mentoring/coaching, business support services and international trade support.

---

<sup>6</sup> *Heat in buildings*. (n.d.). The Scottish Government. <https://www.gov.scot/policies/energy-efficiency/the-heat-in-buildings-programme/>