

# Fair Rents (Scotland) Bill

## Introduction

A proposal for a Bill to protect private sector tenants by introducing measures to limit rent increases and to increase the availability of information about rent levels. The consultation runs from 15 May 2019 to 8 August 2019 (extended from 6 August). All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (\*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

## About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

*No Response*

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

David Gilmour

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

## Aim and approach - rent cap

Q1. Which of the following best expresses your view of capping private sector rent increases annually across Scotland at one percentage point above inflation (measured according to the Consumer Price Index (CPI))?

Fully opposed

**Please explain the reasons for your response.**

This will not rectify the current high rents in the 2 or 3 areas of Scotland where there is a perceived problem of "too high rents". However, it will adversely affect landlords in the rest of Scotland, e.g. Aberdeen where landlords have experienced drop of 40% over the past four years and rents are now back to 2007 levels, that was 12 years ago! Reaching for my Parry's Tables, I calculate that it will take about 14 years to regain that income assuming growth at 3.4%, the current CPI plus 1%. The solution is more homes, not interference with the open market. Capping rents will only lead to decline of the private rented sector in size and quality, as expenditure and investment is curtailed. This has happened before, as described in the report that Shelter commissioned and referenced by the proposer of this Bill. In relation to rent controls, this report states "The effectiveness of these rent control measures is, at best, mixed." and goes on to confirm the rental sector in three out of the six countries with rent controls used in comparison are in decline and a further two are static. This Bill is contrary to the Scottish Government's stated aim of encouraging investment and growth of the PRS.

## Rent level appeals

Q2. Which of the following best expresses your view of providing that, when tenants appeal their rent, rent officers and the First-tier Tribunal would be able to either lower or maintain the rent but not increase the rent?

Fully opposed

**Please explain the reasons for your response.**

An Appeal where the outcome has been partially decided. This is not Natural Justice. How does this sit with Article 10 and the right to a fair and impartial hearing?

## Landlord registration scheme

Q3. Which of the following best expresses your view of expanding the landlord registration scheme so that landlords must input the rent that they charge when they register, and update the system when the rent changes?

Fully opposed

**Please explain the reasons for your response.**

A contract for the lease of property is a private matter. How does this sit with individual rights under GDPR? This will be ignored by those individuals who do not comply with existing legislation and a burden on the responsible landlords who do and will have to bear the financial cost and additional bureaucratic burden. In my experience, prospective tenants know the going rate when they view a property. They certainly know the going rate when negotiating a rent reduction! The internet provides all the data needed. There are photos, EPCs, floorplans, the lot. And in my experience, the agreed rent is never too far from the rent sought. Even the Shelter Report acknowledges this: "Given the poor quality of rental data currently held, there is actually no evidence to confirm, or refute that actual rents differ substantially from advertised rents. Indeed, anecdotal feedback suggested there is no difference in Edinburgh and Glasgow, currently the country's most robust markets. Aberdeen, of course, given the recent collapse in the market, offered a quite different pattern, in that anecdotal evidence suggests agreed rents are below those advertised." Over time, there will be a definitive database formed by the published decisions of the HPC, with reasons and reference to comparables. An expensive, bureaucratic nightmare, no thank you!

## Other options - Rent Pressure Zones

Q4. Which of the following best expresses your view of tackling the problem of rents rising significantly faster than inflation by making it easier for a local authority to apply to create a Rent Pressure Zone (RPZ)?

Neutral (neither support nor oppose)

**Please explain the reasons for this response.**

At least this wouldn't burden the majority of areas of Scotland where there is no significant rise in rents over inflation, ie everywhere except the centre of Edinburgh.

## Financial implications

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
<b>Government and the public sector</b>		X				
<b>Businesses (including landlords)</b>	X					

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

<b>Individuals (including tenants)</b>		X				
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**Please explain the reasons for your response.**

If this Bill goes through, I fully expect there to be a contraction of the PRS. Ironically, this will lead to a higher imbalance to supply and demand. This will lead to "key money"/back-handers in areas like Edinburgh. There will be a cost to ALL property owners as house prices stagnate or decrease. Conscientious/law abiding landlords (the majority) will foot the bill in terms of complying with all the data gathering and restriction on rent increase. In tenancy rent increases will become the norm, as landlords try to maintain their income as costs rise - there's no cap on these (roof repairs, insurance premiums, furniture renewals, boiler breakdowns, etc, etc) or the ability of the Government to invent new regulations, e.g. minimum energy performance, right to rent checks or changes to tax laws (additional 4% LBTT, removal of mortgage interest relief, removal of wear and tear allowance, etc). Another likely effect is that landlords will act to try to increase rents before the proposal takes effect, to try and get a higher base level before the restrictions take effect.

