

## **Private Housing (Tenancies) (Scotland) Bill**

### **Written submission to the Infrastructure and Capital investment Committee**

#### **RICS**

RICS believes this Bill will, rightly, see the end of the outdated, and overly complex, short assured tenancy (SAT) and assured tenancy (AT) regime that is currently used in Scotland. Although many view the landlord as a business and the tenant as a client, in reality most landlords in Scotland are individuals who have other employment or business and tenants are just renting a home to live in.

The SAT and AT regimes are so complex that few landlords or tenants understand their rights and responsibilities. Despite this, in general, the majority of landlord/tenant relationships are cordial: most landlords are fair and look after tenants, and most tenants are fair, pay their rent and look after the property. Landlords who have problem tenants cannot resolve the issues effectively or efficiently because they don't understand the law, have not established the tenancy correctly, or try to terminate the agreement with the wrong paperwork. Tenants, on the other hand, often struggle to enforce their rights; such as: the repairing standard when faced with the unfair landlord who either does not understand their obligations, or not want to meet them.

The replacement single new tenancy, known as the private residential tenancy, should provide a clear and transparent tenancy system for both landlord and tenant, and we welcome this.

RICS did not argue for the removal of the "no fault" ground. However, we feel the Bill, as currently drafted, strikes the right balance between tenant protection, by removing the 'no fault ground', and providing a reasonable extension, with details, of new grounds for eviction by reasonable landlords; albeit with one addition

#### **Grounds for Property Recovery: New Employee or Carer**

RICS understands that the Bill makes provision for the removal of a former employee from a property, if they were allowed to occupy it as part of their employment. Having given specific recognition that a tenancy can be terminated if the property is required for religious purposes, RICS feels that, particularly in the rural setting, the Bill could be more balanced in allowing a landlord to recover possession of a property in order to house a new employee.

For the rural sector this could be crucial to a Landlord's business - whether it be, for example, an agricultural worker, forestry worker, or gamekeeper etc. - particularly if the landlord wishes to expand the business but is short on available housing.

RICS would urge the ICI Committee to consider this suggested ground for recovery, and whether it could be widened to include a landlord who wished to employ a care worker to look after, for example, an elderly relative or disabled child.

## **Student Eviction and Tourism**

The tourism sector, particularly during the summer months (and especially the Edinburgh Fringe/Festival), relies heavily on the additional accommodation provided by student rented properties, particularly HMO, being made available for visitors (tourists) to the city. There is a significant number of buy-to-let properties rented to students for 9 to 11 months, and then to tourists for at least part of the summer. This suits both parties well, with many students benefitting from the rent free period over the summer and, if they have been good tenants paying rent on time, they are likely to return to the same property after the summer, assuming they are still a student. Whilst RICS acknowledges the desire to treat students fairly i.e. like any other tenant, the unique economics of this market need to be taken into account. Edinburgh has seen significant investment from external companies and individuals specifically relying on this model. In addition to the many individuals who have invested in this market, there are numerous investment firms which have invested in specific student housing blocks which will be affected by this change.

Whilst we welcome the specific right to end a tenancy with a student, who stops being a student in a student housing complex, this does not deal with the economic case outlined here.

RICS believes there should be further scoping and consultation exercises undertaken in conjunction with the tourism industry to assess the impact that this new tenancy regime may have on sector.

It is also sensible for the Scottish Government to consider, again, the significant impact this will have on individual investors who may see their yield on their investment fall as a result – an issue that the Scottish Government has been trying hard to avoid.

## **Rent Pressure Zones (RPZ) vs Open Market Rent**

RICS does not believe that there is an adequately substantive or accurate level of data available that indicates what rent levels are in any one particular area that will enable the allocation or setting of rent hot spots, or rent pressure zones (RPZ).

A local authority, with the power to request that an area becomes an RPZ, will, therefore, apply for an RPZ out of an area's reputation and subjectivity, not evidence. Although there are some industry sites which can measure the rent level of advertised properties, there is no way to measure the rent in particular areas accurately for existing or recurring tenancies.

RICS acknowledges that the RPZ status will be revoked either upon request or automatically after five years. RICS would like to know on what grounds an RPZ can be [requested to be] revoked and by whom. Cessation of the RPZ allocation will not be due to rents, as rises will have already been capped. As such, the only other focal, and evidenced, indicator would be property valuation – which, poignantly, forms the basis for rental value increases which the RPZ could nullify.

Like any sector, investors in the PRS contribute to projects to generate a calculated return or yield. The Scottish Government is seeking to restrict rents and, thereby, removing the link between rental income and capital cost - their intervention being within the operations of the rental side of the market. The Scottish Government needs to consider, carefully, if this is the appropriate route, and whether this is a sensible approach to a market-led industry. The Scottish Government risks alienating institutional and other investors at a time of severe housing pressures – particularly in the PRS. Whilst there is some activity from investors for PRS opportunity throughout the UK, there is significant appetite for more, as the market begins to prove itself in London and Manchester.

This Bill's Policy Memorandum outlined the PRS Strategy's vision for the sector: "*the Scottish Government's vision is for a private rented sector that provides good quality homes and high management standards, inspires consumer confidence and encourages growth by attracting increased investment*". RICS believes that the proposal to allow the introduction of RPZs could make Scotland uncompetitive when compared to the rest of the UK, and thus counter this vision.

Finally, the introduction of RPZs may inhibit protection from any increased borrowing costs for the landlord, and also limit a landlord's ability to improve the quality of their property in the future due to budgetary restrictions. The latter point is particularly salient considering the fuel poverty, energy efficiency and quality standards agendas for Scotland's private housing.

### **Private Rented Tenancy Review Group**

RICS was one of the stakeholders with representation on the Scottish Government's *Private Rented Tenancy Review Group* (PRTRG). This group has disbanded but concluded with a primary recommendation that the current tenancy SAT/AT is replaced with one tenancy which covers all rents in the PRS. This Bill is taking this recommendation forward.

It is imperative to note, here, that the PRTRG found no evidence of the need for any rent control. Furthermore, the Scottish Government-funded research, which informed the PRTRG, also found no evidence amongst tenants that rents were being increased unfairly.

The outcome of the research specifically noted problems with repairs, not rent.

Indeed, there is little, if anything, in the Bill's provisions that relates to a tenants ability to gain fast and effective improvements – which is entirely necessary if living conditions in the sector are going to improve at the level required.

As such, we feel the Scottish Government should have an objective to protect tenants by finding mechanisms to improve access for tenants who have reservations about repairs. This could be achieved through more funding to examine and enforce the need for landlords to undertake timely repairs to let property.

## **First-Tier Tribunal**

In its current form, the Bill is somewhat vague on the cost implications, if there are any, for applying to the First Tier Tribunal, and whether legal aid will be made available. Given the loss of the 'no fault' ground for repossession, which could lead to an increase in cases expected to be passed through the tribunal process, and the possible rent arrears implications facing investors and landlords, this is of particular concern for some RICS members. Essentially, the Bill needs to specify whether the anticipated increase in appeals will be a cost to tenants, investors, landlords or letting agents.

## **Bill Specifics**

Part 2, *Not a Student*, 8(2)(c): *"The tenant is neither pursuing nor intending to pursue a course of study provided by a relevant person within three months."*

This is too vague. There should be a more definitive use of language, such as: *"The tenant is not enrolled to start a course of study provided by a relevant person within three months."*

**RICS**  
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