

SPICe Briefing

Housing (Scotland) Bill- Parliamentary Consideration Prior to Stage 3

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Kate Berry

Stage 3 proceedings on the Housing (Scotland) Bill are due to take place on 25 June 2014. This briefing summarises the main issues raised during Stage 1 proceedings by the Infrastructure and Capital Investment Committee, particularly where suggestions for changes were made, and the main Stage 2 amendments that were agreed to.

SPICe Briefing 14-02 [The Housing \(Scotland\) Bill](#) (Berry, Evans and Harvie-Clark, 2014) provides more information on the Bill as introduced.

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EXECUTIVE SUMMARY

The Housing (Scotland) Bill ('the Bill') was introduced in the Parliament on 21 November 2013 by the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon MSP. The Infrastructure and Investment Committee was designated as lead Committee.

The Bill's policy objectives are "...safeguarding the interests of consumers, supporting improved quality and delivering better outcomes for communities." To achieve these objectives, the Bill contains a range of provisions relating to social housing, private rented sector housing, private housing conditions and licensing of mobile home sites with permanent residents.

The Infrastructure and Capital Investment Committee's Stage 1 Report was supportive of the general principles of the Bill, although it contained a number of recommendations on the detail of the Bill. At Stage 2, 155 amendments were lodged. All Government amendments were agreed to. The substantive amendments which were agreed at Stage 2 sought to:

Right to Buy

- Reduce the notice period for the end of the right to buy from at least three years from the date of Royal Assent to at least two years.

Social Housing

- Remove provision that would have removed the prohibition on social landlords taking age into the consideration of allocation of social housing.
- Add provisions regarding Scottish Government requirements for the development and publishing of guidance on certain social housing matters

Private Rented Housing

- Add the requirement for the installation of carbon monoxide detectors to the Repairing Standard. The Repairing Standard is a minimum standard that private landlords must ensure their properties meet (as set out in section 13 of the Housing (Scotland) Act 2006).
- Introduce a duty on private landlords to ensure regular electrical safety inspections are carried out on their properties at least every five years
- Give local authorities a new power to enter any properties they suspect do not meet the Repairing Standard, for the purpose of making an application to the Private Rented Housing Panel to enforce the Repairing Standard

Registration of Letting Agents

- Strengthen the provisions regarding enforcement of the proposed registration of letting agents scheme, including a power for the Scottish Ministers to inspect premises that appear to be used to carry out letting agency work
- Provide the Scottish Ministers with a power to specify the training requirements that letting agents must meet to be registered

Residential Mobile Home Licensing

- Provide that residential mobile site licences will last for five years, rather than three years, as the Bill as introduced proposed

Scottish Housing Regulator - Transfer of Assets following inquiries

- Provide that the Scottish Housing Regulator must consider as two separate exercises whether there is time to consult a) tenants and b) lenders of a registered social landlord (RSL) before directing a transfer of assets where the RSL is in financial jeopardy (without the normal consultation requirements)

RSL Disposal and Restructuring

- Require that tenants of a RSL must be balloted before the RSL becomes a subsidiary, or part of group structure, of another body

INTRODUCTION

The Housing (Scotland) Bill ('the Bill') was introduced in the Parliament on 21 November 2013 by the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon MSP, and was taken forward in the Parliament by the Minister for Housing and Welfare, Margaret Burgess MSP. The Infrastructure and Capital Investment Committee was designated as lead Committee. The Bill's main policy objectives are "...safeguarding the interests of consumers, supporting improved quality and delivering better outcomes for communities." To achieve these objectives, the Bill seeks to:

- Abolish the right to buy
- Increase the flexibility social landlords have to allocate social housing and allow landlords to make best use of their housing stock
- Provide social landlords with additional tools to tackle antisocial behaviour
- Provide additional protections for tenants, particularly those with a short Scottish Secure Tenancy
- Transfer jurisdiction for civil cases relating to the private rented sector from the sheriff court to the First-tier Tribunal which will be established under the Tribunals (Scotland) Act 2014
- Establish a registration system for letting agents
- Amend the site licensing requirements for mobile home sites with permanent residents
- Amend local authority powers to enforce repairs and maintenance in private homes

SPICe Briefing 14-02 *The Housing (Scotland) Bill* (Berry et al 2014) provides more information on the Bill as introduced.

