

Private Housing (Tenancies) (Scotland) Bill

Written submission to the Infrastructure and Capital investment Committee

UNISON Scotland

Introduction

UNISON is Scotland's largest trade union representing over 150,000 members delivering services across Scotland. UNISON members deliver a wide range of services in the public, community and private sector - including in the provision of social housing through councils and other social landlords. Our members also provide support and services to people facing problems arising from inequality, poverty, unemployment, insecure and low paid work, homelessness and other social issues – including many in the private rented sector. We therefore welcome the opportunity to participate in this call for evidence on the Private Housing (Tenancies) (Scotland) Bill.

Need for stronger regulation of the private rented sector

The private rented sector has doubled over the past decade, partly as a result of the lack of social housing and partly as a result of the economic crisis which has meant an increasing number of people cannot afford to buy house. The private rented sector now accounts for 14% of all households in Scotland, up from 5% in 1999. Young people and families with children make up a large proportion of this increase. 41% of households headed by a 16-34 year old now rent in the private sector compared with 13% in 1999, and 26% of private rented sector households now contain children.¹

Security of tenure issues, rising rent levels and often poor quality of accommodation maintenance and repair are increasing problems for private tenants. A report funded by the Big Lottery on the private rented sector in Glasgow concluded that:

“...far too often tenants in Scotland's private rented sector are getting very poor value for money. In addition to rent paid privately, there is almost half a billion pounds in housing benefit going into the Scottish private rented sector (PRS). And yet there is very little control of quality standards or indeed compliance with Scots housing law.”²

Meanwhile, according to Shelter the “proportion of homeless applications from households renting in the private sector has grown from 13% in 2008-09 to 18% in 2013-14, and is disproportionate to the number of households in the sector”.³

The Private Housing (Tenancies) (Scotland) Bill provides an opportunity to address the imbalances in the power relations between hard pressed private tenants and their landlords.

¹ Scottish Government, Scottish Household Survey, 2014

² *Powerless*, Govan Law Centre report, October 2015

³ Shelter report *Homelessness in Scotland 2014*

Security of tenure and removal of ‘no-fault’ repossession

The Bill proposes 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.

The Bill also 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). It proposes the following 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 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

To the extent that the proposed new tenancy and the removal of “no fault” repossession would provide a simpler contract and ensure security of tenure for private renters, it is a step forward from the current regime. UNISON believes that people renting in the private sector should be able to stay in a property for as long as they need, as long as they meet their obligations under the tenancy. Those in the private sector should have similar security to those in the social housing sector.

The removal of “no fault” repossession is especially welcome, but the new and extensive list of grounds proposed for landlord repossession is likely to tilt the balance of power further in favour of landlords and undermine security of tenure. For example a landlord would merely require to state an ‘intention’ to sell, or to refurbish in order to repossess.

It also seems especially unfair in cases where a landlord has been removed from the register or an HMO licence has been revoked by the local authority, that a tenant should face eviction as a result. This could effectively punish tenants for failings on the part of socially irresponsible landlords.

Most of the grounds for repossession are mandatory and only three contain minimal tests of reasonableness which would protect the tenant. We believe all of the grounds should be discretionary and subject to tests of reasonableness, effective

rights to appeal and adequate redress. In the absence of these safeguards, the sixteen grounds for repossession could form a kind of “zero-hour tenancy” which landlords could apply at will, thus undermining the much needed move towards security of tenure in the private sector.

Period of notice and initial tenancy period

UNISON Scotland supports the proposal for an initial minimum tenancy period of 6 months (unless the tenant and landlord agree to a shorter period). We believe the notice period which a landlord is required to give should be 16 weeks rather than the 12 weeks proposed in the Bill.

Rent levels and rent control

Private sector rent levels have been increasing at some of the highest rates in the UK and are now double the cost of social housing. This is particularly acute in some cities.

The proposed ministerial powers to establish rent pressure zones will be welcome if they are used to mitigate rent levels in the worst cases. However, the growth of the private sector and the increases in rent levels is largely because the government has not supported the building of sufficient social housing.

Rent pressure zones are not a substitute for a proper system of rent control - along with improved regulation of landlords and decent housing standards. Shelter Scotland has set out how a system of rent controls similar to those that operate in Germany might work in Scotland.⁴

Conclusion – wider context of the housing crisis

UNISON Scotland supports the simplification of private tenancies, the removal of “no fault” repossession as a move towards security of tenure, and the measures of rent control and regulation proposed in the Bill - with the strong reservations expressed above over the new list of grounds for repossession which could undermine security of tenure.

We believe new legislation should take account of the context of our housing crisis – and the fact that we need more social housing

Scotland faces a massive crisis in the availability, the cost and the quality of our housing. There are more than 150,000 people on local authority housing waiting lists across Scotland in 2015, a level over 30% higher than in 2004.⁵ Yet the social housing stock has declined. Shelter has estimated that we need to build at least 12,000 affordable houses each year to meet current and future need.⁶

UNISON Scotland believes that housing has been left to the market for too long. The market has failed to deliver. The private owned and private rented sectors cannot

⁴ Shelter Scotland, *The case for greater security for private tenants in Scotland*, September 2013

⁵ Scottish Government, *Housing Statistics for Scotland - August 2015*

⁶ *Affordable Housing Need in Scotland*, Shelter Scotland report, September 2015

address the shortage. This housing crisis requires a massive programme of social housing investment from the public sector. In our policy paper *Making Homes for a Fairer Scotland* we outlined a new housing programme for Scotland and we have showed how this could be funded, using some of the assets represented by public sector pension funds in our publication *Funding and Building the Homes Scotland Needs*.⁷

We urge the Infrastructure and Capital Investment Committee to consider the current bill in this wider strategic context.

UNISON Scotland
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⁷ *Making Homes for a Fairer Scotland* June 2013 and *Funding and building the homes Scotland needs* March 2013 available from <http://www.unison-scotland.org.uk/housing>