

ESPC

WRITTEN SUBMISSION

We are letting agents and property managers and wish to make the following observations on the Housing (Scotland) Bill: -

In response to questions submitted earlier we wish to respond accordingly

Part 3: Private Rented Housing

Q7. *Do you have any comments on the proposals for transferring certain private rented sector cases from the sheriff courts to the new First-tier Tribunal?*

This proposal will simplify and speed up private rented sector cases and make the court process more user friendly and less intimidating for landlords and tenants. This will be particularly beneficial in speeding up the eviction process for landlords who are unfortunate enough to find themselves with a tenant who fails to pay rent or commits other serious breaches of their tenancy agreement. The potential for higher quality and more consistent rulings from more specialised tribunal decision makers is also welcomed.

Q8. *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?*

The ability for local authorities to apply to the private rented housing panel for a determination on the repairing standard will provide a means of addressing poor standards in individual properties without having to rely on the tenants to take action against their landlord. This will assist in cases where tenants feel too intimidated by the landlord or the application process to take action themselves, or where they feel that direct action on their part may cause the relationship with their landlord to deteriorate and consequently put them at risk of losing their tenancy. It will also help in situations where the tenant has already vacated the property (or been evicted) but the local authority still wishes to take the case to the PRHP.

Q9. *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 in an area characterised by poor conditions in the private rented sector?*

This proposal will not only benefit those tenants who reside in areas characterised by poor conditions in the PRS, but will also improve the overall image of the PRS, which for some time has suffered at the hands of poor landlords and letting agents. It will also assist local authorities who are undertaking regeneration work in particular areas in forcing private landlords to improve their properties in line with other properties in the local area.

Part 4: Letting Agents

Q10. *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?*

This is a welcome proposal as it will drive out poor practice and improve standards. It is essential that the reputation of the industry is improved while at the same time providing landlords and tenants with better recourse in the event that they are dissatisfied with their agent.

We believe there should be a new stand-alone Letting Agent Register operated by the Scottish Government.

The Register should include all businesses which let and manage private rented residential property in Scotland. However, we would not support simply replicating the processes and principles established for the Property Factors Register. Whilst it has improved that sector, this system is not robust enough in our opinion for the letting and management sector, and considerable consideration needs to be given to the detail of implementation for our sector.

A strong Code of Practice is needed. Along with the other representative organisations, we welcome the planned consultation in preparing the Code as secondary legislation.

Registration should include:

an annual renewal (not every 3 years)

a legally binding commitment each year to possessing:

adequate professional indemnity insurance

appropriate client money protection

a ring-fenced client money bank account

an annual audit of client accounts

membership of an ombudsman scheme to ensure an easily available redress mechanism for tenants and landlords.

Depending on the registration processes put in place there could be a requirement for the agent to produce annual documentation to confirm the above. It may be more appropriate to consider the registration process to be more the issuing of a licence approving the Letting Agent.

We believe that any Registration process should be Government operated free of any involvement with professional bodies such as the RICS or ARLA and others. Agents should aspire to differentiate themselves in the market place by achieving the standards required to gain membership. Within the code of practice there may be the requirement over a period of time to require owners of an staff employed in an agency to be say 50% qualified to a certain level of professional knowledge and competency

The impact of these proposals on our industry is to be welcomed. It will however highlight even further the disparity in enforcement that currently exists on compliant letting agents and landlords and those who operate below the required standards. The passing of legislation and implementation of registration of Letting Agents will create an environment where landlords who are self-managing will perceive the

enforcement of regulation on them to be far less onerous. We recommend that at the same time as these regulations are implemented that the Landlord Registration regulations are enforced more robustly

Q11. *Do you have any views on the proposed mechanism for resolving disputes between letting agents and their customers (landlords and tenants)?*

See the above comment about ombudsman services in response to Question 10; under these schemes redress is readily available to customers of such organisations at no cost to the claimant.

Part 6: Private Housing Conditions

Q14. *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?*

For landlords of properties in multi-ownership buildings this proposal will be of great benefit in ensuring that essential repairs can be carried out even when some property owners can't be identified or are unable or unwilling to contribute. It will put an end to the current situation that some landlords can face in having to cover other people's share of communal repairs in order to comply with the repairing standard for their property and provide a compliant property for their tenants.

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