

Private Housing (Tenancies) (Scotland) Bill

Written submission to the Infrastructure and Capital investment Committee

Citizens Advice Scotland

Introduction

1. Citizens Advice Scotland (CAS) welcome the introduction of this bill to the Scottish Parliament and its intention to implement the recommendations of the Private Tenancies Review Group of which CAS was an active member. We support the general intentions of the bill to strengthen the security of tenure for tenants who live in Private Rented Housing by introducing a new tenancy type to replace those previously used in the sector. We also support making tenancies easier to understand and the introduction of a model tenancy agreement which we believe will help small landlords understand their obligations and rights.

No Fault Ground Evictions (section 35)

2. We believe the steps taken within the bill to remove the ability to evict a tenant on the “no-fault” ground basis is a very welcome step. We believe this will substantially improve the security for tenants and allow the private rented sector to be able to provide not just accommodation but homes for individuals and families. We have seen from our evidence how the no-fault ground has been used by landlords in the past in unfair circumstances. These have included ending a lease due to a request for improvements or repairs made to a property.

3. Citizens Advice Bureaux across Scotland logged 1,290 new issues with security of tenure for tenants living in the private rented sector suggesting there are a significant number of tenants who feel unable to either live in their home securely or feel unable to assert their rights. Case studies received from CAB over the last year further support that view.

- A West of Scotland CAB reports of a client who lives in a rural private rent and has had consistent problems with getting his property repaired. He states that after reporting many issues to the landlord, including the boiler breaking, he was told by the landlord he could leave if he wanted. The tenant wants repairs done but doesn't want to lose the property as he needs to stay in the area for work and isn't sure there is much else on offer.

Model Tenancy Agreement

4. CAS support the bill's clauses to create a model tenancy for use by prospective and current landlords. Indeed we have seen cases where landlords have come to citizens advice bureaux looking for such a template only to find no such model tenancy exists. We believe a standard lease, subject to allowable discretionary clauses, will make the private rented market easier to understand for both tenants and landlords. We understand the Scottish Government intend to bring forward the detail of this model agreement in subordinate legislation.

Initial Rental Period (section 51)

5. CAS support an initial term of six months which would be easy to understand for tenants. We also support the ability to negotiate a longer or shorter lease if in both tenant and landlords' interests. This will give the landlord the certainty of the let for that initial six month period and also allows the tenants the knowledge that all lets that are being offered on the market have a six month minimum rental period. Some tenants have also expressed satisfaction that the initial period is for them a 'trial', where they can test if they like the property and landlord.

9. We support the intention to not limit the maximum period of a let. Limiting the maximum could end the current system whereby some tenants and landlords are able to mutually agree a length of tenancy that they know the tenant will need to stay for e.g. a worker who has been placed in a job in a certain area for a year.

Notice to leave [Landlord to Tenant] (section 40)

10. CAS support the bills intention that tenants will be given twelve week notice where the tenant has lived in the property for longer than six months. This change supports the aim that the Private Rented Sector should become fit for people living in the property as their home rather than a temporary place of stay. The upheaval that can be caused for a tenant and their family if they are moved can be significant. This additional length of notice for tenants who have been resident for a longer period of time will help tenants make necessary arrangements to move. We believe this gives the tenant the required time to find alternative suitable accommodation as opposed to the current situation some tenants face

- A West of Scotland CAB reports of a client and her daughter who live in a private let. She has been there for one year and thinks it is a short assured tenancy. She advised that her landlord called to say that he needed his property back next week and wanted her to leave. The client has seen another private let and would like to take this forward with the assistance of the CAB however she is concerned at how little time she is being given to move at such short notice.

11. We also support subsection 3 section 44 that where notice periods of four weeks are to be given in the first six month period; it can only be on grounds that the tenant is at fault (i.e. rent arrears).

Notice to leave [Tenant to Landlord] (section 38 and 39)

12. CAS do not support the length of notice period required from tenants who have lived in the property longer than six months (eight weeks).

13. There are a number of concerns that we have with regard to 'locking' a tenant into a long notice period of 8 weeks. A tenant who is looking to move to an alternative let may miss the opportunity to take up the other let if they have to give eight weeks' notice. We do not believe this would be in the interests of landlords

looking to fill an empty property as tenants may start requesting move in dates of eight weeks in the future causing significant delay to new tenants moving in.

