

HOUSING (SCOTLAND) BILL

SUPPLEMENTARY FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this Supplementary Financial Memorandum is published to accompany the Housing (Scotland) Bill ("the Bill") (introduced in the Scottish Parliament on 21 November 2013) as amended at Stage 2¹.
2. This Memorandum has been prepared by the Scottish Government. It does not form part of the Bill and has not been endorsed by the Parliament.
3. This Memorandum supplements the original Financial Memorandum² to explain any substantial additional cost implications resulting from Stage 2 amendments to the Bill and where the costs are expected to fall. Amendments agreed at Stage 2 which are not covered in this supplementary Financial Memorandum are considered to not give rise to any substantial additional costs.

PART 3 – PRIVATE RENTED HOUSING

Repairing standard

4. The Scottish Government estimates that there are approximately 300,000 households in the private rented sector (PRS) in Scotland³. Part 3 of the Bill makes provision to amend the repairing standard for private rented housing in Part 1 of the Housing (Scotland) Act 2006 ("the 2006 Act").
5. Section 22A amends section 13 of the 2006 Act by inserting a new subsection (1)(g) which requires that, in order to meet the repairing standard, a privately rented house must have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
6. Section 22B inserts a new subsection 13(4A) in the 2006 Act which requires that, in order to meet the parts of the repairing standard which require that the installations in a privately rented house for the supply of electricity and any electrical appliances provided by the landlord are in a reasonable state of repair and in proper working order, regard is to be had to guidance on electrical safety standards issued by the Scottish Ministers.

¹ [http://www.scottish.parliament.uk/S4_Bills/Housing%20\(Scotland\)%20Bill/b41as4-stage2-amend.pdf](http://www.scottish.parliament.uk/S4_Bills/Housing%20(Scotland)%20Bill/b41as4-stage2-amend.pdf)

² [http://www.scottish.parliament.uk/S4_Bills/Housing%20\(Scotland\)%20Bill/b41s4-introd-en.pdf](http://www.scottish.parliament.uk/S4_Bills/Housing%20(Scotland)%20Bill/b41s4-introd-en.pdf)

³ Housing Statistics for Scotland - Key Information and Summary Tables' published 26 August 2013
<http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/KeyInfoTables>

7. Section 22B also inserts new section 19A in the 2006 Act. New section 19A requires landlords to arrange electrical safety inspections every five years to identify any work needed to meet the repairing standard in relation to installations for the supply of electricity and electrical fixtures, fittings and appliances. An inspection must be carried out before a new tenancy starts, unless there has been an inspection within the previous five-year period. Where a tenancy has commenced before the date that section 19A comes into force, the landlord must carry out an inspection within 12 months from the date the section comes into force, unless the tenancy comes to an end in that period. Section 19A requires landlords to provide copies of inspection reports to tenants. The duty to carry out an inspection is treated as part of the repairing standard for the purposes of applications to the private rented housing panel and for enforcement of the repairing standard by the private rented housing panel.

8. Section 22B also inserts new section 19B in the 2006 Act. New section 19B provides that an inspection carried out for the purposes of new section 19A must be carried out by a competent person and specifies information which must be included in the record of the inspection, which must be retained by the landlord for six years. New section 19B also provides that the Scottish Ministers must publish guidance and that, in determining whether someone is a competent person as required by subsection 19B(1), landlords must have regard to this guidance.

9. The requirement for landlords to arrange electrical safety inspections was supported by 12 trade associations, businesses and charities, including key housing stakeholder organisations such as the Scottish Association of Landlords, Shelter Scotland, the Royal Institution of Chartered Surveyors Scotland and the Chartered Institute of Housing Scotland⁴. It was also recommended in the Infrastructure and Capital Investment Committee's Stage 1 report on the Bill⁵. It was brought forward by amendment at Stage 2 and was supported by the Scottish Government and agreed by the Committee.

10. Section 22C inserts section 20A into the 2006 Act. Section 20A provides that the Scottish Ministers may amend the provisions of the 2006 Act which set out the repairing standard and the duty of landlords to ensure that privately rented homes meet the repairing standard. Section 22C requires that any such regulations are made by the affirmative procedure.

Costs on the Scottish Administration

11. There will be no substantial additional administration costs on the Scottish Administration as a result of the introduction of these requirements. Any costs associated with stakeholder engagement and making of regulations under section 22C will be covered by the existing budget already allocated to the Sustainable Housing Strategy.

