

Regulation of energy efficiency in existing non-domestic buildings: call for evidence

December 2021



Scottish Government
Riaghaltas na h-Alba
gov.scot

1. Introduction

The 2018 Energy Efficient Scotland: Route Map set out a programme for the review of regulations on the energy performance of existing non-domestic buildings. Subsequently, the Scottish Government published its [Heat in Buildings Strategy – Achieving Net Zero Emissions In Scotland’s Buildings](#) in October 2021. This strategy confirms that the Scottish Government will develop a new regulatory framework for zero emissions heating and energy efficiency in non-domestic buildings by 2025.

The framework will build on the Scottish Government’s existing commitments to extend regulation to improve energy efficiency and, where possible within our legal competence, to require the adoption of zero emissions heating systems. The aim is to ensure that all non-domestic buildings are energy efficient and use zero emissions heating and cooling systems by 2045. The Scottish Government will consult on the new regulatory framework during 2022, with a view to introducing regulations by 2025.

1.1 Exclusions

This Call for Evidence is not seeking evidence relating to:

- the regulation of energy efficiency or zero emissions heating associated with buildings which are used wholly for domestic residential purposes.
- [Local Heat and Energy Efficiency Strategies](#)
- [Building Assessment Reports](#) as required by the Heat Networks (Scotland) Act 2021.
- the proposed 2024 zero emissions heat standard for new non-domestic buildings.
- the proposed 2038 target for zero emissions heat for public sector buildings.
- support and funding programmes for decarbonising non-domestic buildings.

Scope

This Call for Evidence is seeking evidence of existing approaches (regulatory or non-regulatory schemes & programmes) to improve the energy efficiency and drive the conversion of non-domestic buildings to zero emissions heating sources. We are seeking examples which can operate at the level of individual buildings, building groups or regions.

Evidence presented should not be limited to the United Kingdom. We would also welcome evidence related to regulations which are applied to the energy systems operating in buildings but which are not directly related to CO_{2e} emissions. Evidence presented should include approaches which are considered both successful and unsuccessful.

1.2 Future consultation on policy approach

This Call for Evidence is the first stage in developing a new regulatory framework for energy efficiency and zero emission heat in non-domestic buildings. Following this Call for Evidence, a formal public consultation on our detailed proposals for regulation in Scotland will be carried out in 2022.

1.3 Options for Regulation

The CO_{2e} emissions associated with the performance of existing non-domestic buildings during operation can be linked to both the form and fabric of each building and the building's occupancy. We are seeking evidence that addresses both of these.

We are seeking evidence from stakeholders concerning three possible approaches to regulation for energy efficiency and the use of zero emissions heating in existing non-domestic buildings:

a) Measures-based approach – specifying a list of improvement measures that must be considered to reduce the energy demand associated with a non-domestic building. This could involve developing the existing [Assessment of Energy Performance of Non-domestic Building Regulations 2016](#).

b) Minimum standards approach – setting a standard for the building's operation under standardised conditions, most typically based on achieving a certain EPC rating for modelled energy use or emissions.

c) Operational ratings approach – using the actual energy consumption and CO_{2e} emissions from use of non-domestic buildings, as the basis for a regulatory approach.

<p>Q1: Can you provide examples of existing regulatory frameworks which use any or a combination of these approaches?</p>
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2. Effectiveness

We are seeking evidence and examples of regulations that have had a concrete and measurable effect on any combination of the following:

- Non-domestic buildings' energy efficiency
- Energy consumption for heating purposes
- Greenhouse gas (CO_{2e}) emissions

We are also seeking evidence of how regulations have led to changes in any of the following:

- installation of zero emissions heating systems
- building fabric
- building users' behaviours
- business operating costs
- capital investment
- business productivity

Q2: Can you provide quantitative evidence of the costs and effects driven by regulatory frameworks in the areas specified above?

Q3: Can you provide examples of regulatory frameworks which you consider successful/unsuccessful in their operation, and the factors responsible for this?

2.1 Identification

The non-domestic built environment is diverse and we are seeking evidence of routes to define and identify individual properties, premises and buildings. We are particularly interested in regulatory schemes which have identified all non-domestic buildings within a region using identifiers such as:

- Premises or units within buildings
- Individual buildings
- Groups of buildings that form one campus or site
- Companies

Q4: Can you provide evidence of regulatory frameworks which use these, or any other units, to identify or define buildings?