PARLIAMENTARY CONSIDERATION

Table 1 provides an overview of parliamentary consideration of the Housing (Scotland) Bill. Stage 3 proceedings are due to take place on 25 June 2014.

Table 1: Summary of Parliamentary Consideration

Bill Introduced	21 November 2013
Stage 1 – General Principles	
Local Government and Regeneration Committee	4 December 2013
Finance Committee	11 December 2013 Finance Committee letter to ICI Committee on Housing (Scotland) Bill: Financial Memorandum (179KB pdf)
Infrastructure and Investment Committee	Wednesday 15 January 2014 Wednesday 22 January 2014 Wednesday 29 January 2014 Wednesday 05 February 2014 Wednesday 19 February 2014 Monday 24 February 2014 Wednesday 05 March 2014 Wednesday 12 March 2014
Delegated Powers and Law Reform	25 February 2014

Committee	1 April 2014 Delegated Powers and Law Reform Committee, 18th report, Housing (Scotland) Bill (332KB)
Stage 1 Report published	3 April 2014
Stage 1 Debate	24 April 2014
Scottish Government response to the Stage 1 Report	2 May 2014
Stage 2 – Detailed Consideration Infrastructure and Capital Investment Committee	14 May 2014 21 May 2014 28 May 2014
Bill Amended at Stage 2 published	29 May 2014

ISSUES AT STAGE 1 AND AMENDMENTS AT STAGE 2

The Infrastructure and Investment Committee’s Stage 1 report welcomed the Housing (Scotland) Bill “...as providing a package of measures which will contribute to the improvement of housing in the social, private rented and owner-occupied sectors”. However, they also made a number of recommendations on the detail of the Bill following their Stage 1 evidence. At Stage 2, 155 amendments were lodged. All Government amendments were agreed to.

The Table below outlines the Committee’s recommendations on the Bill at Stage 1, particularly where suggestions for change were made, and the amendments agreed at Stage 2. It is designed to provide a summary of the main issues associated with the Bill and the Stage 2 amendments that were agreed. It is not a comprehensive discussion of all the issues raised or amendments debated.

Issue (Bill as Introduced)		
Part 1: Right to Buy	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>The purpose of Part 1 of the Bill is to abolish the right to buy (RTB) in the social housing sector in Scotland.</p> <p>The Scottish Government's policy intention is that RTB will not be abolished until the end of a three-year period from the date on which the Bill receives Royal Assent, and this is provided for by section 85(4) (commencement section) of the Bill.</p> <p>There was broad support expressed by those who provided oral and written evidence to the Committee for the proposed abolition of RTB.</p> <p>There was strong support expressed in evidence for reducing the three-year period, with a range of suggestions for alternative notice periods being made.</p>	<p>The majority of the Committee agreed that the right to buy should be abolished (Alex Johnstone dissented).</p> <p>The majority of the Committee (Alex Johnstone dissented) considered that the three-year notice period is excessive and recommended that this should be reduced to a period of one year from the date on which the Bill receives Royal Assent.</p> <p>The Scottish Government accepted that the notice period should be reduced so that social housing stock could be protected from sale sooner and proposed to bring forward an amendment to change the notice period to at least two years from the date of Royal Assent.</p>	<p>In response to Mary Fee's amendment 44, which sought to reduce the notice period of at least one year, the Minister stated, "...ECHR considerations are important, but are not the only factor. I simply do not consider that one year is fair to tenants. I do not want tenants to rush into doing something that they cannot afford and which is not right for them. I think that there would be a real risk of that, if the period were reduced to one year. I do not believe that a shorter notice period will necessarily stop more houses being sold; it is more likely that there would be a marked spike in sales in one year than there would be in two (14 May, Col 3201) (ICI Committee 2014a).</p> <p>Government amendment 43 provides that tenants who have a right to buy will have a period of at least two years, instead of three years as the Bill initially proposed, from the date the Bill receives Royal Assent to exercise that right.</p>
Part 2: Social Housing		
Allocations	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
Provisions in part 2 of the Bill aim to increase the flexibility that social	The Committee was content with what are regarded by stakeholders as modest but	Government amendment 14 extends the provisions in section 3 of the Bill so that