Costs on local authorities

12. There will be no substantial additional administration costs on local authorities as a result of the introduction of these requirements

⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9175&mode=pdf> (Page 24)

⁵ http://www.scottish.parliament.uk/S4_InfrastructureandCapitalInvestmentCommittee/Reports/trr14-04.pdf
(Page 34)

Costs on other bodies, individuals and businesses

Private landlords

13. It is estimated that the cost of a carbon monoxide detector necessary to comply with this duty is around £15.⁶ This is a relatively low cost for individual landlords, even where the landlord has a number of properties in their portfolio. It is not known how many landlords have already provided carbon monoxide detectors, but it is currently recommended as good practice by the Scottish Association of Landlords⁷ and in Scottish Government guidance⁸.

14. In summary, Table 1 shows the assumptions of potential costs which could be incurred as a result of mandatory requirements for privately rented houses to have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. These assumptions are caveated on the basis that the Scottish Government has no information on current compliance and that not all properties will need a detector because not all properties have a form of heating that is carbon emitting. The assumptions based on low, medium, high scenarios set out below at Table 1 are intended to assist the Committee to understand what the potential level of costs might be.

Table 1: Assumptions of substantial additional costs – Carbon Monoxide Detection

Scenario - % of properties affected⁹	Low (25%)	Mid (50%)	High (75%)
No of Properties	75,000	150,000	225,000
Cost per property	£15	£15	£15
Assumption of Overall Cost	£1,125,000	£2,250,000	£3,375,000

15. The primary responsibility for the additional cost of work to comply with the duty to complete electrical safety testing rests with private landlords. The cost of complying with the duty requires the completion of an electrical safety test which will vary with individual properties and the Scottish Government estimates that the average cost will be between £100 and £150.¹⁰ All landlords will require to undertake an inspection for their existing properties in the first year after the provision commences, unless a tenancy ends during that year and the property is not re-let. On commencement, it will become a duty to undertake the inspection before any tenancy commences.

16. Assuming there are about 300,000 PRS properties, then the initial year cost (based on £100-£150 a test per property) is estimated to be between £30,000,000 and £45,000,000 across all private landlords. The on-going cost may actually be higher if it is assumed that there is some turnover in the sector so the number of properties over any five-year period could be greater than the 300,000 quoted. In instances where a safety test identifies the need for remedial work to electrical installations, then an unquantifiable additional cost will occur. Initial costs could be

⁶ http://www.gassaferegister.co.uk/advice/gas_safety_in_the_home/fit_a_carbon_monoxide_alarm.aspx

⁷ <https://www.scottishlandlords.com/NewsPolicy/PolicyItem.aspx?ArticleId=136>

⁸ <http://www.prhpscotland.gov.uk/prhp/137.26.33.html>

⁹ Based on 300,000 properties.

¹⁰ <https://www.whatprice.co.uk/prices/electrician/periodic-electrical-inspection-incl-certificate.html>

lower if a landlord already has had a test completed and is able to get the test completed at a lower cost as a result.

17. Compliance with the requirement for electrical safety testing is expected to improve home safety for tenants in the private rented sector. There will be an unquantifiable benefit from the assumption that fewer tenants will be killed or injured as the result of unsafe electrical installations and an assumed unquantifiable saving for emergency and health care services. It is also anticipated to reduce the incidence of property damage resulting from fires where the cause is unsafe electrical installations and may act positively toward decisions on relative risk and adverse selection concerns from home insurance providers.

Home owners

18. The duty refers only to private landlords so there will be no new costs for home owners.

Local businesses

19. The duty refers only to private landlords so there will be no new costs for local businesses.

Summary

20. In summary, Table 2 shows the costs expected from the inclusion of the above provisions in Part 3 of the Bill.

Table 2: Summary of additional costs – Electrical Safety Checks

Provision	Paragraph reference	Cost per property	Total Additional costs	Timeframe
Costs on other bodies, individuals and businesses				
Carbon Monoxide Detectors	13	£15	Current compliance is unknown. Assumptions are provided at Table 1	2015 onwards
Electrical Safety Inspections	15-16	£100 and £150.00 ¹¹	Between £30,000,000 and £45,000,000 ¹²	2015 and then every five years.
Safety test identifies the need for remedial work to electrical installations?	16	Unquantifiable additional cost will occur	Unquantifiable additional cost will occur	2015 and then every five years.

