

## Private Housing (Tenancies) (Scotland) Bill 2015

The Private Housing (Tenancies) (Scotland) Bill has now completed the three stages of the parliamentary process and the final wording has been agreed by Members of the Scottish Parliament (MSPs) by a vote of 84 to 14. For further details on what SAL campaigned for and what the provisions of the new regime will be, see below.

The Scottish Government (non-political) civil servants draft all bills. The Scottish Government is usually tasked to undertake consultation with various interest groups such as SAL as was the case with this bill. Each bill goes through parliamentary scrutiny in stages and that is when the elected politicians, the Members of the Scottish Parliament (MSPs) are able to propose and vote on “amendments”, which can significantly change the eventual Act that is passed.

After a bill has been passed in this way, it receives royal assent to become an Act of the Scottish Parliament to become law. The Act will commence in stages starting later this year. The new regime will therefore not come into force until late 2017 at the earliest. **Landlords and letting agents do not need to make any changes to their paperwork or procedures for the time being.**

Thank you to all SAL and CLA members who took the time to respond to the government consultations on the new tenancy regime and who got involved in lobbying their MSPs as part of our call to action.

What we campaigned for	What the Government did	What MSPs did	The outcome
A model tenancy agreement to simplify the paperwork for both parties.	Agreed with this proposal and worded the bill accordingly.	Approved by MSPs.	A model tenancy agreement will be introduced, the terms of which will be agreed in secondary legislation following consultation with stakeholders.
A flexible initial tenancy term.	Agreed with the principal of having an initial tenancy term, and drafted the bill to require an initial term, the length of which was a matter for negotiation between landlord and tenant.	At stage 2 the housing minister put forward an amendment to remove the initial tenancy term from the bill, arguing that it would act as a barrier to those needing to leave an abusive relationship. The amendment was approved by MSPs on the Infrastructure and Capital Investment (ICI) committee by a vote of 6 to 1. SAL challenged this amendment and joined forces with other stakeholder groups. As a result an amendment was put forward at stage 3 to reinstate the initial term. This was rejected by MSPs by a vote of 15 to 82.	MSPs voted against having an initial tenancy term by 1 to 6 at stage 2 and 15 to 82 at stage 3. The new regime will not have an initial tenancy term. Landlords and tenants will be able to end a tenancy at any point on giving the required notice.

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Removal of requirement for pre-tenancy notices.	Agreed with this proposal and worded the bill accordingly.	Approved by MSPs.	No pre-tenancy notices will need to be served under the new regime.
Month to month renewal of tenancy after the initial term.	Agreed with the principal of allowing the lease to continue indefinitely after the initial term, and drafted the bill to allow leases to renew on a day to day basis.	With the removal of the initial term (see above) this provision became obsolete.	Leases will run on a day to day basis from the outset until terminated by either party giving notice to the other.
A simplification of the paperwork required to end a lease.	Agreed with this proposal and worded the bill to require just a “notice to leave” to be issued.	Approved by MSPs.	To terminate a tenancy all that needs to be issued is a “notice to leave”.
Reasonable notice to terminate tenancies to be provided by both parties, increasing with the length of time the tenant has been residing at the property.	Agreed with this principal and worded bill to require notice periods of 4 weeks from either party for tenancies of 6 months or less, and for tenancies of more than 6 months 8 weeks’ notice from tenants and 12 weeks’ notice from landlords.	At stage 2 an amendment was proposed to require just 4 weeks’ notice from tenants regardless of length of tenancy. The amendment was approved by MSPs on the ICI committee by a vote of 6 to 1.	At stage 2 MSPs voted in favour of a 28 day notice period from tenants by 6 to 1. To end tenancy tenants will be required to give 28 days’ notice. Landlords will be required to give 28 days’ notice if the tenancy has run for 6 months or less, and 84 days if the tenancy has run for more than 6 months.
A regime which allows the landlord to end the tenancy once the contractual term expires without having to give a reason.	Disagreed with the principal that landlords should be able to end a tenancy without having to give a reason and worded the bill without a so called “no fault” ground.	An amendment proposed at stage 2 on behalf of SAL was rejected by MSPs on the ICI committee by a vote of 6 to 1.	At stage 2 MSPs voted against having a “no fault” ground for possession by 6 to 1. Landlords will only be able to end a tenancy if one of the 18 grounds for possession apply.

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Additional grounds for possession to cater for circumstances not covered by the grounds listed in the initial consultation paper.	Agreed with our suggestions on additional grounds for possession and increased the number of proposed grounds from 8 to 16, including grounds for ending leases to employees, to allow occupation by a religious worker and to allow landlords to tackle overcrowding and anti-social behaviour.	Approved by MSPs and further grounds were added at stage 2 to allow for tenancies to be terminated where the tenant associates with someone who has a criminal conviction or who has engaged in anti-social behaviour and to allow providers of supported accommodation to end the tenancy where the tenant is no longer in need of that accommodation.	The new regime will have 18 grounds under which a landlord can apply to repossess the property. (8 mandatory, 8 discretionary, 2 mixed).
A clear procedure for repossessing properties which have been abandoned.	Agreed with this proposal and introduced a new ground to cover situations where the tenant has abandoned the property.	Approved by MSPs. An amendment put forward at stage 3 to require landlords to serve an abandonment notice on tenants prior to serving a notice to leave was rejected by MSPs by a vote of 30 to 66.	An amendment put forward at stage 3 to require landlords to serve an abandonment notice on tenants prior to serving a notice to leave was rejected by MSPs by a vote of 30 to 66. The new regime will have a specific ground for possession which can be used for abandoned properties on giving a 28 day notice to leave.

