

Private Housing (Tenancies) (Scotland) Bill

Written submission to the Infrastructure and Capital investment Committee

Scaniport Estate

We write in response to the Committee's call for evidence on the Private Housing (Tenancies) (Scotland) Bill ("the Bill") introduced to the Scottish Parliament on 7th October 2015.

By way of background, Scaniport Estate, situated approximately 10 miles south-west of Inverness, extends in total to around 3,260 acres. As well as significant areas of tenanted farmland and commercial woodland, the estate is also lets a total of 21 residential properties of varying sizes, all of which are let under Short Assured Tenancies (SATs). The estate has a long association with a number of their tenants, with some having occupied properties on the estate for in excess of 20 years, and the estate enjoys a very low turnover of tenants within their let properties.

In general, we support the stated aim of the Bill to simplify the current system of Assured and Short Assured Tenancies, which is outdated and un-necessarily complex, but we do have concerns that some of the provisions contained within the Bill may have a detrimental impact on the private rented sector as a whole, discouraging investment and consequently a reduction in the available supply of properties in the sector.

We would make the following comments on specific parts of the Bill:-

1. Part 4 – Rent

1.1 Chapter 1 – Restrictions in Relation to Rent and Other Charges

We see no practical difficulties in the proposal to restrict rent reviews to only once in every 12 month period, this already being standard practice on the estate, and also we understand amongst many other private landlords.

1.2 Chapter 3 – Rent Pressure Zones

Although unlikely to have a direct impact upon the estate, and more likely to be used in urban centres, we do have concerns that the introduction of rent controls, through the designation of rent pressure zones, will have a detrimental impact upon investor confidence, leading to a reduction in both the standard and number of properties in the sector. We believe that rental stability would be better achieved by measures aimed at increasing the supply of rental properties in these areas, through improved investor confidence. Amongst other things this may be achieved by incentivisation and a period of regulatory stability.

2. Part 5 – Termination

2.1 Chapter 1 – Security of Tenure

We remain concerned at the removal of the so called no fault ground for repossession, and feel this may lead to a reduction in the number of landlords and properties in the sector, and an overall reduction in investment. As noted in previous consultations, some 79% of non-campaign responses to the first consultation were not in favour of the removal of the no fault ground and therefore further detailed evidence should have been sought on this proposal before this provision was brought forward in the Bill.

On the specifics of the Bill, we note that Section 35 effectively prohibits the ending of a tenancy by agreement between the parties. There are undoubtedly valid situations where the parties wish to end a tenancy quickly to the benefit of both and therefore we feel this requires further consideration.

2.2 Chapter 3 – Termination at Landlords' Instigation

As we have already done earlier in the consultation process, we would again emphasise that it is essential that a further ground is included to allow for termination of a Lease where accommodation is required for employees of the landlord. This is crucially important for many rural businesses, including estates and farms, who employ staff and where it is important for the proper fulfilment of their jobs that these staff live near their place of work. This accommodation is often made available to tenants during periods when it is not required for staff, and removing the ability of landlords to regain possession for this purpose will remove an important source of available accommodation in rural areas, where in some cases supply is already very limited.

In relation to the specific grounds contained within Schedule 3 of the Bill, we feel further scrutiny of Ground 11, Rent Arrears, is required. As drafted, this ground does not make adequate provision for cases of persistent late payment of rent, as under the proposed ground the landlord cannot refer to the First Tier Tribunal (FTT) until the tenant has been in rent arrears for three consecutive months. As an example a tenant could be, say, 25 days/late in paying rent each month but as the tenants is not in arrears for three consecutive months the landlord has not grounds to end the lease. Perhaps the removal of the word “consecutive” may resolve this situation.

We also have concerns at the timescale within which a landlord can recover possession in the case of rent arrears. As drafted three months arrears will have accrued by the time the landlord can serve a notice to leave and then another 28 days have to pass before the landlord can make an application to the FTT for an eviction order. It is assumed that the FTT process in itself could take several weeks, and therefore potentially it will be 5-6 months before possession can be recovered, this assuming the tenant leaves when required to do so by the eviction order. During this time arrears will potentially have continued to accrue resulting in a potentially significant financial loss to the landlord. This is particularly important where at present the landlord can only seek a deposit equivalent to two months rent.

We would also support evidence put forward by other landlord organisations suggesting the inclusion of a discretionary ground available to the FTT to grant possession in other reasonable circumstances where it is reasonable for the landlord to require the termination of the tenancy.

3. Part 6 – Death of Tenant

The provisions within the Bill are such that on the death of a tenant, the executors are required to bring the tenancy to an end by the serving of a Notice on the earliest date possible. We can perceive situations where this may lead to unreasonable delays in the landlord obtaining possession of the property, for example in situations where a tenant has died intestate, where there may not be an executor or money available to the executors to pay the continuing rent obligation. This requires clarity to ensure that landlords do not suffer unduly in such circumstances.

We do hope the views expressed above are of assistance to the Committee's consideration of the Bill.

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18 November 2015**