¹¹ Based on 300,000 properties - All landlords will require to undertake an inspection for their existing properties in the first year after the provision commences, unless a tenancy ends during that year and the property isn't re-let. Requirement for test to be undertaken every five years.

¹² See Footnote 11

PART 4 – LETTING AGENTS

Letting agent registration and code of practice

21. The Scottish Government estimates that there are 719 letting agents in Scotland. Part 4 of the Bill as introduced provides for a registration scheme and a code of practice for letting agents, and redress for tenants and landlords. The Scottish Government has brought forward a number of Stage 2 amendments to Part 4 which have substantial additional cost implications. These are as follows:

- Letting Agent Code of Practice - professional indemnity insurance and client money protection
- Training requirement
- Monitoring of compliance - power to carry out inspections.

Professional indemnity insurance and client money protection

22. The Letting Agent Code of Practice is to include provision about the handling of client money and professional indemnity arrangements. This will enable the Scottish Ministers to regulate how letting agents handle money from landlords and tenants and to require professional indemnity arrangements, such as professional indemnity insurance, to be put in place.

Costs on the Scottish Administration

23. There will be no substantial additional administration costs on the Scottish Administration as a result of the introduction of these requirements around the handling of client money and professional indemnity arrangements.

Costs on local authorities

24. There will be no substantial additional administration costs on local authorities as a result of the introduction of these requirements around the handling of client money and professional indemnity arrangements.

Costs on other bodies, individuals and businesses

Letting agents

25. Information from the Association of Residential Letting Agents (ARLA) estimates that the annual cost to a letting agent for professional indemnity cover will be in the region of £715 on average¹³. This is an average cost as premiums will vary according to previous claims history and on the size of the business. Based on this average, the estimated total cost to the industry would be £514,085¹⁴. This would not be a new cost to the whole industry as some letting agents will already have this cover in place. However, the new cost cannot be quantified as data is not available on the number of agents who already have this in place.

¹³ Data source – Association of Residential Letting Agents – average cost per letting agent per annum including insurance premium tax

¹⁴ £715 per annum x 719 letting agents

26. Information from ARLA estimates that the annual cost to a letting agent for client money protection is between £297 and £350. This represents an average figure of £324. Based on this average, the estimated total annual cost to the industry would be £232,956¹⁵. This would not be a new cost to the whole industry as some letting agents will already have this cover in place. However, the new cost cannot be quantified as data is not available on the number of agents who already have this in place.

Training requirement

27. Section 29 of the Bill makes provision about the Scottish Ministers determining applications for registration as a letting agent and renewal of registration. This amendment introduced at Stage 2 provides a power for the Scottish Ministers to prescribe training requirements which letting agents must demonstrate before they can be entered on the register or have their entry renewed. The aim of this amendment is to raise standards of service by ensuring that only competent persons can legitimately carry out letting agent services. The amendment provides for the specification of the training; who should obtain it; when that training must be completed and when it must be refreshed. The Scottish Ministers may specify those requirements through secondary legislation. This may be as a qualification or as other training requirements as specified.

Costs on the Scottish Administration

28. There will be no substantial additional administration costs on the Scottish Administration as a result of the introduction of these requirements.

Costs on local authorities

29. There will be no substantial additional administration costs on local authorities as a result of the introduction of these requirements

Costs on other bodies, individuals and businesses

Letting agents

30. In order to estimate the potential costs to letting agents, this has been based on the cost of known qualifications (although the specified requirements may include other options to meet the Scottish Ministers' training requirements, other than a qualification)

31. The Level 3 Award in Residential Letting and Property Management from the National Federation of Property Professionals (NFoPP) is seen as an appropriate level of training for more senior staff. ARLA uses these qualifications as a basis of membership to their organisation. The cost to a letting agent would be £240 for course materials (for non-ARLA members) plus an additional £110 for an examination giving a total per organisation of £350 per award. There will also be a cost in terms of staff time as the four units take a total of 120 hours study time, though it is not possible to quantify this for the purposes of this document as staff costs will vary across businesses; and this training may simply replace other training which staff would have undertaken anyway.

