

Private Housing (Tenancies) (Scotland) Bill

Submission to the Infrastructure and Capital investment Committee

LetScotland – Supplementary Submission

1. 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?

LetScotland agrees with this in principle subject to implementing a form of tenancy which is both flexible and practical in addressing the diversity of the market place and consumers it will serve. (see 14)

LetScotland believes in putting the circumstances and needs of the tenants first and that the scope of tenant type should ensure that none are considered secondary to any other. The Bill sets a vision for a PRS providing “improved security of tenure for tenants.....”.

2. 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?

LetScotland is cautious about the absolute removal of the “no fault” clause, and believes that any legislation enacted needs to be flexible enough to enable substantial sub-sections of the market (particularly student, short term lets and festival/holiday letting) to continue to operate effectively within their present framework. In addition, the removal of the “no fault” ground will aggravate problems arising from anti-social behaviour, which may affect many people not within the landlord tenant relationship, if the legislation does not provide for these problems to be dealt with firmly and VERY PROMPTLY.

3. 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). Do you agree with the proposed initial tenancy period of six months?

Whilst this gives both parties an initial secure period of occupancy and income this does not address the issue of the short term tenancy for which many tenants require a predetermined length of tenancy and which does not require them to serve notice to leave.

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).

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

Agree

5. 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?

Agree

The Bill proposes 16 grounds for repossession of a property.

6. Please tick the boxes for any of the proposed grounds for repossession which you do not agree with:

- 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 purpose
- 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

7. Please use the space below if you wish to add 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.

Letscotland recommends that late payment of rent is amended so that the timescale during which the landlord may not receive rent be shortened. The current proposition

would result in non-payment potentially for as much as 5 months before eviction might occur.

Anti-social behaviour is an issue as much for the neighbours of the problem property as it is for the landlord and others in the property. Resolution to any such problems needs to be swift and effective.

Additional grounds required to cover.....

Agreed date of termination (as suggested in Policy Memorandum section68)

Needed for new employee of landlord

Death of tenant

Failure to leave after serving notice to leave

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.

8. 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?

Agreed

9. 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?

Agree

10. 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?

Disagree

11. Where do you live or are based (by postcode area)?

EH but representing letting agents based all over Scotland

12. What is your interest in the Bill?

Letscotland campaigns on behalf of letting agents in Scotland for whom its mission statement is to "improve standards of property and services in the PRS and the lettings industry in Scotland"

13. If you would like to keep up to date with what's happening in the Scottish Parliament, please provide your email address below, and we'll send you a weekly bulletin.

14. Do you have any comments you would like to make on any of the proposals contained within the Bill?

The intent of this Bill is to give tenants greater security of tenure. Letscotland sees this as an opportunity to create styles of tenancy to suit a tenant's demand. Not all tenants have the same need in terms of duration of tenancy. The tenancy offered needs to be short or long term and renewable or fixed by agreement dependent on the tenant's circumstances, not the landlord's but subject to agreement with the landlord.

Due to the diversity in the marketplace it is hard to see how "one lease will fix all", provision needs to be made for the following:-

Diversity in property type, location and specification.

Diversity in tenant profile, family, single professional, contract worker, full time and placement student all require differing periods of secure tenure

Diversity in reason for tenant renting,

Diversity in type of lease, some leases will be jointly held by same family members and some by a group of unrelated persons.

For the following see source 1

1 Occupants

Families	26%
Students	21%
Others	53%

2 Property location

Large urban	51%
Other urban	25%
Rural	14%
Small towns	10%

3 Property type

House	34%
Flat	65%
Other	1%

4 People in household

1 and 2	73%
3	15%
4+	13%

From 1, 3 and 4 above it will be seen that in each category approximately 70% to 75% is likely not to be a family household

A single form of tenancy to meet all these variables is challenging

Tenants will comprise a variety of the following (not a comprehensive list but illustrative and all as equally important as the other):-

Professional, single adults living in shared accommodation in HMO property

Single adults in one bedroom properties

Two adults sharing as individuals

Two adults sharing as partners

Students undergraduate

Students postgraduate

Families with children

Flexibility

Some tenants want flexible longevity of occupancy some wish a defined timescale. Reasons for renting may be through employment, (short or long term), tenants may be moving house and building elsewhere and need alternative accommodation during a build period, or a long term decision to rent due to reasons of affordability. Tenants may own property elsewhere which they let to others and renting in present location is a choice. It is recognised others do not have choice.

Supply

The proposed Private Rented Tenancy needs to be developed in a cohesive way with other aspects of the housing market to encourage all investors to expand numbers and quality of their available properties. Supply of property for many purposes comes from private landlords including meeting the current needs for housing migrants to Scotland.

Various sources have indicated that the rented sector can deliver new housing for occupation at between 2.5 and 5 times quicker than houses for sale.

Student market

Current proposal will lead to confusion in the availability of property which from University providers will be on one basis and from all other providers (PBSAs and private landlords owning HMO Licenced properties) will be something totally different.

Section 69 of the Policy Memorandum needs to be included in the Bill and provided for in legislation. It has been suggested that students are being offered a “second best” solution.

Letscotland proposes that students be prioritized and could be considered a special case having all the potential rights of longevity as others once their special shorter term needs have been specifically allowed for.

The provision of accommodation by the PBSAs can be an expensive option for many students; Letscotland recommends provision for the private landlord to offer a competitive alternative on similar terms to the Universities and PBSAs

A suggestion under which a process for a student to rent accommodation might operate could be as follows:-

- I am a student applicant for rented property*
- I am a registered/matriculated current student (under or post graduate)*
- I apply for a property with or without others to form a sole or joint tenancy*

- *I choose end date to suit my course or personal circumstances*
- *Landlord accepts or declines proposal*
- *A time specific tenancy is created which for a 12 month tenancy can be renewed for a further 12 months by agreement*
- *A shorter tenancy can be agreed mutually and reinstated after a specific “tourist/holiday” gap finishes*
- *Upon graduation the student tenancy comes to an end and if renewed by agreement would then become a PRT*
- *Status of student tenant is same as that which qualifies student for exemption of Council Tax.*

Rent controls

Even with the possibility of rent controls in Scotland an adverse effect on current investment is seen compared with other parts of the UK. Any imposition of rent controls on either existing tenancies or open market rents requires to be part of a wider consideration on income and capital gains taxes on this asset class, supply and demand and many other factors upon which there is inadequate data at present.

Statistics and data

All stakeholders in the rented sector need to combine to resource a comprehensive database of up to date detailed information on supply, demand, prices and other relevant aspects of the market. Only with this will the build to rent and other investment programs be effectively targeted and produce the new housing figures needed.

Conclusion

LetScotland supports the intent of the Bill and wishes to support the Scottish Government in consultation and development to ensure the legislation delivers a successful outcome

Sources

- 1 <http://www.gov.scot/publications/2015/08/3720/0>
- 2 <http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/HousesMultipleOccupation>
- 3 http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_15-68_Private_Housing_Tenancies_Scotland_Bill.pdf
- 4 [Lettingstats – Tenant Survey 2014](#)

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19 November 2015