



**Submitted response to
Housing (Scotland) Bill
Stage I consultation
17 May, 2024**

The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. As a part of the wider British Property Federation, we include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers. Our members build Scotland's workplaces, homes for rent or study, shops, schools and other facilities and the infrastructure that serves them. Our industry is therefore a core component of the Scottish economy.

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:

We strongly disagree that the overarching policy objectives of the Scottish Government will be achieved because as drafted the Bill is driving away investment in Scottish homes. We continue to hold our reservations about the proposals for long term rent controls based on the evidence of rent controls both in Scotland and elsewhere. However, we make proposals in this response for how a long term system of rent control could be made investible to deliver the new homes Scotland, in its national housing emergency, clearly needs. Unless we improve the supply and availability of homes for rent we will not deliver improvements in affordability. And while for those in rented accommodation the Bill clearly extends rights, many of which are already provided by modern professionally managed build to rent investors, this will not help those unable to find either public or private homes to rent.

As drafted, the Bill will also drive away not just badly needed new homes across a range of tenures. It will be a significant lost economic opportunity. Analysis by experts within our membership suggest a potential benefit to the economy of some £4.5bn in GVA to the Scottish economy including some 17,000 jobs. The majority of these jobs would be construction related, sustaining much needed skills in the economy. There would also be significant ongoing additional benefit to the economy from ongoing management, maintenance and improvements of this infusion of modern bespoke build to rent homes.

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:

The nub of the challenge in Scotland for the rental housing market is a supply problem. There are simply not enough homes being supplied to the market and in too many areas there is a chronic lack of availability of homes for rent. The proposals in Part 1 have only succeeded in deterring potential investment and new homes. Research undertaken for us in 2023 by Rettie & Co indicated some £3.2bn of investment for new homes for rent is at risk in Scotland, and this risk is increasing. A major investor recently indicated a decision on some £450m of new housing was paused - this may be additional to the sum of £3.2bn we identified earlier. Scotland does not attract investment in a vacuum or protected space. By contrast the build to rent market in the UK over the past ten years has delivered some 100,000 new homes for rent, including both houses and flats. This new market in England is now growing beyond the core cities of England as well. Scotland currently accounts for just 2,200 of this total and is due to uncertainty with political intervention and regulatory policies. This is first and foremost a considerable missed opportunity for adding new supply to the rental markets in Scotland. But it is also a significant missed opportunity for the Scottish economy with some £4.5bn GVA and some 17,000 jobs estimated to be achievable from modern build to rent homes in Scotland over ten years - the majority of this economic value being derived from construction activity.

To put this additional, new private sector investment into perspective this sum is equivalent to the entire Scottish government affordable housing budget for the 2021-26 resource planning assumption (£3.2bn). It is additional to the investment in new homes for sale led by our colleagues at Homes for Scotland and it is additional to the investment in traditional buy-to-let PRS investment although as the Scottish government's figures demonstrate this older PRS market has significantly reduced in recent years (dropping from 400,000 in March 2021 to 340,000 in March 2023).

We disagree with the rent control proposals in Part 1 because our perspective is that rent controls have not succeeded in attracting or sustaining new investment to the rented market in countries where they have been established. Dublin, Stockholm, Berlin, New York and other cities that have been highlighted in the past as areas of successful rent controls. The evidence does not support this analysis in our view and the lack of supply and availability of homes for rent in Scotland currently means that rent controls are being introduced at a time of acute market weakness.

Working with members and colleagues involved with the campaign group More Homes More Quickly, we have considered and endorsed the following approach to achieving a long term system of rent controls that could at the same time remain investible for the major institutional investors critical to achieving a step change in the supply of new homes to Scotland. Unless the Bill provides a platform for new residential investment it will clearly fail in its purpose of delivering housing, addressing homelessness and enhancing tenant rights.

Improving the Rent Control proposals in Part 1.

The key to workable rent control is a system which is clear and transparent. We have outlined below an approach which provides a balance between protecting tenants from unpredictable rent rises whilst also creating an environment to encourage the delivery of more homes more quickly. This approach is endorsed not just by SPF but also the More Homes More Quickly campaign.

It is imperative that Scottish Government brings clarity to the process of legislation. As matters currently stand, the important details of The Bill have been left to secondary legislation which is unlikely to be clear for 12 to 18 months. Thereafter, the first assessment by local authorities before any decision on the application of the powers is deferred until November 2026. There is a real risk that this lack of certainty continues to frustrate housing delivery, only exacerbating the current housing emergency caused by a lack of homes.

The need for clarity and greater certainty in the regulatory framework for the PRS sector

Rent control needs to be clearly defined and easily understood. We propose therefore that rent control needs to include a provision for index-linked inflation, subject to a sensible cap to avoid unexpected and sudden increases in inflation causing rents to rise unpredictably. Our members believe that a measure of CPI +1%, capped at 6% would provide certainty for investors and tenants. This is below recent registered and social landlord annual rental increases agreed in Scotland, and indeed with a cap of 6% this is below recent market data on modern build to rent in the UK which recorded a rental growth of 6.5% last years. The same analysis identified this rental growth would be expected to reduce as more rental homes are delivered and if inflation remains under control.

The assessment, administration and application of rent control needs to be consistent across the country with a universal framework to enable transparency. We must avoid introducing uncertainty and complexity if we are to successfully attract major investment. We believe Rent Service Scotland would be the appropriate administrative authority - but RSS would need to be appropriately funded and resourced to deliver these assessments.

