

# 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 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.

on behalf of an organisation

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".)

*No Response*

Please select the category which best describes your organisation

Representative organisation (trade union, professional association)

**Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).**

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.

Please select the category which best describes your organisation

The views expressed in the response have been arrived at following consultation with our members at branch meetings and via our member helpline. Responses submitted to the consultation by our members have also helped to shape our 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).

Scottish Association of Landlords

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.**

We consider a blanket national cap on rent increases is a "sledgehammer to crack a nut" and an unnecessary interference with market forces which are effective in determining an appropriate rent based on the supply and demand in the local area. The effectiveness of market forces to has been shown in the Aberdeen market where the average rent for a 2 bedroom property fell by 27% between 2014 and 2018 after many years of significant increases in response to local market conditions.

We are concerned that the evocative wording and cherry picking of data in the consultation paper paints a misleading picture in particular in omitting to mention that:

1. There are already protections in place for all tenants against the "exorbitant rents" referred to on page 17 of the consultation paper – rent increases above the open market rental value would be reduced on application to a rent officer (for regulated and private residential tenancies) and to the First-tier tribunal (for assured/short assured tenancies).
2. The majority of rents in Scotland have increased at well below the rate of inflation over the last 8 years. The Scottish Government's private sector rent statistics report for the period 2010 to 2018 reveals that the average rent for a 2 bedroom property rose by less than CPI in 15 out of 18 broad rental market areas. This can hardly be described as "dramatic increases in rent in numerous parts of the country" referred to on page 3 of the consultation paper.
3. Housing cost inflation is not exclusive to the PRS; supply shortages are pushing up social rents and house prices too. In the decade since 2007-08 Scottish Government data shows that average local

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authority rents have increased by 13% more than inflation. Meanwhile data from Registers of Scotland shows that average house prices in Scotland rose by 15.9% between 2012 and 2018.

Interference in the market in the form of a national cap on rent increases will have unintended consequences including:

1. Higher rent increases – as landlords try to increase rents to the maximum possible to protect themselves against open market rents increasing above CPI + 1% in the future. Landlords are currently unlikely to impose market value increases mid tenancy. A survey of 7,400 tenants in Scotland by the web portal Lettingweb in November 2014 found that 90% had never experienced a rent rise that they deemed to be unreasonable.

2. More frequent rent increases – where there is a formal process set out in law for rent increases landlords are more likely to follow it whereas historically the majority of landlords did not increase rents mid tenancy. A survey of 7,400 tenants in Scotland by the web portal Lettingweb in November 2014 found that 86% of tenants surveyed had never received a request for a rent increase during a tenancy and 91% of tenants thought that the frequency of rent reviews on their property has been reasonable. In July 2014 the Scottish Association of Landlords conducted a survey of landlord and agent members, asking for their attitudes to rent increases. The landlord survey showed that 78% of landlords do not increase rent mid tenancy. Amongst those who do, 70% last did so more than 12 months ago. 36% said they would be more likely to increase rents if the government introduced controls on how often increases could be carried out. Amongst our letting agent members only a third review rents periodically mid tenancy. 39% don't generally review rents mid tenancy and 28% do so only when the landlord requests it. 47% said they would be more likely to increase rents if the government introduced controls on how often increases could be carried out as reflected in these comments from members who took part in the survey:

"If rent increases are limited and not related to market a landlord would be foolish not to raise the rent whenever possible."

"If there is legislation in place stating how often and by how much rent can be increased landlords will expect it to be done."

3. Supply shortages leading to homelessness – rent caps will increase the risks and costs to unacceptable levels for many existing landlords who will have no choice but to sell their properties. Furthermore, potential new landlords will be put off from entering the market. This will reduce the supply of properties even faster, making it very difficult for tenants to find homes. This is at a time when there is increasing demand for homes in the PRS due to the shortage of social housing and a difficulty or unwillingness to purchase property, with the PRS the only sector able to house some of the country's most vulnerable households. Rent caps as proposed in the consultation paper are likely to lead to a reduction in investment and supply shortages for the following reasons:

a) The CPI bears no resemblance to the increases in costs that landlords incur. For example, CPI is not connected to mortgage rates which is a key driver to the viability of a landlord's business. Therefore any kind of rent increase restriction would mean that landlords would then be at risk of being unable to service their mortgage payments and other operational costs, particularly if there is an increase in mortgage rates.

b) Mortgage companies will further restrict the supply of mortgage finance available to potential landlords in Scotland as they will be very concerned at the new risk exposure of landlords not being able to service mortgage payments in a scenario where interest rates rise significantly. This may mean for example that they limit their maximum LTV ratios to 60% or 70% thus requiring landlords to find deposits of 30% to 40%.

c) If rent increases are limited to an arbitrary factor such as CPI, then the only way that landlords can even begin to absorb unexpected costs, such as replacing boilers, roof repairs, or being required to install carpets etc, will be to stop investing in other aspects of the property, e.g. redecoration and improvements. Over time the condition of rental properties in Scotland will steadily deteriorate. This will also happen if mortgage rates rise.

d) Due to the proposed inability to ever "re-set" the rent to market value, over time a greater and greater disparity will emerge between properties that have been in the rental market since the legislation was introduced (whose rent is heavily restricted) and those that are new to the market or have entered the market more recently (whose rent is more in line with market value). Some properties could be "blighted" – becoming a hugely unattractive investment for the current owner and prospective purchasers compared to similar properties which have never been in the rental market or entered the rental market more recently and therefore have had no or little restriction on the rent. It is likely that owners will sell such properties or move them into another tenure such as holiday lets in order to achieve a higher return on their investment.