<p>landlords when allocating houses and allowing landlords to make best use social housing.</p> <p>Section 3 of the Bill amends section 20 of the Housing (Scotland) Act 1987 to replace the existing categories of persons to whom social landlords must give reasonable preference when allocating social housing. Part of the consideration of whether an applicant should be given reasonable preference is whether they have “unmet housing needs.”</p>	<p>beneficial changes to the “reasonable preference” criteria which will provide social landlords with greater flexibility when allocating houses.</p> <p>The Committee suggested that further clarification of the term “unmet housing needs” used in section 3 would be beneficial.</p> <p>The Scottish Government committed to issue guidance on the priority of allocation of social housing following consultation with stakeholders.</p>	<p>social landlords, when allocating social housing, will be required to give reasonable preference to the tenants of any social landlord whom they consider to be under occupying, rather than to just their own tenants (as the Bill as introduced provided for).</p> <p>Government amendment 15 inserts provisions that would require the Scottish Government to consult on guidance to be produced in relation to rules on priority of allocation of housing.</p>
<p>The Bill, at section 7, would allow social landlords to, in certain circumstances, suspend an applicant or tenant from receiving an offer of housing for a period of time.</p>	<p>While the Committee was content with the provisions regarding the suspension of applications it called on the Government to provide guidance on suspensions.</p>	<p>Government amendment 17 inserts provisions that would require the Scottish Government to consult on guidance to be produced in relation to suspensions.</p> <p>Government amendment 18 makes it clear that a landlord has a right to shorten or withdraw a suspension if it chooses to do so.</p>
<p>Age as a factor in allocation</p> <p>Section 5 of the Bill would remove the prohibition on landlords taking the age of an applicant into account when allocating social houses.</p> <p>There was some support for this proposal, although some stakeholders</p>	<p>The Committee noted the concerns of many stakeholders but was reassured that landlords must be seen to be accountable and justify objectively the decisions they take in relation to allocations. The Committee considered that the use of the provision should be monitored.</p> <p>The Scottish Government’s response</p>	<p>Government amendment 16 removes the provision allowing age to be taken into account in the allocation of housing.</p> <p>The Minister indicated that she would work closely with stakeholders, “...to ensure that the guidance covers the issue of sensitive lets in a way that is not discriminatory” (14 May, Col 3033)</p>

<p>were concerned that the measure had the potential to be discriminatory towards certain age groups, particularly young people.</p>	<p>indicated that full monitoring of use of the age provision could place an undue burden on landlords. In addition, the protections in the Equality Act 2010 would limit the use that landlords could make of the additional flexibility that section 5 aimed to provide. Therefore, the Scottish Government had decided to bring forward an amendment at Stage 2 to remove section 5 of the Bill.</p>	<p>(ICI Committee 2014a)</p>
<p>Short Scottish Secure Tenancy</p>	<p>Stage 1 Report and Scottish Government Response</p>	<p>Amendments at Stage 2</p>
<p>The Bill seeks to provide social landlords with a greater range of tools to address antisocial behaviour. Section 8 of the Bill extends the circumstances in which social landlords can create a short Scottish Secure Tenancy (SST) or convert a SST to a short SST on antisocial behaviour grounds.</p> <p>There was some support for these proposals although there were some calls for further clarity around the definition of antisocial behaviour as it applies to this part of the Bill.</p>	<p>The Committee agreed that the provision would provide a further useful tool to allow social landlords to address antisocial behaviour issues. The Committee agreed with some witnesses that good practice guidance would be useful.</p> <p>In response, the Government outlined its intention to issue guidance to social landlords.</p>	<p>Government amendment 19 extends the scope of the statutory guidance power for the Scottish Ministers around short SSTs to ensure the power is wide enough to allow Ministers to issue guidance covering the range of actions landlords can take around these types of tenancies.</p>
<p>Grounds for Eviction: Anti-social behaviour</p>	<p>Stage 1 Report and Scottish Government Response</p>	<p>Amendments at Stage 2</p>
<p>The Bill (at section 15) would enable social landlords to use a new simplified eviction process for tenants who have been convicted of serious criminal acts or antisocial behaviour.</p>	<p>The Committee called for guidance to be produced which would emphasise the importance of balancing the rights of tenants and landlords which provide clarity on the types of convictions that might lead to an eviction.</p> <p>The Government committed to produce</p>	<p>Government amendment 28 introduces a power for the Scottish Ministers to consult on and publish statutory guidance on recovering possession of a tenancy under the new simplified eviction process.</p>