14. Tenants might then take the risk of giving notice earlier than they can manage so as to be effective shoppers in the marketplace and able to move in quicker than eight weeks. This potentially raises the prospect of some tenants not finding another property to move into, leaving them in a homeless limbo situation. This could be particularly acute in areas where availability of PRS properties is low such as rural communities. The alternative for the tenant is to be in a situation where they are effectively paying double rent on two properties so as to not risk having nowhere to live.

15. CAS believes that a four week standard timescale for tenants would provide them with an easy to understand fixed period that all tenants are required to give. It also would reduce the concern of tenants not being able to move properties due to long notice periods trapping them in their current let. We believe this proposal offers a sufficiently long timescale for landlords to find new tenants for the majority of rental property given that the average time to let in Scotland (Q3 2015) was 29 days. The major renting markets of Scotland's cities also have shown high levels of property being let in a month with 78% of properties in Edinburgh, 69% in Glasgow, 40% in Dundee and 53% in Aberdeen all meeting this timescale.¹

16. We are also concerned that extending the period that tenants will have to give could result in the victims of domestic abuse being unable to leave abusive partners as quick as they should be able to. While there is support for those who are victims of abuse to find alternative accommodation the victim is still liable for their share of the costs of the property they may be fleeing. Currently housing benefit rules allow for claimants to get four weeks on two properties if they don't intend to return to the property meaning they would have to make up the shortfall to eight weeks themselves.

Grounds for Repossession (Schedule 3)

17. CAS support the intention for the First-tier tribunal system to have discretionary element to its decision making on many of the grounds where a tenants conduct is under investigation. We believe this will allow decisions to be taken with regard to the tenant's personal situation and control of a situation.

18. We welcome that the Scottish Government considered our concerns during their consultation process regarding rent arrears coming about due to benefit delays and have taken steps (section 11, schedule 3) to protect tenants who have fallen into arrears through no fault of their own.

- An East of Scotland CAB reports of a couple who are struggling to make the rent payments on their private let of £795 per month. They rent a large property due to the size of their family (eight children). Last month they managed to pay £600 of the rent but can't afford more due to the implementation of the benefit cap which has reduced the family's income.

¹ CityLets Report, 2015

The landlord is happy with them as tenants and indeed wrote in a letter asking for the remaining rent saying she was happy with how they were looking after the property. The client is now worried about eviction action that the landlord is considering taking.

19. We also welcome the steps taken to ensure that evictions based on anti-social behaviour or criminal convictions will only apply in cases where a the said criminal activity or anti-social behaviour was linked to the property or the locality, we would not support any moves to link to any other convictions not associated with the property as removing an individual's housing is not appropriate sanction in these cases.

Wrongful-termination order (sections 47 to 49)

19. CAS welcome the bills intention to protect tenants from wrongful evictions. We support the intention to provide for the First-Tier tribunal to be allowed to make up to 3 months' rent payable to a tenant in compensation. In addition we would like to see wrongful-termination orders being considered as part of the fit-and-proper person test by landlord registration where a landlord is consistently found to be engaged in misleading the tribunal.

Rent variations (sections 19 to 28)

20. CAS support the intention to protect tenants from unfair rent hikes aimed simply at removing a tenant. We therefore support the Government's move to ensure that rents can only be increased once a year. This will provide certainty to tenants and their families of how much the rent for that property will be in a long term.

21. CAS support that tenants should have certainty when it comes to the rent they are required to pay. Therefore introducing a notice period will allow tenants to make adjustments and plans in response to any rent increase. We believe that twelve weeks is necessary to allow the tenant the option to give notice to leave if they feel that the new rent is fair but unaffordable.

22. CAS also support the ability for tenants to make appeals against increases they feel are unfair to a rent officer and subsequently to the tribunal for adjudication.

Energy Supply

23. CAS are concerned at some reports of clients who are unable to change their energy supplier, tariff type or meter type by their landlord thus meaning they cannot find the best deal for their consumption. We would support additional measure to this bill to allow for tenants to get the best energy tariff for their needs.

**Fraser Sutherland
Policy Officer
Citizens Advice Scotland
October 2015**