A shortage of supply will drive open market rents (for properties new to the rental market which do not have any restriction on the initial rent charged) even higher in the areas the legislation is most designed to

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help.

The only effective solution to increasing rents is to supply more homes. Secondary to that a less damaging short term solution would be to work with the industry to produce better data on rent increases which will allow the existing RPZ legislation to be used where necessary at a local level.

## 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?

Partially opposed

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

The current system prevents speculative and unfounded appeals to the rent officer from tenants who might otherwise consider they've nothing to lose by challenging the rent. We are concerned that this proposal will lead to rent officers/the First-tier Tribunal being inundated with appeals at huge cost to the public purse.

## 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?

Partially supportive

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

We acknowledge the need for better data on rents and rent increases so that the alleged problem can be better understood and action taken at a local level where necessary. We consider that a requirement to input the rent charged into a central database is reasonable. However, we don't consider that the landlord registration system operated and enforced by local authorities is an appropriate platform for this. We call on the Scottish Government to set up, maintain and enforce a national rent register which landlords are required to update at any change in tenancy and any change in rent. A significant amount of data about the property would need to be collected in order for the data collected to be meaningful and useful including property type, size, location, condition, facilities and whether any services/charges are included in the rent.

## 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)?

Partially supportive

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

Whilst we have concerns about the unintended consequences of any form of control on rent increases, even at a local level, we do consider that if there is political will to place controls on rent increases it is more proportionate and less damaging to do this by focusing on "problem areas" using the existing RPZ legislation than by introducing a new blanket national policy. We do consider that it should remain an essential element of an RPZ application that robust data on mid tenancy rent increases is provided and we do support light touch measures to enable such data to be gathered from landlords.

## 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					
<b>Individuals (including tenants)</b>	X					

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

For government/public sector: • the cost of housing those made homeless by a reduction in the supply of PRS accommodation and more frequent and higher rent increases in rent brought about by caps on rent increases • the cost of enforcement of/training on the new legislation • the cost to the public purse of a big increase in the number of rent increase appeals if the ability for the relevant authorities to increase the rent above what the landlord has requested is introduced • the cost to the public purse cost of covering more frequent rent increases for those in receipt of housing benefit/universal credit • the cost of amendments to the landlord registration system For businesses/landlords: • the cost of compliance and training • the cost of subsidising properties where rent becomes well below the market level and no longer covers the operating costs of the business For individuals/tenants: • more frequent and higher rent increases to "keep up" with the market • costs associated with difficulties in finding accommodation when rent control legislation leads to a shortage in the supply of properties in the sector • more frequent rent increases leading to an increased risk of tenants getting into debt resulting in eviction and debt recovery action.

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

No

## 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.**

Because young people, low income households and families with children are disproportionately represented in PRS housing and will face the unintended consequences of a cap in rent increases which we have highlighted elsewhere in our consultation response including higher and more frequent rent increases and a shortage of available properties.

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

By removing the cap on rent increases and focusing on ways to improve the availability of data on rent increases that are needed to utilise the current RPZ legislation. At the very least we would like to see an ability to realign rents with the market at a change in tenancy with rent increase caps only applying to annual increases during a tenancy. This will prevent rents of properties which are let out long term from falling well below the market level due to the inability to ever reset the rent to market level.

## 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.**

Please see details of the unintended economic consequences referred to elsewhere in our response.

## General

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

There are some notable omissions in the detail of how the cap on rent increases would work which need to be considered/addressed:

1. Whether it will apply to all tenancies or only to new Private Residential Tenancies. If it will apply to all tenancies will it override conflicting tenancy terms and conflicting older legislation such as the controls on rents/rent increases in the Rent (Scotland) Act 1984?
2. If a property is sold with/without tenants is the cap carried forward to the new owner?
3. If a property is removed from the rental market for several years then re-let is the cap carried forward from when it was last let? How would the owner know what the previous rent was if many years have passed and there have been changes of ownership in the time since it was last let? The new owner might not even know if the property has been rented out previously or whether any improvements have been carried out at the property since then.
4. How would a tenant know at change in tenancy what the rent was during the previous tenancy?
5. What would constitute a "substantial improvement" allowing an increase of more than CPI + 1%?

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6. What happens if a landlord reduces the rent? This is currently done on a long or short term basis to reflect market conditions or to help tenants who are experiencing financial difficulty. Would the landlord be subject to the CPI + 1% cap when increasing the rent back up? If so this would deter landlords from offering a rent reduction.