

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

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

#### **The Flat Company**

##### **Introduction**

The Flat Company was formed in 2000 and we have been working exclusively in Letting and Property Management in Scotland since then. We offer a variety of services including Full Management, Tenant Introduction Service, Buy to Let investment Advice, Tax advice, Portfolio Finance and Management, Upgrade and Project Management, Legislation Advice, as well as many other aspects related to letting and property management. Our portfolio consists of a diverse range of properties across Edinburgh representing everything from individual owners letting single properties to Companies and Trusts which represent large portfolios. We realise that for most landlords property is the biggest investment they will make and for most tenants rent will potentially be their largest single annual expense. For this reason we have to represent both landlord's and tenant's needs in order to maintain a symbiotic relationship between the two.

##### **General**

While The Flat Company embraces any change or further legislation that would be introduced to protect the rights of tenants and eradicate rogue landlords or unfair practices in PRS, there are several areas of the bill that are cause for concern. Firstly, many of the issues the bill is trying to address could be resolved by simply adhering more stringently to the regulations currently in place and ensuring they are enforced. Secondly, the data and research on which many of the contentions made in the bill are based is extremely limited considering these changes are to be universally imposed across Scotland. Furthermore, the financial implications in several different sections of the bill both for tenants and landlords seems to be both inadequately researched and insufficiently outlined. Finally, aspects of the bill could further exacerbate what is generally agreed as the main housing issue both in Scotland and across the UK, namely the shortage of available property and the need for investment in government schemes such as Build to Rent.

##### **Rent Control/Rent Pressure Zones**

The Scottish Government, Shelter and many other interested bodies have all focused on the need for more affordable housing when the issue of rent pressure zones has been raised. It has been highlighted that in many cases principal reason for increased rents of particular areas is due to the lack of available housing as opposed to unreasonable increase of rent on the existing property. Therefore, the focus for addressing this issue should be to increase the amount of property available through investment in building projects and encouraging new buyers who both wish to rent out their properties or live in them. In fact, there is strong evidence to suggest that the introduction of Rent Pressure Zones could have a negative effect on investment in new housing projects or for landlords to invest in general thus having the reverse effect intended and stifling the rental market. We therefore

recommend that Rent Pressure Zones should not be included in the final bill. However, if the Rent Control is going ahead further legislation is required to make sure that it is properly implemented and regulated which is not sufficiently outlined in the current proposal.

### **Removal of “no-fault” possession and “fixed term tenancies”.**

The removal of the “no-fault” possession is one that affects a number of aspects of letting. The new legislation has sought to make the no-fault ground for possession unnecessary by creating numerous other routes for landlords to gain possession of their property, however, we also feel it has neglected a number of key areas and potential consequences.

Firstly, as with the Rent Pressure Zone it could have a negative effect on investors, both private landlords and developers, who may be reluctant to invest in property as a direct result of the removal of the no fault ground for possession.

Secondly, it could be counter productive for tenants as it could mean landlords would become far more selective about the tenants they choose for their properties making rented properties far more exclusive as opposed to more accessible.

It is also worth bearing in mind it may result in more landlords deciding to work completely outside the legislation thus creating more rogue landlords as opposed to further regulation of those within the frame work.

As we are an Edinburgh based company we also focus on the issues this could create with two of biggest things to consider in our market namely Student Lets and Festival Lets. At present many companies, including ourselves, market our student accommodation in February for the following summer and many of our properties also take the opportunity of offer 9 or 10 month leases so they can rent their properties for the festival.

The removal of the no-fault ground and fixed term tenancies puts both of these in jeopardy. It has been argued that as long as active communication is maintained with student tenants they should still be able to end their leases in time to still take advantage of not having to pay rent for 2 or 3 months over the summer when they do not require property. However, the practicality of this situation will most likely mean that many students will be focused on their studies and exams and despite prompting from letting agents and landlords may simply forget or not get around to ending their leases in time leaving both themselves and landlords out of pocket. It is argued that if guarantors are in place then rent will still be paid by either them or the student tenants themselves, however, this is once again putting the tenants at a disadvantage.