	guidance covering these areas.	
Part 3: Private Rented Housing		
Private Rented Housing Tribunal	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>Section 17s to 21 of the Bill provide for the transfer of jurisdiction for civil cases relating to the private rented sector from the sheriff court to the First-tier Tribunal, which is to be set up under the Tribunals (Scotland) Act 2014.</p> <p>These provisions were widely welcomed in oral and written evidence, with support received from those representing both tenants and landlords.</p>	<p>The Committee endorsed the Bill's provisions. However, the Committee requested further information on the operation of the Tribunal when it becomes available.</p> <p>Furthermore, the Committee requested to be kept up to date with any policy developments relating to access to, and representation at, private rented sector Tribunals.</p> <p>The Government committed to update the Committee on any further information when it becomes available.</p>	<p>Government amendments 119 and 120 introduce provisions regarding disqualifications for Tribunal members, to prevent potential conflicts of interest. Elected and certain other politicians are disqualified from hearing private rented sector and letting agents redress cases in the First-Tier Tribunal. Elected and certain other politicians are also disqualified from being appointed as, or remaining, a member of the PRHP, and in consequence, the HOHP.</p>
Enforcement of the Repairing Standard	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>The Repairing Standard, set out in section 13 of the Housing (Scotland) Act 2006, covers the legal and contractual obligations of private landlords to ensure that a property meets a minimum physical standard. The Private Rented Housing Panel (PRHP) provides a mechanism for tenants to enforce the Repairing Standard.</p> <p>Section 23 of the Bill makes provision to expand access to the PRHP by enabling third party applications by local authorities (or a person specified by</p>	<p>The Committee supported the provisions for third party applications to the PRHP but requested that the Scottish Government monitor use of the power and its impact.</p>	<p>The effect of Government amendment 32 is to provide local authorities with a power of entry to inspect a property where they suspect that the property does not meet the Repairing Standard, to allow them to decide whether to make a third party application to the PRHP.</p> <p>The new power of entry has been introduced in place of the proposed powers for enhanced enforcement areas that the Government had initially indicated it would bring forward at Stage 2. As the Minister said, " After further</p>

