

Private Housing (Tenancies) (Scotland) Bill

Written submission to the Infrastructure and Capital investment Committee

North Ayrshire Council

Guidance: The first set of questions look at the new type of tenancy proposed by the Bill. This will replace the existing forms of tenancy with a Private Residential Tenancy.

Single Private Residential Tenancy

Question: Do you agree with the Bill's proposal to remove the short assured tenancy and assured tenancy, as outlined in the Housing (Scotland) Act 1988, and replace them with a single private residential tenancy?

NAC Response: Yes, the proposal to create a single residential tenancy is welcomed as it will simplify tenancy arrangements in the private sector.

Removal of the “no fault” Ground

Question: The Bill proposes the removal of the “no-fault” ground for repossession (i.e. removing the ability of a landlord to ask a tenant to leave a property because their tenancy agreement has come to an end). Do you agree with the removal of the “no fault” ground?

NAC Response: The Council is aware that many landlords have argued that this proposal may discourage further investment as the ‘no fault’ ground provided a relatively easy way to recover possession. It has also been argued that the majority of landlords would only seek to repossess their properties when tenants are in significant rent arrears or where they have concerns about antisocial behaviour.

However, the Council recognises that in instances of arrears or antisocial behaviour possession can be secured using the prescribed grounds for recovery.

The Council agrees with the removal of the ‘no fault’ ground for repossession and understands that such a move would send a positive message that the private rented sector is a stable, long term housing option.

Initial Tenancy Period & Notice to Leave

Guidance: Where a landlord is looking to recover possession of their property, the Bill proposes that they will be required to issue the tenant with a notice to leave which gives the appropriate amount of notice linked to how long the tenant has lived in the property (12 weeks notice for tenancies over 6 months or 4 weeks notice for any shorter period).

Question: Do you agree with the proposed initial tenancy period of six months?

NAC Response: Yes, this provides both landlords and tenants with the opportunity to create a flexible tenancy agreement.

Furthermore, the introduction of a single Notice to Leave should also assist in making the private sector more accessible as it will simplify the process of terminating a tenancy, which at present is a frequent cause of confusion for many landlords and tenants.

Guidance: The Bill provides for an initial tenancy period (a minimum of 6 months unless the tenant and landlord agree to a shorter period). The Scottish Government considers that to provide certainty for tenants and landlords, a tenant would be unable to serve notice at any time during their initial tenancy period (a minimum of 6 months unless the tenant and landlord agree to a shorter period). The landlord would also be unable to regain possession of the property unless one of 5 specified circumstances arose:

- rent arrears,
- anti-social behaviour,
- breach of tenancy agreement,
- relevant criminal conviction, or
- the lender intends to sell.

Question: Do you agree that a tenant would be unable to serve notice at any time during their initial tenancy period?

NAC Response: Yes, the proposal for a minimum tenancy period of six months (unless otherwise agreed) provides some security and flexibility for both landlords and tenants.

Grounds for Repossession

Question: Do you agree that a landlord should be unable to gain possession of their property unless one of the 5 specified circumstances listed above arose?

NAC Response: Yes, restricting repossession during the initial period should provide security of tenure for tenants whilst allowing antisocial behaviour, rent arrears, etc to be tackled by the landlord at an early stage. The bill provides further grounds for repossession after the initial tenancy period has elapsed.

Guidance: The Bill proposes 16 grounds for repossession of a property:

- Landlord intends to sell
- Property to be sold by lender
- Landlord intends to refurbish
- Landlord or family member intends to live in property
- Landlord intends to use for non-residential purposes
- Property required for religious purpose
- No longer an employee
- No longer a student

- Not occupying let property
- Breach of tenancy agreement
- Rent arrears
- Criminal behaviour
- Anti-social behaviour
- Landlord has ceased to be registered
- HMO licence has been revoked
- Overcrowding statutory notice

Question: Please advise if you do not agree with any of the proposed grounds for repossession listed above.

NAC Response: The grounds for repossession are comprehensive and provide an appropriate balance between security of tenure for tenants and a landlord's ability to recover their property, where appropriate.

Question: Please note any general views on the proposed grounds for repossession. This might include why you don't agree with any of the above grounds or whether you think there are any further grounds which should be added to the list.

NAC Response: No further comments required.

Rent Levels

Guidance: The Bill aims to give tenants safeguards against unjustified and excessive rent increases and predictability on when their rents will increase while giving landlords' confidence that they can recover their legitimate costs, including for improving their property. This section covers some of the issues raised by rent levels.

Question: The Bill proposes that rent increases can take place no more than once in any 12-month period with at least 12 weeks' notice. Do you agree?

NAC Response: Yes, this is a welcome proposal and should provide tenants with some stability to plan their finances.

Question: Do you agree that tenants, if they consider that any proposed rent increase would go beyond that charged for similar properties in their area, should have the ability to refer the increase to a rent officer at Rent Service Scotland?

NAC Response: Yes, this provides tenants with a fair system to oppose rent increases.

Question: Do you agree that, following an application by a local authority, Scottish Ministers should have the power to cap the levels of rent increases for sitting tenants in areas where rents are rising excessively?

NAC Response: Yes, providing local authorities with the power to apply to the Scottish Ministers for designation of a rent pressure zone will assist to retain a stable and fair private rented sector.

Wrongful Termination

Question: Additional Comments?

NAC Response: The Bill proposes that the First Tier Tribunal will be able to make a Wrongful Termination Order when a tenant has been misled into leaving the property by the landlord. The Tribunal can make an award of up to three months' rent to the tenant.

This proposal is welcome however it may be useful to give the Tribunal greater freedom to set damages. Three months' rent may not be a sufficient enough penalty to deter unscrupulous landlords from misleading tenants (and the Tribunal) to secure an eviction.

It should also be made clear that illegal eviction remains a criminal offence.

**North Ayrshire Council
November 2015**