



The Scottish Parliament  
Pàrlamaid na h-Alba

**PUBLIC PETITION NO.**

**PE01468**

### **Name of petitioner**

Mike Dailly on behalf of Govan Law Centre Trust

### **Petition title**

Evictions due to under occupation deductions

### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to amend Section 16 of the Housing (Scotland) Act 2001 to prevent social landlords from using rent arrears caused by under occupation housing benefit deductions in eviction actions, and instead requiring such under occupation arrears to be pursued as an ordinary debt.

### **Action taken to resolve issues of concern before submitting the petition**

This issue has been raised and discussed in local public meetings in Glasgow, and we have provided a full briefing paper on the proposal to Humza Yousaf MSP, Scottish Government Minister, who has passed same to the Housing Minister. The briefing paper was also forwarded to Johann Lamont MSP. Both Humza Yousaf and Johann Lamont were present at a public meeting of concerned tenants in Govan last month where the proposal was supported by 100 local tenants. Both Shelter Scotland, the STUC and the Glasgow Advice Agency support the proposal in this petition. We await the response from the Housing Minister, and Johann Lamont MSP.

Govan Law Centre defends a high volume of eviction actions in Glasgow, and specialises in the prevention of homelessness across the West of Scotland. We and our partner agency, the Glasgow Advice Agency, which provides advice services across two-thirds of Glasgow City, have already had many tenants contact us concerned that they will be unable to pay the shortfall in their rents due to under occupancy deductions from April 2013. We, along with other civic and local bodies, have no doubt that unless measures are taken to mitigate the effects of the under occupancy deductions, Scotland will see a significant increase in eviction actions, which may be extremely hard to defend given current housing law.

### **Petition background information**

Housing benefit under-occupancy provisions for tenants in the social rented sector are introduced by section 69 of the Welfare Reform Act 2012 and the (draft) Housing Benefit (Amendment) Regulations 2012, with effect from April 2013. These provisions will see tenants of councils and RSLs in Scotland lose on average £12 per week, with some tenants losing as much as £22 per week in housing benefit. There is widespread concern in Scotland that these changes will cause major detriment to thousands of

households in Scotland.

The DWP estimate 660,000 claimants will be affected across the UK, and the Chartered Institute of Housing in Scotland suggest as many as 95,000 tenants could be affected in Scotland: <http://www.cih.org/resources/PDF/Scotland%20Policy%20Pdfs/Bedroom%20Tax/Bedroom%20Tax%20Final.pdf>

When it comes to Scottish rent arrears eviction actions in sheriff courts, often the success or failure of a tenant in preventing eviction will turn on a few pounds per week, for example the standard payment for arrears direct is £3.55 per week. Accordingly, the prospect of £12 to £22 per week being deducted from rent payments under the bedroom tax from next April means Scotland's law centres and advice sector will be unable to defend many eviction cases in practice.

We are suggesting a minor amendment to section 16 of the Housing (Scotland) Act 2001 (as follows) which would prevent 'bedroom tax rent arrears' being used to establish or justify a crave for eviction, and instead the landlord could obtain a payment decree for these 'type of arrears', and pursue them an ordinary debt. A proposed illustrative amendment is as follows:

**Section 16 of the Housing (Scotland) Act 2001 (asp 10) is amended as follow -**

**(a) In subsection (2) after “Subject to subsection (1)” insert <and (7)>**

**(b) After subsection (6) insert –**

**“(7) For the purpose of subsection (2), the court must disregard any rent lawfully due from the tenant which has been accrued due to a shortfall in housing benefit in consequence of regulation B13 (Determination of a maximum rent (social sector) of the Housing Benefit Regulations 2006 (2006/213)).**

**(c) In paragraph 1 of Part 1 of schedule 2 before “rent lawfully due” insert, <Subject to section 16(7),”**

Such a minor amendment would prevent arrears created from the bedroom tax being relied upon to establish grounds for eviction, or to make out a case of why it was reasonable to evict. Eviction based purely on bedroom tax arrears would be incompetent.

The policy rationale for this approach can be summarized briefly as follows:

- Arrears accrued by tenants due to the 'bedroom tax' from April 2013 are not the 'fault' of social rented sector tenants, and therefore using such arrears to establish or make out a case for eviction must be unfair and unreasonable as matter of principle and social policy.
- The DWP's Impact Assessment accepts there are insufficient smaller properties for tenants to downsize to, and therefore many tenants will have no realistic alternatives other than to accrue rent arrears from the bedroom tax.
- The public cost to accommodate a family made homeless is on average £24,000 per case, which would place major pressure on local authorities and the NHS in Scotland in a time of budget cuts, and therefore the need to prevent eviction from the bedroom tax is in the wider public interest.
- Given the imminent nature of the cuts, and the lack of practical solutions available to tenants, there is a cogent case for providing social tenants with a longer transitional period, and a guarantee that they will not be evicted due to these reforms in the short to medium term.
- Ultimately, many social landlords in Scotland are already taking proactive action to mitigate against these forthcoming housing benefit cuts, and have no desire to evict tenants because of the cuts. However, RSLs and councils are subject to public audit and have a duty to pursue rent arrears as a matter of law, and in terms of their regulatory supervision. Accordingly, this amendment would assist social landlords, by ensuring they could only pursue bedroom tax arrears by way of ordinary debt recovery (payment actions, followed by ordinary diligence).

Further background information:

- Explanatory Memorandum to the draft 2012 Housing Benefit (Amendment) Regulations 2012 - [http://www.legislation.gov.uk/ukdsi/2012/9780111525784/pdfs/ukdsiem\\_9780111525784\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2012/9780111525784/pdfs/ukdsiem_9780111525784_en.pdf)
- House of Commons Library briefing (updated 3 December 2012) - <http://www.parliament.uk/briefing-papers/SN06272>

#### Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/bedroomtax>

#### Related information for petition

<http://govanlc.blogspot.co.uk/>

#### Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

#### How many signatures have you collected so far?

0

#### Closing date for collecting signatures online

15 / 03 / 2013

#### Comments to stimulate online discussion

Besides the poll tax, the last time Scotland saw such a regressive housing tax on the low paid and poor, was back in 1748 when you were taxed on the number of windows your house had. The phrase 'day-light robbery' was coined, and people bricked up their windows to escape it. Sadly, escaping the regressive bedroom tax won't be so easy.

- Where will people in homes with an 'extra room' go when there is insufficient capacity in the social rented sector?
- How will people and families cope with being evicted as they will be unable to pay their rent due to the bedroom tax?
- Where will people find the money to make up bedroom tax rent arrears - payday loans, high interest home credit or money lenders?