2.2 Triggers

We are seeking evidence of the types of events or activities which can identify or be used to set the point at which buildings or organisations become subject to regulations. Examples of these events are:

- Building sale or rental
- Refurbishment
- The point of financial, corporate or local tax returns
- Inspections of building or equipment

Q5: Can you provide evidence of frameworks which have used these, or any other events, to trigger regulatory actions?

2.3 Categories

We are particularly interested in examples of regulations that are applied according to different categories such as:

- Building size
- Building location
- Tenure
- Industry sector
- Energy use
- Emissions

Q6: Can you provide evidence of frameworks which use these, or any other categories, to vary the form of regulations?

Q7: Can you provide evidence of how and to what extent regulations are varied by category?

2.4 Enforcement

The level and quality of compliance is a significant challenge for regulatory frameworks. We are seeking evidence of successful/unsuccessful enforcement methods used in regulatory frameworks. We are particularly interested in the use of exemptions within regulatory frameworks and evidence that these are operating as planned.

Q8: Can you provide evidence of the use of exemptions within regulatory frameworks?

Q9: Can you provide evidence of enforcement methods used to drive compliance within a regulatory framework?

2.5 Measurement

The aspect of non-domestic building performance being measured is a key feature which varies in different regulatory approaches. We are seeking evidence of the effective use of measurements within regulations such as:

- Actual measured direct or indirect emissions
- Estimated direct or indirect emissions
- Fuel consumption or costs
- Installation of specified heating or cooling equipment
- Thermal resistance of building elements
- Internal operating temperatures

We are also seeking evidence of the measurement of any consequential impacts which were outside the original intended scope of regulations, such as:

- Land Use
- Fuel Poverty
- Comfort Levels

Q10: Can you provide evidence of measurements used by regulatory frameworks?

3. Responding to this Call for Evidence

We are inviting responses to this consultation by 22 February 2022.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at:

<https://consult.gov.scot/energy-and-climate-change-directorate/energy-efficiency-non-domestic-buildings/>

You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 22 February 2022. If you are unable to respond online, please complete the Respondent Information Form (see 'Handling your Response' below) to:

Non-domestic Regulation, Assessment & Enforcement Team
Heat in Buildings Regulation Unit
Directorate of Energy & Climate Change
Scottish Government
2H North
Victoria Quay
Edinburgh EH6 6QQ

It would be helpful to have your response by email or using the electronic response form. The electronic response form can be accessed at the following website address:

<https://consult.gov.scot/energy-and-climate-change-directorate/energy-efficiency-non-domestic-buildings/>

You can also email your response to nondom.heatinbuildings@gov.scot.

3.1 Handling your response

If you respond using [Citizen Space](#), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

3.2 Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at

<https://consult.gov.scot/energy-and-climate-change-directorate/energy-efficiency-non-domestic-buildings/>

If you use Citizen Space to respond, you will receive a copy of your response via email. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

3.3 Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please email them to nondom.heatinbuildings@gov.scot OR send them to:

Non-domestic Regulation, Assessment & Enforcement Team
Heat in Buildings Regulation Unit
Directorate of Energy & Climate Change
Scottish Government
2H North
Victoria Quay
Edinburgh EH6 6QQ

4. Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online: <https://consult.gov.scot/energy-and-climate-change-directorate/energy-efficiency-non-domestic-buildings/>

Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post. Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy;
- help decisions to be made between alternative policy proposals; and
- be used to finalise legislation before it is implemented.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

4.1 Next steps

The Scottish Government will review responses to this call for evidence to inform the development of options to regulate the energy efficiency and zero-emissions heating of existing non-domestic buildings. A further public consultation on the proposed options for regulation will be published in summer 2022 as outlined in the Scottish Government's [Heat in Building Strategy](#) 2021.



5. Respondent Information Form

Call for Evidence on the regulation of energy efficiency and zero emissions heat in non-domestic buildings

Please Note this form must be completed and returned with your response. To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number:

Address

Postcode:

Email:

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

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published. If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report

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 the Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No



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