<p>order by the Scottish Ministers) to enforce the Repairing Standard.</p> <p>The Scottish Government also indicated its intentions to bring forward provisions at Stage 2 to provide additional discretionary powers for local authorities that would enable them to target enforcement action at an area characterised by poor conditions in the private rented sector.</p>		<p>consideration, I believe that allowing all local authorities to inspect properties that give them concern, regardless of their geographical location, provides a more appropriate and effective solution.” (14 May, Col 3064)(ICI Committee 2014a)</p>
The Repairing Standard and Electrical Safety	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>The Bill as introduced did not contain any provision regarding the standards that private rented accommodation must meet.</p> <p>However, during Stage 1 proceedings the Committee heard suggestions of changes to legislation that would improve safety standards in private rented housing.</p>	<p>In relation to the physical standard of private rented properties the Committee supported the introduction of: mandatory five yearly checks of electrical appliances; the provision of suitable mains smoke alarms and the mandatory installation of carbon monoxide alarms.</p> <p>The Government welcomed the support for changes to improve safety standards in private rented housing and outlined their intention to consider safety standards across all tenures later this year as part of its Sustainable Housing Strategy and, in the meantime, committed to bring forward an amendment at Stage 2 for a regulation making power to make changes to the repairing standard for private landlords.</p> <p>In relation to hard-wired smoke alarms the Government did not consider that the Bill needed to be amended to achieve this</p>	<p>Government amendment 30 introduces a new regulation making power for the Scottish Ministers to vary the detail of the Repairing Standard without the need for further primary legislation.</p> <p>Jim Eadie’s amendment 31 adds the requirement for the installation of carbon monoxide detectors to the Repairing Standard at set out in section 13 of the Housing (Scotland) Act 2006.</p> <p>Bob Doris’s amendment 54 introduces provisions regarding electrical safety. Under a new section (19A) of the Housing (Scotland) Act 2006 private landlords will have a duty to ensure regular electrical safety inspections are carried out. The amendment also requires that landlords have regard to Scottish Government guidance in determining whether the house meets</p>

	because of existing legislation.	the standard of repair, in relation to installations for the supply of electricity, and electrical fixtures, fitting and appliances, under section 13(1)(c)and(d) of the 2006 Act.
Part 4 - Letting Agents	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>Part 4 of the Bill relates to the establishment of a register of letting agents. The Scottish Ministers must create and maintain a register of letting agents. Letting agents must apply for registration and section 30 of the Bill sets out fit-and-proper person considerations which apply to their application.</p> <p>Evidence to the Committee widely supported the establishment of a registration scheme for letting agents. The Committee heard evidence both from those within and outside the letting agent profession, to support the strengthening of the provisions regarding the registration and governance of letting agents.</p>	<p>The Committee identified some concerns about how the regulatory regime would tackle unregistered letting agents. It considered that the Scottish Government should take an active role in identifying any letting agents who operate without being registered.</p> <p>In response, the Scottish Government indicated that it was considering how the Bill might be amended to provide for “spot-checks” on letting agents who are registered; and on those that are suspected of not being registered.</p>	<p>Various Government amendments were lodged with the intention of strengthening the enforcement provisions:</p> <p>The Scottish Ministers will have the power to require information, as they reasonably require, for any person carrying out letting agency work. Ministers will use this power to get evidence of whether a letting agent is complying with the Code of Practice or the registration requirements, for example information relating to how a letting agent manages its client accounts (amendment 80).</p> <p>Amendment 81 also provides that the Scottish Ministers will also have power to authorise persons to carry out an inspection of premises which appear to be being used for carrying out letting agency work. For example, as the Minister said, “...this power could be used in situations in which ministers suspect that an unregistered letting agent is acting illegally” (21 May, Col 3090) (ICI Committee 2014b).</p>

		<p>New offences, at level 3 on the standard scale, relating to the new powers to obtain information and carry out inspections will be introduced (amendment 84).</p> <p>If a letting agent fails to comply with an inspection or a request to provide information, that failure can be taken into account in determining whether the agent is a fit and proper person (amendment 63).</p> <p>The Scottish Ministers will have a power to make an application to the FTT for a determination that a letting agent has failed to comply with the code of practice (the bill as introduced only provided that tenants and landlords could do so). As the Minister said, “That will strengthen the enforcement provisions in the bill by enabling the Scottish Ministers to act on information obtained either through their own compliance checks or from information received through third parties, including tenants” (21 May, col 3114) (amendments 78 and 79) (ICI Committee 2014b).</p>
<p>Registration /Code of Practice</p> <p>Section 30 of the Bill sets out fit-and-proper person considerations which apply to letting agents applications to register.</p>	<p>The Committee recognised that much of the detail of the register of letting agents and the Code of Practice is subject to further regulations. However, they recommended that the Scottish Government considers how it might include on the face of the Bill details of what those</p>	<p>Government amendment 60 provides that training is required as a condition of registration for letting agents. The Scottish Ministers are given a power to prescribe, in regulations, training requirements which letting agents must demonstrate before they can be entered</p>

