

Response ID ANON-7DXH-SCAA-K

Submitted to Housing (Scotland) Bill Call for Views
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What is your name?

Name:
Scottish Association of Landlords

What is your email address?

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Are you responding as an individual or on behalf of an organisation?

Organisation

Organisation details

Name of organisation

Name of organisation:
Scottish Association of Landlords

Information about your organisation

Please add information about your organisation in the box below:

The Scottish Association of Landlords (SAL) is the largest and only dedicated national organisation that represents landlords and letting agents throughout Scotland. We support and represent our members' interests through providing resources and assistance as well as delivering lobbying and campaigning work.

General

Q1. To what extent do you agree that the measures in the Bill meet the Scottish Government's stated policy objectives?

Strongly disagree

Q2. What are your main reasons for your views on Q1? (please note we have asked more detailed questions on the Bill later in this survey)

Please use this textbox to provide your answer:

1. Improving housing outcomes for tenants – we believe the proposals will worsen housing outcomes for tenants for the following reasons:
 - (i) Where properties are in an area which is subject to rent control, the inability to raise rents between tenancies and keep them in with inflation or market rates during a tenancy increases the likelihood of landlords deciding to sell properties due to them no longer being financially viable or sufficiently profitable to justify their retention.
 - (ii) In rent control areas we would also expect to see a reduction in the quality of homes available as landlords have less incentive to invest in improvements.
 - (iii) Outwith rent control areas the uncertainty built into the rent control framework is likely to affect landlords' investment decisions and we would expect this to lead to a further fall in the number of properties available to rent in Scotland – resulting in upward pressure on rents and homelessness. We know from a member survey conducted in December 2023 that 56% of respondents are planning to reduce their portfolio size over the next five years with 75% citing concern about rent controls as one of their reasons for planning to withdraw properties from the sector.
 - (iv) The proposals to amend the procedure for the ending of joint tenancies increases the risk of tenants being made homeless (including in cases of domestic abuse) where agreement to a new tenancy can't be reached between the landlord and remaining tenants.

2. Affordability – we believe the proposals will reduce the supply of properties in the private rented sector which will drive up rents. The rent control

proposals will also make landlords less likely to agree to discounted rents to assist tenants experiencing financial hardship.

3. Safeguarding the proportionate use of landlords' properties – we believe that within rent control areas the proposals will result in landlords' financial returns being diminished in real terms and failing to keep pace with increases in their outgoings. Amendments to current procedures around pets and personalisation increase landlords' exposure to the risk of property damage.

Rent

Q3. Do you support the proposals in Part 1 of the Bill allowing rent control areas to be designated?

No

Q4. Do you have any further comments to make on Part 1 of the Bill dealing with rent for private tenants?

Please use this textbox to provide your answer:

This is the area of the Bill which we believe has the most potential to result in damaging outcomes for landlords and tenants. The proposals are already creating uncertainty and driving up rents and have been since a national system of rent controls was proposed in the New Deal for Tenants consultation paper, as landlords try to ensure their rents are brought up to market rates to give some protection against future restrictions.

The proposals are designed in a way which will lead to long term uncertainty for landlords as even if the proposals are enacted there will continue to be uncertainty about which areas will be subject to rent control, what the restrictions will be on rents in those areas and how long the restrictions will be in place for.

The failure to allow landlords to reset rents to market level at the end of the tenancy and the lack of safeguards to link rent restrictions to CPI are most concerning as they could result in property rents falling in real terms and landlords being unable to cover increases in their property costs and maintain the property to a good standard.

We are also concerned that although rent control areas are designed to be time limited, they are likely to be difficult or impossible to exit from as they become self-fulfilling – reducing rents below market levels leading to it being considered necessary to extend them in perpetuity to protect the social and economic interests of tenants in the area.

Evictions

Q5. What are your views on Part 2 of the Bill that deals with evictions?

Please use this textbox to provide your answer:

We would be less concerned about this proposal if the introduction of the tribunal had reduced eviction timescales as we were assured it would when it took over from the sheriff courts in dealing with evictions. However, eviction cases are currently taking on average 5.5 months* to progress through the tribunal from the point of application to the point of a decision being made about the case. This is on top of the notice period, appeal period and enforcement period which would typically add a further 4.5 months to the timeframe for eviction, leading to a total eviction timescale of around 10 months. To add an indefinite period to this timescale will put unfair strain on landlords who need to regain possession of their property.