¹⁵ £324 per annum x 719 letting agents

32. It is likely that a number of letting agents will already have completed this training as a requirement – for example, roughly 200 members of ARLA. In addition, this qualification has already been taken up by some letting agents who are not members of ARLA. However, it is not possible to quantify the current level of training participation as the data is not available. Therefore, of the estimated 719 letting agents in Scotland, there are potentially 500 letting agents that would either require this training or a similar level (to be specified).

33. Based on the costs of the NFoPP training the estimated cost to the industry would be £175,000¹⁶. This cost would only recur as and when the Scottish Ministers were of the view that a refresh was necessary.

Monitoring of compliance - power to carry out inspections

34. The Scottish Ministers should monitor compliance with the requirements of the letting agent statutory regime, including the Code of Practice. In order to facilitate the Scottish Ministers' compliance and enforcement functions, an amendment was introduced at Stage 2 to provide associated powers to authorise persons to carry out an inspection of premises which appear to be being used for the purpose of carrying out letting agency work. If on discovering non-compliance with the regulatory regime for letting agents through exercise of this power, the Scottish Ministers could take administrative steps to address the matter or could proceed straight to enforcement action.

Costs on the Scottish Administration

35. Information obtained from ARLA¹⁷ suggests that a wide-ranging check conducted by its own compliance staff might cost in the region of £500 to £1,000 per visit. If an external contractor, such as an accountant, were used the cost would double. Visits are made to roughly 2% of member firms on the basis of risk i.e. the level of complaints and any comments from the letting agent firm's annual independent audit of their client account. The visits envisaged under the power set out in the Bill, however, would be mainly random checks. Therefore, a higher percentage of 10% of firms is proposed. Taking the mid-point cost of an ARLA check (i.e. £750 to £1,500) and applying it to 10% of the estimated 719 letting agents in Scotland, this would generate an estimated annual cost to the Scottish Administration of between £54,000 and £108,000.

36. Where a warrant is required to gain entry, the cost of obtaining a warrant is £90, which is a first paper fee, and also the fee for a summary application in the sheriff court. On the basis of an estimated seven visits each year requiring a warrant (10% of the total number of expected visits), the total annual cost for obtaining a warrant would be £630.

37. The additional cost to engage staff, such as sheriff officers, would be £18.35 plus VAT to effect the warrant and a further £29.40 plus VAT per half hour to gain entry to the premises, by force if required, including presence during the inspection until the premises have been secured at the end of the inspection. Assuming an inspection lasts three hours in total, the estimated cost would be £233.70 per visit. On the basis of an estimated seven visits each year requiring a

¹⁶ £350 x 500 letting agents

¹⁷ Data source – Association of Residential Letting Agents – compliance checks 2014/2015

warrant (10% of the total number of expected visits), the total annual cost for this element would be £1,636.

38. Based on these assumptions, this could generate an estimated annual cost to the Scottish Administration of between £56,266 and £110,266.

Costs on local authorities

39. There will be no substantial additional administration costs on local authorities as a result of the introduction of these requirements.

Costs on other bodies, individuals and businesses

Letting agents

40. There will be no substantial additional administration costs on letting agents as a result of the introduction of this requirement.

Summary

41. In summary, Table 3 shows the costs expected from the inclusion of the above provisions in Part 4 of the Bill.

Table 3: Summary of additional costs – letting agent registration and code of practice

Provision	Paragraph reference		Additional costs	Timeframe
Costs on Scottish Administration				
Monitoring of compliance - Power to carry out inspections	34-38		£56,266 to £110,266 p.a.	2016 onwards
Costs on other bodies, individuals and businesses				
Provision		Additional cost per letting agent	Additional overall cost (gross)	
Professional Indemnity Insurance	25	£715 p.a.	£514,085 ¹⁸	2016 onwards
Client Money Protection	26	£324 p.a.	£232,956 ¹⁹	2016 onwards
Training requirement	30-33	£350	£175,000 ²⁰	2016 onwards ²¹

¹⁸ Scottish Government estimated number of Scottish letting agents is 719 – annual cost

¹⁹ Scottish Government estimated number of Scottish letting agents is 719 – annual cost

²⁰ Scottish Government estimated number of Scottish letting agents is 719 – See footnote 13.

²¹ The training cost would recur periodically, as and when changes in practice or law required it.

This document relates to the Housing (Scotland) Bill as amended at Stage 2 (SP Bill 41A)

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Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by APS
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ISBN 978-1-78457-655-4