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<p>An accelerated process for termination where the tenants are in arrears and an ability to issue notice as soon as tenant falls into arrears.</p>	<p>Agreed with this proposal and worded the bill with a rent arrears ground which can be used if the tenants have owed rent for 3 consecutive months. It would be mandatory if the tenants have owed a full month's rent at any point in those three months, and otherwise discretionary. The landlord can serve notice as soon as the rent falls into arrears.</p>	<p>At stage 2 the housing minister put forward an amendment to prevent the ground from being mandatory unless the tenant still owes 1 month's rent at the start of the day on which a tribunal hearing for possession takes place. The amendment was approved by MSPs on the ICI committee by a vote of 6 to 1.</p> <p>An amendment proposed at stage 2 on behalf of SAL to have a fast track route back to tribunal in cases where the tribunal does not award possession and the arrears increase was rejected by MSPs on the ICI committee by a vote of 6 to 1. An amendment put forward at stage 3 to prevent tenants from being evicted unless they owe 2 months' rent was rejected by MSPs by a vote of 30 to 66.</p>	<p>At stage 2 an amendment to prevent the ground from being mandatory unless the tenant owes 1 month's rent was approved by a vote of 6 to 1. The rent arrears ground can be used if the tenants have owed rent for three consecutive months. It will be mandatory if at the start of the day on which the tribunal hearing takes place the tenants owe at least 1 month's rent. In other circumstances it will be discretionary. The landlord can serve notice to begin the termination process as soon as the rent falls into arrears and does not need to wait until 3 months' rent are owed.</p>

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A ground to repossess student lets at the end of the agreed term to ensure the property comes vacant during the season of high demand.	Disagreed with the principal that students should be treated any differently from other tenants in relation to security of tenure and worded the bill without any special provisions for student lets.	Following a campaign by SAL and SAL members writing to their MSPs detailing concerns on the unintended consequences of not allowing student lets to be ended at the expiry of the fixed term, an amendment was put forward at stage 3 to exempt student lets from the new regime. This was voted against by MSPs by 13 to 82.	At stage 3 MSPs voted against student tenancies being excluded from the new regime by 13 to 82. Landlords will only be able to end a student let if one of the 18 grounds for possession apply. Purpose built student accommodation with 30 or more bedrooms in a building will be excluded from the regime.
A way of ending tenancies where the tenants are committing anti-social behaviour without having to use a discretionary ground that may require vulnerable neighbours to give evidence before a tribunal.	Disagreed with the need to have additional provisions to tackle anti-social behaviour over and above the discretionary grounds in the bill.	No amendments were put forward despite SAL members writing to their MPSs detailing concerns on the unintended consequences of not improving the bill's provisions for tackling anti-social behaviour.	Landlords will only be able to evict anti-social tenants using the discretionary anti-social behaviour grounds and convincing a tribunal that it is reasonable to award possession.
A ground to allow religious organisations to end a tenancy where the property is required to house a religious worker.	Agreed with this proposal and worded the bill accordingly.	Approved by MSPs.	The new regime will have a ground to allow religious organisations to end a tenancy so the property can be used to house a religious worker.
A ground to allow landlords to end a tenancy where the property is required to house the landlord's employee.	Disagreed with the principal of the regime allowing landlords to evict tenants from their home for this reason, despite allowing a similar ground to be used by those who employ religious workers.	An amendment proposed at stage 2 on behalf of SAL to add in a ground to repossess a property where the landlord requires it to house an employee was rejected by MSPs on the ICI committee by a vote of 1 to 6. A further amendment was put forward at stage 3 and was rejected by MSPs by a vote of 17 to 80.	At stage 2 MSPs voted against having a ground to allow landlords to end a tenancy where the property is required to house the landlord's employee by 1 to 6. At stage 3 a further amendment was voted against by 17 to 80. The new regime will not allow a tenancy to be ended for this purpose.

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A regime that allows the tenancy to end immediately in the event of the death of the tenant.	Worded the bill without this provision and requiring the tenant's executor to serve notice to end the tenancy.	Following SAL's campaigning work on this issue the housing minister put forward an amendment at stage 3 to amend the bill to allow tenancies to end on the death of the tenant. This was approved unanimously by MSPs.	At stage 3 MSPs voted unanimously in favour of a tenancy ending at the death of the tenant. Under the new regime the tenancy will end at the date of the tenant's death. There are succession rights for partners, family members and resident carers who have lived in the property for 12 months leading up to the date of the tenant's death.
No general controls on rent levels.	Agreed with this principal and worded the bill without any general controls on rent levels, acknowledging SAL's concerns that rent controls could discourage much-needed investment. Bill allows rents to be controlled only for sitting tenants in areas where ministers designate a rent pressure zone (RPZ), which can only be designated in extreme circumstances. Rent cap must be above CPI in these areas.	Approved by MSPs.	Rents can only be controlled for sitting tenants in areas where ministers designate RPZs, which can only be designated in extreme circumstances. Rent cap must be at least 1% above CPI in RPZs. A higher increase is allowed for properties that have undergone improvement works. There is no restriction on rents out with RPZs, or for new tenants in RPZs.