

**Briefing for the Public Petitions Committee****Petition Number:** [PE1761](#)**Main Petitioner:** David Murphy Shaw**Subject:** New Housing Regulations

Calls on the Parliament to urge the Scottish Government to establish new housing regulations by:

- Replacing current planning regulations with a regulatory framework governing prefabrication properties and companies.
- Allowing property taxes to take account of the property location, size of plot and number of children living at the property.

**Background**

Housing policy is regulated by Scottish Parliament legislation but administered at a local level by the 32 Scottish local authorities. There are also Registered Social Landlords, including Housing Associations, which operate across council borders.

The [Housing \(Scotland\) Act 1987 \(Part VII\)](#) sets out the minimum bedroom sizes for housing providers for houses and flats. The 1987 Act specifies the number of people each bedroom can reasonably be expected to house, to prevent overcrowding, as shown in the table below.

Floor area of room	Number of persons who can sleep there
110 sq. ft or more (10.219m <sup>2</sup> )	2
90 sq. ft (8.361m <sup>2</sup> ) or more but less than 110 sq. ft	1 ½
70 sq. ft (6.503m <sup>2</sup> ) or more but less than 90 sq. ft	1

50 sq. ft (4.645m <sup>2</sup> ) or more but less than 70 sq. ft	½
--	---

Additionally:

- children under one year old are not included when calculating overcrowding.
- children over one and under ten years old count as half a person.
- rooms under 50 square feet are not counted as bedrooms.

Overcrowding can be due to lack of space, where the rooms are not big enough for the number of people sleeping in them or where two people of the opposite sex, who are not husband and wife, are forced to share a room.

While these regulations mainly apply to social rented housing, they are used as a guide for new properties for owner occupation and those in the Private Rented Sector.

## Planning regulations

The purpose of the planning system is defined in the Planning (Scotland) Act 2019 as, “to manage the development and use of land in the long-term public interest”. The planning system does not seek to regulate the cost of land or buildings, which is effectively a function of the free market. All new homes in Scotland require an award of planning permission, or to meet the requirements for construction within a Simplified Planning Zone, before construction can begin. An appropriate fee must be submitted by a developer to the planning authority alongside any application for planning permission. An application will not be considered if the fee is not paid.

The separate building standards system regulates issues including building materials, building design and the safety, environmental and energy performance of buildings. There are no minimum space sizes for domestic properties, or rooms within such properties, specified in either the Scottish planning or building standards systems – although the requirement for some rooms to be able to accommodate wheelchair use does impose some practical limits on how small certain rooms can be. Prefabricated buildings are regulated in the same way as traditionally built properties.

The primary responsibility for the delivery of the planning service in Scotland lies with the [32 local authorities](#) and the two national park authorities: [the Cairngorms](#) and [Loch Lomond and the Trossachs](#). Planning authorities are responsible for administering the three main parts of the planning system:

- [development planning](#) – setting out how places should change in the future using plans

- [development management](#) – making decisions on planning applications. Decisions must be guided by policies in the development plan
- enforcement – making sure development is carried out correctly and acting when it is not

## Land

[The biggest landowners in Scotland](#) are government agencies and public bodies, such as Forestry and Land Scotland. The [Registers of Scotland](#) can confirm who owns what land. Land may not be available for house building.

Buying land can be expensive, depending on location and the level of housing demand in the area. There are many issues which need to be considered when buying land, as highlighted [here](#). These, include the quality of the land and whether planning permission has been granted. The Scottish Government [provides guidance](#) on obtaining planning permission for a new property. There are also [permitted work](#) criteria for existing properties where no planning permission is needed. This all contributes to the cost of a property.

## Prefabricated house Building

In some areas, prefabricated buildings are used to provide economical housing which blends into the local environment. In the Hebrides, for example, [HebHomes](#) offer a range of flat-pack or 'kit' homes, while, in the Highlands and Islands, [Haus](#) provides a range of timber framed homes. In North Ayrshire, [the Wee House Company](#) build modular council housing rather than using traditional building methods.

House builders in Scotland are regulated through a [code of conduct](#) and also through localised Building Standards teams based within local authorities. Prefabricated or modular houses are regulated in the same way as any other house type and will adhere to the [repairing standard](#), [tolerable standard](#) and [Common Housing Quality Standards](#) in private or owner occupied properties.

## Taxes

House building, modular or otherwise, can be an expensive option due to the cost of land and associated taxes. Any new property is subject to the [Land and Buildings Transaction Tax](#). This applies to residential and non-residential properties. This is projected to bring in around £310 million to the Scottish economy for residential properties in 2020/21<sup>1</sup>. Other taxes which might apply would be Council Tax, if there is a residential project on the land and non-domestic rates if a business operates from the property.

---

<sup>1</sup> <http://www.fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts/scotlands-economic-and-fiscal-forecasts-may-2019/> - table 4

**Alex Marks**  
**Senior Researcher**

15 October 2019

SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot) Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP