

Call for views on the Housing (Scotland) Bill

The Infrastructure and Capital Investment Committee is seeking views on the general principles of the Housing (Scotland) Bill. A copy of the Bill and the accompanying documents can be found on the Scottish Parliaments website.

The Bill was introduced in the Scottish Parliament on 21 November 2013. The Infrastructure and Capital Investment Committee has been designated as the lead committee for Stage 1 consideration of the Bill.

Aims of the Bill

The Bill aims to make a variety of legislative changes relating to the social and private sector housing sectors.

Committee consideration at Stage 1

The Infrastructure and Capital Investment Committee expects to consider written submissions and to take oral evidence from mid-January to mid-March 2014, before reporting on the Bill's general principles in early April 2014.

The Committee therefore invites all interested organisations and individuals to submit written evidence on the Bill and its likely impact. In particular, the Committee would like to receive responses to a number of key questions that are set out below under each of the Bill's main headings.

Part 1: Right to Buy

This part of the Bill places abolishes the right to buy by making certain repeals. The commencement of the main section on repeals is prohibited for at least 3 years. The Bill will also make some amendments which it is intended will apply before the repeals are commenced.

Q1. What are your views on the provisions which abolish the right to buy for social housing tenants?

The abolition of the Right To Buy may seem draconian, but there is simply not enough social housing available. The problem with an across-the-board approach is that it does not put the emphasis on where the greatest need is, and so there may not be any real short-term solutions. In short the abolition of the Right To Buy must be supported by house building.

Q2. Do you have any views on the proposed 3 year timetable before these provisions come in to force?

This is simply too long. I go for 6 months, although a year may be more acceptable. But if the Scottish Government are confident about getting the Housing Bill through Parliament, then a date should be announced such as January 1st, 2015, which will give people almost a year's warning from now.

Part 2: Social Housing

This part makes provisions which relate to social housing. The rules and procedures around the allocation of social housing will be adjusted as will the operation of short Scottish secure tenancies and Scottish secure tenancies.

Q3. *In your view, will the provisions which are proposed to increase the flexibility that landlords have when allocation housing, allow them to make best use of social housing?*

It is felt that with the anti-discrimination laws, there is enough flexibility already. A responsible Council will seek to ensure that the housing stock available is allocated according to the composition of the demand. Perhaps much of the blame lies with Councils not being more "self-disciplined" in respect of it's allocation policies, for it is difficult to see how any further legislation will help in some cases.

Q4. *Will the proposals which will adjust the operation of short Scottish secure tenancies and Scottish secure tenancies provide landlords with tools that will assist them in tackling antisocial behaviour in an appropriate and proportionate manner?*

Provisions are already in place, it is just that some landlords appear to "reluctant" to go down that road, opting for warnings and mediation instead. Evictions tend to be a last resort, mainly because the tenant(s) have to be rehoused, and to accommodate them in Bed & Breakfast establishments may cost more, and with Councils being forced to reduce it's homelessness by 2015, any evictions are likely to be "ineffective" in that they may be placed as a "priority". Listing anti-social tenants are making themselves "intentionally homeless" may not have the desired effect if there are pressures to accommodate everyone in mainstream housing as soon as possible. But it remains a problem as to just what are the most "effective" measures.

Q5. *Will this part of the Bill meet the Scottish Government's objective of providing further protection for tenants, particularly tenants with short SSTs, by strengthening their rights?*

There may be a problem in that if SSTs have too many rights, then it may not be an "incentive" to change their behavioural patterns. There has to be some kind of stick with discretionary powers to act as necessary. Any move away from SSTs has to be done with care. However if this is an "initial tenancy", then the same rights as ordinary tenants is not out of order, with there being monitoring of the situation.

Part 3: Private Rented Housing

This part provides for the transfer of the sheriff's existing jurisdiction to deal with matters relating to private rented housing to the First-tier Tribunal (which is to be created under the Tribunals Bill, currently before the Parliament). In particular it transfers all non-criminal actions relating to regulated tenancies and some actions relating to the repairing standard, the right to adapt houses and landlord registration. Ministers are given a power to transfer certain actions relating to houses in multiple occupation. Part 3 also contains some further adjustments to private rented housing legislation, making changes to the landlord registration system and creating some third party rights in relation to enforcing the repairing standard.

Q6. *Do you have any comments on the proposals for transferring certain private rented sector cases from the sheriff courts to new First-tier Tribunal?*

The problem with some of the members of First-tier Tribunals is that they may not have a grasp of problems relating to tenants, and there may be a question about their impartiality. Concerns are also expressed about compelling witnesses to attend. Given that there are no "sanctions" for failing to do so, then this may reduce the impact of what the Tribunal is trying to achieve. Returning to the first point, I would like to see more tenant members on the Tribunal.

Q7. *Do you have any views on the adjustments to private rented housing legislation, which are intended to enhance local authorities' discretionary powers to tackle poor conditions in the private rented sector?*

I cannot speak for outside Perth & Kinross, but there may be a view that the local authorities should not intervene if it is seen that it's own house is not in order. Thus double-standards may be the result. It may be better if an independent "regulator" is appointed with the consent of all the relevant parties.

