



Private Housing (Tenancies) (Scotland) Bill

Bill Number:	SP Bill 79
Introduced on:	7 October 2015
Introduced by:	Alex Neil MSP (Government Bill)
Passed:	17 March 2016
Royal Assent:	22nd April 2016

Passage of the Bill

The Bill was introduced in the Parliament on 7 October 2015. The Infrastructure and Capital Investment (ICI) Committee was appointed as lead Committee on the Bill and they published their Stage 1 Report on 14 January 2016. The Stage 1 debate was held on 1 January 2016 followed by Stage 2 proceedings on 10 February 2016. Stage 3 proceedings took place on 17 March 2016.

Purpose and objectives of the Bill

The Bill seeks to introduce a new private residential tenancy to supersede the existing assured and short assured tenancies provided for by the Housing (Scotland) Act 1988. The Scottish Government expects that the Bill will improve security of tenure for tenants and provide appropriate safeguards for landlords, lenders and investors.

Provisions of the Bill

The Bill provides that the new tenancy will be an open ended tenancy that can be ended by the tenant giving the landlord notice. If the landlord wishes to end the tenancy they must give notice to the tenant setting out which of the specified eviction grounds they are using.

If the tenant does not leave the property after being given notice by the landlord, the landlord will have to refer the case to the First-tier Tribunal ('the Tribunal') to obtain an eviction order. Some of the eviction grounds are mandatory which means, if the Tribunal finds that circumstances associated with the ground exist, they must make an eviction order. Other grounds are discretionary (or are a mix of mandatory and discretionary), which means that,

even if the ground is established, the Tribunal can decide whether or not to make an eviction order.

The Bill also provides that a tenant will have recourse to the Tribunal if he or she believes the tenancy has been wrongfully terminated. If the Tribunal finds that a tenancy has been wrongfully terminated, it can order the landlord to pay the tenant compensation.

The Bill also seeks to provide tenants with protection from excessive rent rises. Landlords will only be able to increase rents once in every 12 month period and only with three months' notice. If a tenant considers that any proposed rent increase would take their rent beyond rents charged for comparable properties in the area, they will have the ability to refer the increase for adjudication to a Rent Officer at Rent Service Scotland.

Finally, the Bill also provides local authorities with powers to apply to Scottish Ministers to approve a 'rent pressure zone' covering all or part of its area. This would limit rent increases for sitting tenants in that area for up to five years. Within a rent pressure zone landlords would still be able to increase their rents by a minimum of CPI +1%.

Parliamentary consideration

In its Stage 1 report, the ICI Committee supported the general principles of the Bill but requested that the Scottish Government give further consideration to a number of areas.

At Stage 2, 198 amendments were lodged. All Scottish Government amendments were agreed to. Details of how the Bill was amended at Stage 2 are contained in the SPICe Briefing 16/25 *Private Housing (Tenancies) (Scotland) Bill: Stage 3*.

The more substantial policy changes made at Stage 2 include:

- **Changes to the proposed eviction grounds** –two new eviction grounds were introduced and the balance between mandatory and discretionary grounds was shifted towards more discretionary grounds. A number of the eviction grounds are based on the landlord intending to make an alternative use of the property. At Stage 2, examples of the types of evidence that a landlord might use to demonstrate that intent were added to the grounds.
- **Purpose Built Student Accommodation (PBSA)** built by private providers were exempted from the Bill's provisions (in the same way that student accommodation provided by further and higher education institutions already was in the Bill as introduced).
- **Wrongful Termination** - the level of compensation payable to the tenant for a wrongful termination was increased from up to three months' rent to up to six months' rent.

- **Removal of the initial tenancy period** - the Bill, as introduced, had proposed that, unless otherwise agreed between the tenant and the landlord, there would be an initial tenancy period of six months. This was removed at Stage 2.
- **Rent Pressure Zones** - the formula for determining the limit that rents in a designated rent pressure zone could be increased by was changed to enable an amount to be added for improvements to the property carried out by the landlord, as determined by a Rent Officer.

Stage 3

At Stage 3 most of the amendments agreed to were of a technical nature. Other, more substantial amendments agreed to were:

- Removal of the need for an executor's involvement to terminate a tenancy on the sole tenant's death, and clarification of the circumstances in which the partner of a tenant, a family member and a carer of a tenant can inherit a private residential tenancy.
- Introduction of timescales in which Scottish Ministers must make a decision on a rent pressure zone (within 18 weeks of receiving a valid application).
- Change in the nature of the mandatory eviction ground that enables a landlord to regain possession of a property if the landlord or a family member of the landlord intends to live in the property. Where a family member of the landlord intends to live in the property became a discretionary eviction ground. Where the landlord intends to live in the property remained a mandatory ground.

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