

# FACTOTUM

## WRITTEN SUBMISSION

Factotum are letting agents and registered Property Factors and wish to make the following observations on the Housing (Scotland) Bill: -

### 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?*

We welcome a First-tier Tribunal, if adequately resourced, it could open up to the public much needed recourse to malpractices that discredit the PRS, shows the present enforcement agencies in a poor light and highlights the legal systems' vagaries and delays.

We would propose that such FTT committees be well represented by as balanced a cross section of the PRS as possible. We would be happy to be involved further in this process.

*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?*

This is also welcomed. We would add that part of those discretionary powers might include the mandatory appointment by a miscreant landlord of a registered letting agent or factor for a predetermined period of time to manage that landlord's property and bring it up to the required standard. This might also mitigate such concerns as the threat of constructive eviction and subliminal intimidation of resident tenants.

*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 is also welcomed but with a provision that any capital improvements are subsequently sustained by diligent cross section of good management in terms of upkeep and tenancy management to avoid re-ghettoising or dilapidation of such areas.

### 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 welcome and long overdue. We believe it should be embraced and policed as part of the FTT and form:

1. A simple Letting Agents registration readily accessible by the public.
2. A letting Agents Code of Practice binding on Letting Agents that have signed up to it.
3. An enforcement process that is self regulating in as much as it does not nurture overt state bureaucracy or hand over excessive enforcement to local mandarins and panjandrums.
4. A process that empowers the plaintiff and defendant to easy, non-adversarial and timely recourse.
5. A process that is (initially) biased towards financial settlement, rather than pecuniary penalty.

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

Complaints procedures and mediation should be embraced as part of the letting Agents Code of Practice.

#### **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?*

This is also welcome but we would like to see a greater partnership developed between the Council and agents particularly more cooperation in terms of information on ownership and greater use of statutory notices.

**Factotum**

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