Rent Controls should only endure for a clearly defined period, with frequent review periods and an overall maximum period. we suggest a 3 year duration of rent controls instead of five years, subject to a maximum term of 6 years. Rent Control measures should be linked to the tenancy not the property. The tenancy is the legal agreement and is much more than the bricks and mortar. It relates to management and maintenance, repair and necessary improvements, services and other supplies. It is not unusual for rents to remain fixed in a tenancy with the vacant period upon a tenant's departure being used for the purposes of making good the property and addressing improvements. Rent control between tenancies removes any incentive to invest / upgrade however and this appeared to be recognised by the majority of tenant organisations in response to the October consultation on this proposal. Rent controls should be applied to sitting tenancies only in our view. Further, from engagement with major investors in our membership, we understand that rent control between tenancies is seen as a fundamental barrier for long term investment. This perspective is reinforced by membership insights on wider regulatory considerations for key institutional investors such as pension funds, who are required by their regulators at times to take a worst case scenario to estimates of future rental income for example. So, if the legislation implies that there could be rent controls set at 0% starting in early 2027, then those investors may be unable to invest in the PRS because they may have to report a potential for zero rental growth for a period of up to 5 years from 2027.

Data and real rental evidence

There has been considerable misrepresentation of rental increases in many parliamentary and media commentaries. There has historically been a substantial difference between new lettings and in tenancy rental changes (or not - some landlords do not increase rent until they have a vacancy). New lettings in key hotspots such as Edinburgh and other specific areas occur where there is a significant imbalance between the demand of rental homes and the supply/availability of rental homes. This Bill as drafted will do nothing to address this inequation. Data needs to record actual rent paid not just advertised rents and should capture in-tenancy increases to get a true picture of overall trends. The data needs to be collected and coordinated nationally to be consistent and transparent. Accurate and comprehensive rental data is required to inform the need to enact controls and to ensure future policy is evidence based.

Exemptions

Sections 13 and 14 of the Bill (under Part 1) relate to potential exemptions or modification to rent control for certain properties. There is no definition made available regarding eligibility or indeed intention of these provisions, which are therefore left to regulations. We feel that this is an area where the Committee could consider how the Bill will relate to wider government policy concerning by providing landlords and investors with incentives to build or improve rental properties in order to improve the energy efficiency of the PRS sector. The Scottish Government's October 2023 consultation also asked whether there should be exemptions from rent control for developments with a 'social value'.

The SPF supported this suggestion. The intention would be to support investment in new mid-market rental

homes, for example. We have seen a growing diversity of build to rent led investments in England as the market has grown in size rapidly (there now some 100,000 modern build to rent delivered in the past decade in England according to research published on a quarterly basis by the British Property federation and Savills). We believe this an area (exemptions or modifications from rent control area policies) that the Committee could explore further with the government during parliamentary scrutiny.

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 support strengthening penalties where landlords have deliberately evicted tenants unlawfully. The issue of deliberation is important. A landlord might have sought to repossess a home for their own use only for events to cause that intention to no longer be viable - Ministers and lawmakers need to be aware of this reality.

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?"

Yes

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:

Our build to rent investors and landlords already generally support tenants to keep pets in their homes. However, it should be remembered that this can be a more difficult issue than a straightforward landlord to tenant rights debate. Neighboring tenants may regard their rights as being undermined by pets being introduced to a rental community. The legislation should support landlords to take account of appropriate guidance from organisations such as R/SSPCA in respect of the appropriate care of pets in rented accommodation.

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:

This Part of the Bill addresses an issue that has frequently caused concerns for tenants and significant uncertainty for landlords. Therefore, we welcome the fact that this Part of the Bill would set a process for tenants ending a joint tenancy arrangement and also provide transparency to a landlord.

Homelessness prevention

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

Don't know

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:

Our only observation is that without resources the ask and act duty may not be an effective approach.

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:

Our concern is that without appropriate resources this duty will be one that councils will struggle to deliver.

Domestic abuse

Q12. What are your views on the provisions in Part 5 of the Bill that relate to domestic abuse?

Please use this textbox to provide your answer:

This is not an area of professional expertise that we can comment on. However, we would observe that social landlords may struggle to intervene as effectively as they might wish to, if there are no available properties to provide support in cases of domestic abuse. We return to the nub of the problem therefore that we simply must have greater supply and availability of rental properties where people in domestic abuse circumstances may be supported professionally and sustainably.

Mobile Homes

Q13. What are your views on the provisions in the Part 5 of the Bill relating to mobile homes pitch fees uprating?

Please use this textbox to provide your answer:

No comments.

Fuel poverty

Q14. What are your views on the provisions in Part 6 of the Bill relating to fuel poverty?

Please use this textbox to provide your answer:

No comments, other than to note that wider policies involving energy policy and amendments to building energy standards will have a more significant influence on fuel poverty.

Other provisions in the bill and other comments

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

Please use this textbox to provide your answer:

Conversion of assured tenancies to the 2016 Act Private Rented Tenancy
We agree that it is a concern that older forms of tenancies remain in use to the degree that they currently are. It will be important however that the government review the scope and flexibility of the Scottish Private Rented Tenancy in order to support certain employment practices.

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, and as a representative body we would be happy to support the Committee to speak to witnesses from a variety of professional businesses who work in the rented sector.