

Private Housing (Tenancies) (Scotland) Bill

Written submission to the Infrastructure and Capital investment Committee

DLA Piper

We are a global law firm who act for a number of purpose-built student accommodation ("PBSA") providers operating in the UK.

We wish to comment on the fact that the "no-fault" ground for repossession (available in short assured tenancies ("SATs")) will not (under the current version of the Bill) be available for the new "private residential tenancy". We have concerns (which appear to be shared by many who have already commented on the Bill) that the absence of a no-fault ground for repossession would be detrimental to the provision (and availability) of accommodation for students in Scotland.

Under the current Scottish system, a PBSA provider can be confident of recovering possession at the end of a SAT, as long as the prescribed forms of notice are used. It is common for PBSA providers to enter into 10 month SATs of student accommodation (covering September to the end of the summer term in June), following which the property is vacated and available for summer lettings. In our view, the absence of a no-fault ground of repossession would mean lack of certainty over whether accommodation will be vacated by students at the end of summer term. This would mean that PBSA providers would not be able to advertise accommodation (certain in the knowledge that the property would be vacated at the end of an academic year) sufficiently far in advance to maximise occupancy levels at the start of the next academic year. Lack of certainty affects investor confidence, and we are concerned that the Bill (as currently drafted) would deter investment in the PBSA sector in Scotland. The resulting lack of supply would make it more difficult for many students looking for good quality accommodation in convenient city centre locations to secure accommodation in advance. Students would then face greater competition for fewer available lettings for the upcoming academic year in the final weeks and days of the summer break.

There is an additional advantage to having student accommodation available during the summer in Edinburgh, where short term "festival lettings" provide accommodation for a significant proportion of the huge influx of visitors to the city in August. The absence of the "no-fault" ground of repossession in the new form of tenancy could be detrimental to the Scottish tourism industry. This is because potential visitors (particularly from abroad) may well be deterred from booking their trip if they are unable to secure short term lettings well in advance.

In our view there are two solutions to the potential problems highlighted above. Firstly, we note that the Bill states that tenancies of student accommodation granted by universities (and other specified categories of educational establishment) "cannot be private residential tenancies", meaning students who let from such bodies will not have security of tenure under the Bill. One way of ensuring that the Bill does not discourage private investment in the student accommodation sector would be to extend this exemption to all PBSA. An alternative solution would be to amend the Bill to introduce an additional "eviction ground" (to use the terminology of the Bill),

specifically in relation to student lets, allowing the landlord of a student let to repossess at the end of the academic year.

DLA Piper
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