*Figure is based on SAL's analysis of published tribunal cases where decisions were made in the period 1 January – 31 March 2024 and the application date is given in the write up.

Keeping pets and making changes to let property

Q6. Do you support the proposals in Part 3 of the Bill to strengthen the rights of tenants to keep pets and make changes to let property?"

No

Q7. Do you have any further comments to make on Part 3 of the Bill dealing with keeping pets and making changes to let property?

Please use this textbox to provide your answer:

We cannot support these proposals as so much of the detail on how they will operate and what safeguards will be in place for landlords is reserved for secondary legislation. Without this level of detail we can't be certain that sufficient protections will be in place for landlords who find that their property has been damaged by tenants' pets or personalisation work. We also can't be certain that adequate safeguards will be in place to ensure that landlords can refuse permission where the pet/personalisation work isn't appropriate/suitable for the property.

Joint tenancies

Q8. What are your views on Part 4 of the Bill that deals with how joint private residential tenancies can be ended?

Please use this textbox to provide your answer:

We do not support this proposal as we believe it introduces the risk of serious unintended consequences for both the landlord and the tenants. Should one tenant wish to exit the tenancy it leaves the remaining tenants in a difficult position if they can't afford the rent on their own and are not able to find a suitable new person to share with. They are forced into a position of either having to move out or sign up to a tenancy they can't afford. It is also not clear how the proposals will impact on the tenancy deposit in the various scenarios which could arise from this proposal. The remaining tenant may have to find the funds to "top up" the deposit by whatever amount the exiting tenant is expecting to receive back.

If the landlord and remaining tenant are unable to agree on new tenancy terms and the tenant doesn't move out, they will become an unlawful occupant in the property when the tenancy ends. The landlord can apply to for an eviction order and the tenant isn't afforded the protection of the discretionary element of a standard eviction (standard eviction grounds don't apply because tenancy has already been ended by the exiting tenant). This means that if this new process is introduced the remaining joint tenants could be made inadvertently homeless. In cases of domestic violence this process could be used as a method of coercive control. This is because it could be used by the perpetrator of domestic abuse to end the tenancy and make their victim homeless (particularly where they have control over the victim's finances in a way that means the landlord is concerned about the victim's ability to pay rent and therefore about offering a new lease).

We acknowledge that there are some exceptional circumstances in which it may be desirable for a tenant to be removed from the lease and we would suggest that new powers are put in place to allow the tribunal to decide on cases like this based on submissions from all parties to the lease, similar to the procedures in place under the Matrimonial Homes Act 1981 and Civil Partnership Act 2004 which can already be used in cases of domestic abuse.

Homelessness prevention

Q9. Overall, do you support the Bill's proposals in Part 5 of the Bill that deal with homelessness prevention?

Not Answered

Q10. What are your views on the 'ask and act duty' for relevant bodies in relation to preventing homelessness in Part 5 of the Bill?

Please use this textbox to provide your answer:

Q11. What are your views on the requirement on councils to act sooner to prevent homelessness by taking reasonable steps in Part 5 of the Bill?

Please use this textbox to provide your answer:

Other provisions in the bill and other comments

Q15. Do you have any additional comments on the other measures the Bill dealswith or any other general comments?

Please use this textbox to provide your answer:

We do have concerns about the legality of introducing legislation which attempts to convert a contractual tenancy into a different tenancy type, and if legislation proposed is likely to be subject to a legal challenge it needs to be very carefully considered as such a challenge would create great uncertainty for landlords and tenants.

Our concerns on this are supported by the government's decision not to override contractual rent increase clauses in assured tenancies in the Cost of Living (Tenant Protection) (Scotland) Act 2022. We presume this decision was made because of concerns about the lawfulness of such an intervention.

A similar argument is being made by the Law Commission in their proposed approach to the introduction of compulsory owners associations where they've stated that legislation to override existing title provisions in their entirety is unlikely to be a proportionate interference with the rights of flat owners under A1P1 of the European Convention on Human Rights.

It is understood this proposal is designed to bring these older tenancies into the scope of the proposed rent control framework. However, many of these tenancies are already on rents well below market value as until the Scottish Government began interfering with rent setting in 2022 landlords usually chose not to increase rents mid tenancy.

Availability

Would you be interested and available to give evidence to either the Local Government, Housing and Planning Committee or the Social Justice and Social Security Committee?

Please use this textbox to provide your answer:

Yes