

WHEATLEY GROUP
WRITTEN SUBMISSION

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?

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

Response Q1 & Q2: The Wheatley Group is notionally in favour of the provisions. However, the lead-in period of three years appears overly long. Two years is sufficiently long to allow interested tenants to exercise the Right to Buy while allowing Registered Social Landlords to plan with more certainty.

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.

Q4. In your view, will the provisions which are proposed to increase the flexibility that landlords have when allocating housing, allow them to make best use of social housing?

Response Q4: The Wheatley Group is in favour of the principle of giving Registered Social Landlords more flexibility in regard to allocations. However, the Scottish Government and/or the Scottish Housing regulator must provide robust guidance to accompany the provisions.

This guidance should encompass, to offer some examples, (i) There should be more information regarding how the age bar removal would work in practice (and how this relates to equalities legislation), (ii) More detail should be offered around consultation i.e. are there requirements for social landlords to consult in a specific way with tenant and prospective tenants regarding the new provisions? (iii) More detail is also required on how the new provisions relates to housing options.

Q5. 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?

Response Q5: The ability to refer to previous conduct is welcomed. However, although more flexibility is important the Group has some concerns with the Bill as drafted in relation to the potential costs of additional housing support.

While there are some improvements from previous legislation, the new proposals require to be accompanied with robust guidance. More information and guidance might relate to; the determinants of behaviour change (and who determines them), clarity around flexibility on suspensions and how converting an SST to an SSST works with or without court.

Q6. *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?*

Potentially, although it should be noted that tenants in SSSTs already enjoy significant rights and protections under the current arrangements both for SSTs and SSSTs.

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.

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?*

Response Q7: In principle, the proposals for transferring certain private sector cases to a new tribunal should be a good thing. However, in practice the First-tier tribunal would have to prove easier and faster than the current arrangements. If this is not the case, then the new proposals are essentially meaningless.

It would be beneficial for there to be detail regarding monitoring arrangements to ensure the efficacy of the proposal once it has been put in practice.

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?*

Response Q8: Adjustments to the legislation may help tackle poor private rented sector conditions. Specifically, the strict control of landlord registration and the active pursuit of landlords to ensure both registration and compliance with existing standards would be helpful.

As important as any legislative changes, however is the enforcement of either new or existing laws. Effective and well-resourced enforcement is required to ensure that legislation is meaningful and acts both as a benchmark for effective landlord to work by and as a deterrent to landlords who may contribute to poor condition through their actions or inactions.

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

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.

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?*

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

Response Q10 & 11: The Wheatley Group is supportive of the registration and regulation of letting agents. This will allow responsible landlords in the sector, such as Lowther Homes, to adhere to the proposed national registration scheme and statutory code of practice and drive improved standards.

Registration and regulation, however, should remain proportionate and should not place an excessive administrative burden upon landlords.

As with the response to Q8, enforcement regarding the registration and regulation of landlords is fundamentally important. Registration needs to be backed up with resource and activity to ensure that it is practitioners who are not doing things ethically and efficiently who are inconvenienced, rather than those who are.

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.

Q12. *Do you have any views on the proposed new licensing scheme?*

Response Q12: No.

Q13. *What implications might this new scheme have for both mobile home site operators and permanent residents of sites?*

Response Q13: See Q12.

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 2004 and modifying provisions relating to work notices, maintenance notices and maintenance orders under the Housing (Scotland) Act 2006.

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?*

Response Q14: Not at this stage, other than to reiterate the previous point regarding the importance of enforcement being properly resourced.

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 a 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.

Q16. *Do you have any comments relation to the range of miscellaneous housing provisions set out in this part of the Bill?*

Response Q16: No.

Other Issues

Q17. Are there any other comments you would like to make on the Bill's policy objectives or specific provisions?

Response Q17: No.

Q18. Are there any other issues that the Scottish Government consulted on that you think should be in the Bill?

Response Q18: No.

Wheatley Group
3 March 2014