<p>Under section 41(3) of the Bill, the Scottish Ministers must consult on a draft of the Letting Agent Code of Practice before it is finalised. The regulations which set out a Code of Practice are subject to negative procedure.</p> <p>During Stage 1, representatives of the sector argued strongly that all letting agents should have a level of training before they can be registered. Various suggestions were made as to what the Code of Practice should contain.</p>	<p>regulations might cover, such as professional conduct, qualifications/training and financial obligations.</p> <p>The Government indicated that setting out detail of what should be in the Code of Practice on the face of the Bill ahead of consultation could have the unintended consequence of limiting its ability to take forward measures identified through that process.</p> <p>Given the importance of the Code of Practice, the Committee supported Delegated Powers and Law Reform Committee's recommended that the Code of Practice is to be subject to the affirmative procedure.</p>	<p>on the register or have their entry renewed. The regulations would be subject to the negative procedure.</p> <p>Government amendment 69 provides that the Scottish Ministers will be able to remove a registered letting agent from the register if they do not meet the training requirements.</p> <p>Alex Johnstone's amendments, 61 and 71, will require the Scottish Ministers to provide a reason for their decision to refuse an application to the letting agent register or a renewal of application or for removing someone from the register.</p> <p>Government amendment 77 ensures that matters of client money protection and professional indemnity are included in the Code of Practice.</p> <p>Government amendment 126 will require the letting agent Code of Practice, and replacement codes, to be subject to the affirmative procedure.</p>
<p>Section 34 provides that registration will last for a period of 3 years.</p>	<p>The Committee also recommended that the Scottish Government considers an initial period of registration of one year before an agent progresses to three year registration.</p>	<p>No amendments were agreed on reducing the period of registration.</p>
<p>Meaning of Letting Agency Work</p> <p>Section 51 of the Bill included a power for the Scottish Ministers to modify the meaning of letting agency work, for the</p>		<p>Government amendment 87 will allow the Scottish Ministers to exempt specified bodies or certain types of schemes from the regulatory regime for letting agents. The exemptions would be</p>

<p>purposes of part 4 of the Bill, by subordinate legislation.</p>		<p>limited to those schemes which are for the purpose of helping people to secure tenancies in the private rented sector which are operated by a body on a not for profit basis. In Committee the Minister gave the example of a rent deposit guarantee scheme as a scheme that may be exempt (21 May, (Col 3116) (ICI Committee 2014b))</p>
<p>Part 5 - Mobile Home Sites with Permanent Residents</p>	<p>Stage 1 Report and Scottish Government Response</p>	<p>Amendments at Stage 2</p>
<p>Part 5 of the Bill makes provisions to update the licensing regime for residential mobile sites to address problems experienced by permanent residents of such sites.</p> <p>The Committee heard general support from most stakeholders for the proposals. However, some stakeholders raised concerns with the Committee concerning the potential impacts of some parts of this legislation</p> <p>Section 56 of the Bill proposes that mobile home site licences would be renewed every three years. This provision divided respondents during the Scottish Government's consultation period, and during the Committee's scrutiny process.</p>	<p>The Committee was concerned at the suggestion that financial lenders may withdraw support for sites on the basis of the introduction of fixed term licences.</p> <p>The Scottish Government responded that it would seek to amend the Bill so that fixed term licenses run for five years instead of three years.</p>	<p>Government amendment 93 provides that site licence periods will last five years, rather than three years.</p> <p>The Minister explained that, "The longer period will give greater stability to site owners and residents, and reduce administrative work for local authorities" (Col 3123 21 May) (ICI Committee 2014b).</p>
<p>The Committee heard evidence that some permanent residents were concerned about what may happen to their home if the site was refused a licence.</p>	<p>The Committee welcomed the Scottish Government's assurances that the loss of a site licence to the owner would not result in the eviction of site residents, and that statements to the contrary by site owners</p>	<p>Government amendment 116 aims to further strengthen the protections enjoyed by mobile home residents who have an agreement under the Mobile Homes Act 1983, particularly if a site</p>