Q6. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

No. Rent controls will lead to decline, it's happened before. The answer is more homes. The Government controls planning policy and finance - change policy to increase the number of low cost homes built over executive homes the landowner of a green field site still sees a massive uplift in site value irrespective of the type of housing built there! Change finance rules or provide funding to allow public sector house building.

Back to the Shelter report "Ultimately, it is supply-side policies, embracing both land-use and the financing new social rented housing, that will have a much bigger and more positive impact on the affordability issues impacting on lower income groups within society. Public policy-makers came to this conclusion a century ago, and it still has great resonance to this day (Royal Commission, 1917)."

## Equalities

Q7. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Negative

**Please explain the reasons for your response.**

Bill leads to contraction of supply leads to increased competition between tenants fighting over the remaining rentals leads to a choice for the bold landlords who remain. Which tenant to choose? The single, able-bodied adult in full time employment who can afford the rent from their own income and will be out all day at work or the minority option, perhaps reliant on benefits, with rent paid in arrears and subject to the vagaries of the correct form being submitted at the correct time?

Q8. In what ways could any negative impact of the Bill on equality be minimised or avoided?

File the Bill in the cylindrical filing cabinet on the floor.  
There is nothing in this proposal that encourages investment in the PRS. Supply, choice and quality have all improved since the removal of rent controls in 1988. Restrictions in supply mean the landlords have the choice, as described in my previous answer.

## Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

No

**Please explain the reasons for your response.**

What business model is sustainable with artificial restrictions on growth are introduced after the businesses have committed to their investment? Are house prices going to be sustained when landlords leave the market in droves? All home owners could see a drop in the value of their home, leading to negative equity, seizing up of the property market and the knock on effect on the housing industry. Anyone who bought a home at market value in Aberdeen between 2007 and 2018 is already likely to have a property worth less than it cost them.

## General

Q10. Do you have any other comments or suggestions on the proposal?

This proposal follows on from significant, radical changes to the PRS, the main one being the reform of tenancies from late 2017. Leases with automatic rent increases are gone (I never had these, but I have seen them). Now, in-term rent changes are restricted to once every twelve months, require three months' notice and there is an appeal procedure spelled out in the new tenancy. There can't be eviction by way of rent increase. One of the arguments for this Bill is that rents increase but tenants income may not, leading to hardship and possible loss of home. The new tenancy protects tenants' outgoings during the currency of their lease by ensuring landlords can't unilaterally and unreasonably increasing the rent (who does this anyway? do I want an empty property without income, requiring cleaning and redecoration and with council tax to pay?). At the outset of the lease, the tenant knows what the rent is and what their outgoings are. It's up to them if they proceed or find a cheaper alternative, perhaps a flat share or simply by staying longer in their family home or waiting for a RSL/Council lease. Rents are a function of supply and demand and supply of housing is not directly controlled by the private landlord.

Another issue comes to mind. Yesterday, I accepted a rent of £400 when I was asking £440. This was because the tenant could move in in three days and over the course of the term (a year, I can only hope, with there being no minimum term anymore) the income flow would not be that different if I held out for the £440 ( $400 \times 12 = 4800$  or say  $11 \times 440 = 4840$ ). Under the new regime, I wouldn't do this - A. because the rent would be published and form "evidence of declining rent" when it was actually a decision based on other aspects of the deal. B. because it would form the basis of the rent next time. So if the tenant vacated next month (quite possible under the new regime, remember), it would take three years of annual rent increases to get the rent back to £440, whereas at the moment, I could ask £440 again. The same thing happens at Christmas. I normally would drop the rent to take account of seasonal demand in December. The tenant benefits from a reduced monthly rent and gets accommodation quickly, as they require, and my income is unaffected. Chances are, after a year of no tenancy issues, I'd likely leave the rent alone. After all, if I tried to increase it to £440, it could cause my tenant hardship or the tenant might just decide to find another flat anyway. I then have a void, cleaning, possible redecoration, inventory and deposit hassles. All very time consuming. Under the new regime, I'd have to increase after 1 year and every anniversary thereof, by the maximum allowed, in case the tenant did move out (of their own accord)

Q10. Do you have any other comments or suggestions on the proposal?

in order to allow me to seek £400 + CPI plus 1%. If the tenant stays and accepts the cpi increase, then they are paying more rent than I would have charged otherwise. Crazy.

And what happens if I accept a lower rent because the flat is let unfurnished to a new tenant and when they move out (again, perhaps after even one month) I offer the flat on a furnished basis?

What constitutes "refurbishment" New carpets and decoration? In my experience, this does enhance the property such that the tenant will pay more, but who decides if I can now even ask £440?

Let's wait and see how the PRS changes following all of the recent changes and concentrate on dealing with enforcement of existing rules on Repairing Standard, Landlord Registration, etc. How many prosecutions has there been for failing to comply with an RSEO or worse, re-letting a property subject to an RSEO?