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SPF Response to Housing (Scotland) Bill: Financial Memorandum

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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, shops, schools and other facilities and the infrastructure that serves them. Our industry is therefore a core component of the Scottish economy.

Our comments in this response will relate to measures within Part 1 as we had few concerns in relation to other parts of the Bill. Our overriding concern with the Bill however is that it does not address the critical supply side issue that are clearly fueling the housing emergency recently acknowledged by the Scottish Parliament.

Question page 1

1 Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Please provide your response in the box provided.:

Our comments relate to Part 1 of the Bill on rent. We have been broadly supportive of other relevant aspects of the Bill. Part 1 of the Bill on rent control proposals is a serious concern however because of the length of time, uncertainty and processes involved with the rent control provisions. This suggests significant costs and risk for investors, landlords, local authorities and, as we explain later, we believe this will ultimately lead to a lack of availability and probably increased rental pressures for tenants.

We did partake in both formal and informal consultation ahead of the publication of the Bill between September 2023 and January 2024. This included representations on the financial assumptions made, such as they were, by the Bill. This included comments on costs of management, adjustments for enhanced tenancy rights (i.e. supporting tenants to host pets). There was however little firm basis upon which to make financial commentary on the rent control mechanisms due to insufficient detail in the then consultation proposals ahead of the Bill. The

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major concern we have consistently raised is the opportunity cost of lost investment as a result of the Bill's proposals on the rent control mechanism and related proposals, such as not allowing properties 'in-between' tenancies to revert to market rents. We explain our concerns on this point later.

2 If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Please provide your response in the box provided.:

No, our concerns on lost investment have not been addressed. In fact in general the costs of running a property have not been addressed. Neither can we see an assessment of the costs associated with maintaining properties or improving them. These are key issues for housing providers that will based on an anticipation of returning to market rates. The Bill will block this recovery of costs through extending rent controls to 'in-between' tenancies although this appears to be barely addressed in the financial memorandum. This has been perceived as 'rent-setting' by many in the industry and we anticipate a greater number of landlords being deterred from investing in improving their properties, and in fact being incentivised to leave the market. We do not see how this works with the thrust of government policy set out in the Heat in Buildings Bill consultation. We note there has already been a significant drop in PRS households since the opening of lockdown restrictions, down from 400,000 in March 2021 to some 340,000 in March 2023 (Scottish Government Housing statistics). This exodus is only exacerbating supply pressures in the PRS sector, leading to increased upwards pressure on rents.

3 Did you have sufficient time to contribute to the consultation exercise?

Please provide your response in the box provided.:

The consultation exercise was very short and there was little ability to contribute fully due to the closed nature of the questions. Many of our members were frustrated by this exercise. The government did make provision after responses from both tenant and landlord representatives that allowed them to take written comments outside of the survey consultation.

4 If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

Please provide your response in the box provided.:

No, it does not acknowledge a multitude of costs already lost should the Bill's proposals continue unamended. For example for those developers who have secured planning permission for sites and are seeking investors before being able to deliver the site for rental housing, the extended period of uncertainty to November 2026 caused by the PRS assessments means that they could be 'timed out' and have to either secure planning application extensions or worse, submit new applications. This risk is that these investments even holding planning permission will be lost should the Bill continue in its present form. Indeed, the costs will go up if the planning application needs to be reworked.

More broadly the uncertainty caused by the Bill has put investments in new build for rent homes at risk. At our annual conference event panel on 24 April an investor explained they had some £450m of two sites alone – that is just one example. An in depth report for SPF provided by Rettie in April 2023 identified over £2.5bn of investment rising to nearly £3bn if we add the £450m example identified above, was at risk due to the ongoing uncertainty over rent control policy.

Question page 2

5 Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Please provide your response in the box provided.:

No. By squeezing the supply of new rented homes, the Bill will exacerbate the crisis of availability for renters. This means rents will inevitably increase as demand grows and supply is reduced. In other words, we believe the Bill's provisions are likely to increase rents. On a more specific point it does not appear to be recognised that a major driver of rents is the cost of annual salary increases, repair and maintenance costs. This is in addition to purely financial costs including the cost of finance (mortgages or major development finance). For properties that have let on a previous market basis and then either frozen or capped by regulation, then a change of tenant is when the investor would seek to rebase to the market which covers these increased costs. Otherwise we are in the realm of rent setting and this ill without a doubt cause investors to be deterred from new build for rent properties.

The costs for local authorities are not in our view fully apparent at this stage and we are concerned that the requirements for PRS assessments will be costly, or not done as holistically as they should be with a continued over-emphasis on new lettings data. The financial memorandum does suggest an escalating cost of between £2m and £7m according to expected take up of detailed rent control area assessments (part 1). We suspect this is but a part of the costs to be associated with the policy and it will not be welcomed by local authorities already grappling with

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reduced budgets and a list of additional duties in areas such as planning. We have suggested Rent Service Scotland be considered as the authoritative source for making assessments and it will be important that RSS is resourced to undertake this task appropriately.

6 If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

Please provide your response in the box provided.:

The majority of our members with rented sector investments will not be able to allay the risks associated with the Bill. This will lead to sites being stalled or changed to alternative uses (for example Purpose Built Student Accommodation). The change of use to PBSA has already been happening during the period of uncertainty we have seen in the rented residential investment market since 2021. We comment on the fuller cost of this uncertainty under Question 7.

The key issue is we need to restore confidence with investors if we are not to miss the opportunity for a significant increase in rented homes. We have suggested to the Local Government Housing and Planning Committee that a formula based on CPI +1% with a 6% cap to protect tenants against significant increases in inflation, could be made to work for investors. Unless we incentivise new build of rental properties, including market and mid-market propositions we will not begin to address the crisis in supply and availability in the rented sector.

7 Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

Please provide your response in the box provided.:

No. We explained in a report we commissioned from Rettie in 2023 that there was over £2.5bn of investment at risk and indeed this increases to around £3bn as projects further back in the pipeline are considered (see earlier answer). In total this equates to some 17,000 to 20,000 new homes including known affordable housing commitments. Yet this is only the initial investment and does not capture the full economic value of this new model of living. Industry experts have identified and based on their proven investments south of the border that over ten years there is some £4.5bn of economic value for the Scottish economy that is at risk if we get this Bill wrong.