	<p>is misinformation, deliberate or otherwise. They recommended an information campaign to ensure that residents and site owners are provided with accurate and clear information about the intentions and impacts of the Bill.</p> <p>The Scottish Government indicated that the Bill already contains provisions on this matter but committed to seek to amend the Bill at Stage 2 so permanent residents are clear that they can stay on site even if a site owner loses their licence or does not renew it.</p>	<p>licence expires, is not issued, is not renewed, expires or is revoked.</p> <p>Government amendment 114 will enable the Scottish Ministers to publish guidance about the operation of the provisions in the Bill on Mobile Home Site Licensing. Scottish Ministers will be required to consult on the proposed guidance.</p>
	<p>The Committee was also concerned at the prospect of fines for non-compliance by site owners being passed on to residents, but was reassured that the Scottish Government is considering the possibility of addressing this issue at Stage 2.</p>	<p>Government amendment 116 will also prevent pitch fees paid to a site owner being increased to take account of any costs paid, or to be paid, by the site owner as a result of a local authority recovering costs of enforcement action.</p>
<p>Section 61 of the Bill provides for fit-and-proper person considerations that the local authority must have regard to for the purpose of making site licensing decisions.</p>	<p>The Committee believed the fit-and-proper person test represented a positive step in ensuring the safety and security of park home residents in Scotland, and in driving up standards in the industry. It recommends that the Scottish Government consider the feasibility and potential benefits of a fit-and-proper person register in Scotland which could be shared across local authorities in Scotland, and which captures data about site owners who have passed the fit-and-proper person test and applicants who do not.</p> <p>In response, the Government committed to amend the Bill in this respect.</p>	<p>Amendment 105 makes it clear that local authorities must have regard to whether a site owner has breached an agreement under the Mobile Homes Act 1983 in applying the fit-and-proper-person test for site licensing decisions.</p> <p>Government amendment 106 provides that local authorities may share information that is relevant to the application of the fit-and-proper-person test as part of the process of making site licensing decisions.</p>

	<p>The Committee also recommended that the Scottish Government considers whether there is scope in the fit-and-proper person test to take into account issues regarding operators who have been shown to have profited from energy re-sale to mobile home owners.</p> <p>The Scottish Government noted this recommendation and indicated it would explore further how this might be achieved</p>	<p>Mary Fee lodged amendments 147 and 148 to address the issue of site owners who have profited from energy re-sale to mobile home owners. The Minister indicated that she was prepared to lodge amendments on these matters at Stage 3 which would also take into account further work the Scottish Government would need to do on identifying all the correct bodies and guidance that would need to be specified in legislation (21 May, Col 3127)(ICI Committee 2014b) . The amendments were not moved.</p>
Part 7 - Miscellaneous		
Scottish Housing Regulator: Transfer of Assets following inquiries	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>Section 79 (paragraph a) of the Bill gives the Scottish Housing Regulator (SHR) powers to direct a transfer of the assets of a Registered Social Landlord (RSL) without consulting the tenants or lenders of the RSL, but only where the RSL is in imminent financial jeopardy, the proposed transfer would substantially reduce the risk of insolvency, and there is not time to conduct consultation with tenants and mortgage lenders.</p> <p>Tenants' representatives who provided evidence to the Committee voiced strong opposition to this provision.</p>	<p>The Committee accepted the rationale behind the Scottish Government's decision to include this provision in the Bill. However, it considered it to be very unfortunate that the opportunity was not taken to consult key stakeholders in advance of the Bill's introduction to explain the reasons behind its approach. A recommendation was made that the Scottish Government should issue guidance on how the SHR will act in these circumstances.</p> <p>The Government's response indicated that some consultation was carried out on the proposals. It agreed in principle with the</p>	<p>Government amendment 121 and consequential amendment 122 provides that the SHR considers as two separate exercises whether there is time to consult: a) – tenants; and b) - lenders of a RSL before directing a transfer of assets where the RSL is in financial jeopardy. This is to recognise in practice that there may be time to consult lenders in circumstances where there would not be time to consult tenants.</p> <p>As a result of government amendment 123 the SHR will be required to consult and issue guidance on how it will</p>