Q8. *Do you have any comments on the Scottish Government's intention to bring forward provisions at Stage 2 to provide additional discretionary powers for local authorities to target enforcement action at an area characterised by poor conditions in the private rented sector?*

I refer to my comments to Question 7, with the "regulator" having full powers to compel private landlords to improve their stock conditions, and to impose financial penalties for failing to comply with any action requested by the "regulator".

Part 4: Letting Agents

This part establishes a registration system for letting agents. As well as setting up a register, it sets out various offences, provides for the publication of a code of conduct and gives the First-tier Tribunal the power to issue letting agent enforcement orders in relation to breaches of that code. It also confers on Ministers a power to transfer the existing jurisdiction of the sheriff in relation to disputes between letting agents and landlords or tenants.

Q9. *Do you have any comments on the proposal to create a mandatory register of letting agents in Scotland, and the introduction of statutory provisions regarding letting agents' practice?*

There should be a mandatory register, with there being a statutory code of practice backed up by severe financial penalties for failing to comply. This code of practice should include any fees and who is responsible for paying them and at what point in the letting process, not offering a house to another until a refusal is in place, and outlawing statements such as "We have a lot of people interested" just to "force" an interested person into accepting the house, giving the prospective tenant time to inspect the house, and to allow them to see any surveyor's report with there being a provision for verification by the prospective tenant.

Q10. *Do you have any views on the proposed mechanism for resolving disputes between letting agents and their customers (landlords and tenants)?*

Again I refer to the answer to Question 7 relating to the independence of the Tribunal members, also who will pay for the Tribunal. This financial factor should extend to the right of any legal representation which the tenant(s) may wish. Another problem is this may be a 3-way dispute and so somewhat complex, and so should this be reduced to separate 2-way processes? It may be difficult to reach a resolution if one of the three parties does not agree. More work and playing "Devil's Advocate" may be necessary.

Part 5: Mobile Home Sites with Permanent Residents

This part creates a new licensing regime for mobile home sites with permanent residents. It inserts a new Part 1A into the Caravan Sites and Control of Development Act 1960.

Q11. *Do you have any views on the proposed new licensing scheme?*

I am in favour of this, although the problem with the concept of a mobile home is that it is precisely that and so any stays may be short-term. Nevertheless, those living in such a home should expect certain standards from their site owner. There is also a need to clearly define just what is a mobile home and not just some kind of "holiday caravan".

Q12. *What implications might this new scheme have for both mobile home site operators and permanent residents of sites?*

There could be cost implications for the site operators which could then be passed on to owners of mobile homes making the site "unattractive". However there should be certain standards, and here the appointment of site inspectors may be a possibility.

Part 6: Private Housing Conditions

This part includes a number of adjustments to the law as it relates to private housing including conferring on local authorities a power to pay a share of costs arising from the tenement management scheme under the Tenements (Scotland) Act of 2004 and modifying provisions relating to work notices, maintenance notices and maintenance orders under the Housing relating to work notices, maintenance notices and maintenance orders under the Housing (Scotland) Act 2006.

Q13. *Do you have any comments on the various provisions which relate to local authority enforcement powers for tackling poor maintenance, safety and security work particularly in tenemental properties?*

This should be more rigorously enforced. However there is also a question as to whether or not local authorities should pay, for where does this money come from? As for the Housing Revenue Account, that is tenant's money, and the General Fund is paid by everyone regardless of their domicile status. If, as many tenements are, of mixed tenure, then the owners of private houses should pay their own costs, and any any costs met by a local authority should be subject, where possible to a recharge. This is a complex issue, especially where a tenement, or groups of them, may have quite a number of different private landlords contained within them.

Part 7: Miscellaneous

This part contains some miscellaneous housing provisions, including a power to exempt certain securities from the right to redeem after 20 years contained in section 11 of the Land Tenure Reform (Scotland) Act 1974, the conferral of power to delegate on the president of the private rented housing panel and homeowner housing panel, a modification of the Scottish Housing Regulator's powers and a repeal of certain enactments relating to defective designation.

Q14. *Do you have any comments in relation to the range of miscellaneous housing provisions set out in this part of the Bill?*

I regret that I am not knowledgeable about this subject.

Other Issues

Q15. *Are there any other comments you would like to make on the Bill's policy objectives or specific provisions?*

There must be more clarity on just when the Right To Buy will cease, for various meetings I have been at have differing views by those attending. The problem is that this aspect is likely to be drawn down party lines, with it ranging from complete abolition quickly to a that of the proposed time-scale, and not forgetting those who are opposed to the abolition of the Right To Buy anyway.

Q16. *Are there any other issues that the Scottish Government consulted on that you think should be in the Bill?*

Although this is not part of the Bill, it is felt that there should be some some kind of "Rent Capping" Policy, for the above inflation increases cannot be allowed to continue.