In regards to summer festival and tourist lets, this will again have a negative effect on the economy especially in Edinburgh and St. Andrews where landlords, local industry and tourism all rely on an abundance of available short term accommodation during The Festival, The St Andrews Open and other such events.

Another aspect related to removal of the no-fault ground is also that it would require a landlord to wait until 3 full months of rent had not been paid on the property before they could take possession. As previously mentioned many landlords have one or two properties and rely on their rent as either a source of income or simply to pay mortgages. Having a duration of 3 months without rental income could result in the landlord losing the property themselves or being forced to sell and thus result in the tenant still having to vacate.

A further knock on effect could see mortgage lenders putting far more stringent rules in place when it comes to buy-to-let investment which once again will stifle investment and lead to less new housing being built.

Another important factor to consider is also the anti-social behaviour of tenants in rented property. It is a common practice that landlords and letting agents are held responsible and accountable for the anti-social behaviour of their tenants. However, the proposed new legislation will make it far more difficult to effectively deal with this issue and make the entire process much longer and more complex. This will in turn have a negative effect on the letting market in general especially those governed by HMO licences.

In short, all of the above would have previously been resolved due to the no-fault ground for possession or the fixed term lease and while The Flat Company welcomes changes that will further protect tenant's rights and make tenancies more secure it doesn't appear that sufficient provision has been made to guard against the aforementioned potential problems.

We recognise that the PRS now provides housing of a transient nature and for families. These are two very different markets and the opportunity is there for the PRS to provide housing to meet the needs of both of these two very different markets. In our opinion a one size fits all approach will not work and we would suggest that the transient market continues with the existing short assured tenancy system and that a second system is introduced along the lines of the proposed tenancy system to better fit the needs of families.

### **Other areas for concern**

**Succession** – The Flat Company would suggest that succession rights for private tenancies are something that should not be brought into the new legislation. This could prove costly for both landlords and tenants and does not offer a practical solution. Furthermore, if two people are in a partnership or co-habiting they should both be named on the lease at the start of their tenancy or names can be added to a lease mid-tenancy and therefore if one party were to die the other tenant should be able to continue with the lease nonetheless if they have already had shared responsibility for the rent and the bills.

**Access to a property** – The new legislation does not take into account some of the practicalities or necessities for gaining access to rented accommodation and giving at least 48 hours may not be possible or safe in many cases.

## **Conclusion**

“A private rented sector that provides good quality homes and high management standards, inspires consumer confidence, and encourages growth through attracting increased investment”

The above vision for the Private Rented Sector in Scotland is both commendable and highly desirable for all concerned; tenants, landlords, letting agents and investors. The Flat Company fully supports this goal and is actively trying to achieve it by adhering to the current regulations, making sure staff, procedures and properties are all meeting with the current and evolving legislation.

It is very much with the above vision in mind that we have raised the aforementioned concerns as we feel that while some of the amendments are based on the best intentions they could have unintended consequences which will negatively affect tenants and landlords as well as potential future investment in housing.

It is generally agreed by most groups with an interest in the PRS in Scotland that there needs to be an increased amount of available housing both for rental and purchase and if the above changes discourage investment and further hinder new housing that will negatively affect all aspects of the PRS.

Furthermore, if adequate consideration is not given to the student and short term sections of the housing market in areas such as Edinburgh and St Andrews then that could potentially have a negative effect not just on the PRS but also on the housing market as a whole and tourism in general on which Scotland relies for 5% of it's GDP.

Other potential negative effects could be the increase of rogue landlords if property owners of rented properties feel the framework has become impossible to work within therefore they will simply work outside it. While further property owners may simply sell their property and thus further decrease the amount of available rental accommodation.

Therefore, at The Flat Company we believe that further and more effective control of the current legislation, including the Landlord Registration as well as retaining the no-fault ground for possession and encouraging investment in new housing will more effectively address some of the current issues in the PRS. In addition to this the scope for research and information needs to be expanded in conjunction with bodies such as ARLA, PRS 4 Scotland, Shelter, etc to make more gradual bespoke changes to the current legislation rather than the current “one size fits all approach”. A more gradual and less dramatic approach to PRS in Scotland will ultimately have the desired result of the Scottish Government's intentions without risking negatively affecting tenants, alienating current landlords or deterring future investors.

**The Flat Company**  
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