	<p>need for guidance but to comply directly with the Committee's recommendation would cut across provisions in the Housing (Scotland) Act 2010 under which the Scottish Ministers are prohibited from directing or seeking to control how the SHR performs its functions under that Act. It therefore, proposed to introduce amendments that would place duties on the SHR regarding consultation and issuing of guidance.</p>	<p>operate the power given by section 79.</p>
Other Issues Not in the Bill		
RSL Disposal and Restructuring	Stage 1 Report and Scottish Government Response	Amendments at Stage 2
<p>During Stage 1 proceedings (evidence session on 12 March 2014) the Minister indicated that the Government was sympathetic to the argument made by the Glasgow and West of Scotland Forum of Housing Associations that when RSLs become subsidiaries or part of group structures they lose control over their affairs in the same way as happens when RSLs transfer their assets to other RSLs. GWSFHA had argued that tenants should be balloted on changes involving group structures and subsidiaries are proposed as already happens when a transfer is proposed.</p> <p>The Minister advised the Committee that she would be writing to stakeholders to inform them that the Scottish Government is minded to</p>	<p>The Committee noted that a Scottish Government consultation letter was issued on 12 March 2014.</p>	<p>Government amendments, 155 and 129, provide for tenants of a RSL to be balloted before the RSL becomes a subsidiary, or part of group structure, of another body. It does this by extending existing procedures in the Housing (Scotland) Act 2010 so that they will also apply in this situation.</p>

consider addressing this matter at Stage 2.		
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STAGE 2 AMENDMENTS NOT AGREED TO

A number of non-Government amendments were lodged and debated but were not agreed to. These included amendments that sought to (this list is not exhaustive):

Right to Buy

- Remove the provision in the Bill that would end the right to buy
- Reduce the right to buy notice period from at least three years to at least one year

Social Housing

- Give local communities reasonable preference in the allocation of social housing
- Ensure that all statutory homeless referrals from local authorities to registered social landlords are dealt with as referrals under section 5 of the Housing (Scotland) Act 2001.
- Ensure that homeless children and homeless pregnant women are not placed in temporary accommodation that is of a very poor physical standard or is in serious disrepair
- Change the residency rules in relation to succession
- Require the Scottish Ministers to make regulations to introduce a Scottish starter tenancy

First-Tier Tribunal

- Make provision regarding the availability of legal representations at the First-Tier Tribunal

Letting Agent Registration Scheme

- Reduce the duration of letting agent registration to 1 year
- Exempt solicitor letting agents from letting agent registration
- Make provision for the voluntary removal from the register of letting agents
- Set out on the face of the Bill the issues that the Code of Practice should cover e.g. rent levels, deposits and the provision of information and discrimination
- Make provision about letting agent registration numbers
- Make provision regarding who can make an application to the FTT for a determination that their letting agents has breached the Code of Practice and had an enforcement order against them the tenant will not be due to pay any rent for the period until the enforcement order is complied with.

Private Rented Sector

- Provide for energy efficiency standards in private rented sector properties
- Broaden access for the third party rights reporting rights to the Private Rented Housing Panel for a determination in respect of the Repairing Standard
- Introduce rent controls in private sector lets
- Introduce greater security of tenure in the private rented sector
- Strengthen the regulation of housing let for holiday purposes

- *Private Housing Conditions*
- Facilitate the maintenance and repair of properties with common parts /areas by a power to make regulations to allow registered social landlords to pay missing shares and recover costs by repayment charges.

- Give local authorities flexibility to determine repayment periods of less than 30 years (in cases where a local authority has issued an owner of a property with a repayment charge under the Housing (Scotland) Act 2006).

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