

# 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

**Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:**

I have over 25 years working in senior Mortgage positions within the Financial Services industry plus over 30 years as a landlord, most of which has been in Scotland

Please select the category which best describes your organisation

*No Response*

Please choose one of the following:

I would like this response to be published anonymously

**If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):**

It's not clear to me what the implications are of publishing my response where it is directly attributed to me. i.e. who will it be published to and in what form. Will the full context of my response be included or just parts of it published and potentially taken out of context? For now therefore I would prefer it to be published anonymously, however in the future I may be open to persuasion on this. I'm certainly happy to meet with MSPs on the matter though.

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).

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.**

Whilst policy makers might be attracted by the idea of using rent caps to limit rent increases such a move will result in the unintended consequence of reducing the supply of rented properties, and the Scottish Government will be remembered by young people as the Government that not only made it impossible to afford to buy a flat but also to find one to rent as well. The effect would be devastating.

A wide range of factors outside the control of landlords have caused rents to rise.

Presumably policy makers have an overall objective of trying to ensure that tenants have sufficient rental property available at an affordable price.

To achieve this objective the market needs to be viable for landlords, because without landlords, there will be insufficient property available.

There are two key things to bear in mind before considering rent caps:

- 1) The reasons why rents have increased over the last few years and why they may still need to increase further.
- 2) What drives the supply of rental properties. Simple economics means that the greater the supply of rental properties the lower the (rental) price and vice versa - (as witnessed in London just now)

Without a full understanding of these issues, policy makers risk making the wrong decisions which will lead to unintended consequences, and this will have disastrous consequences for all the stakeholders, especially tenants, in the form of a serious shortage of rental accommodation.

- 1) Why have rents increased in recent years?

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))?

The key reason is that the cost to landlords of providing rental accommodation has escalated:

a. The removal of Landlord Mortgage Interest Tax Relief by the UK Government has had a massive impact on a landlord's net income, and landlords have had to increase rents to help offset some of this cost to avoid going out of business.

Example: a typical 1 bed £225,000 property on which a landlord may have an 80% mortgage (i.e. £180,000). The cost to the landlord of this tax change equates to £1,344 a year or £112 a month. Despite rental increases, this change has almost completely wiped out any net income that the landlord was making. It leaves the landlord with a net income of just £63 a month to cover all his other costs and try and make a profit. (see appendix 1)

b. The ever increasing burden of regulation (rightly designed to improve safety) has steadily increased the running costs for landlords, and they have been forced to pass some of this cost increase on to tenants in the form of rental increases in order to remain financially viable, and be able to continue offering rental property.

Example: a typical 3 bed HMO property - the cost of complying with new regulations over the last 5 years or so has increased between £1,350 - £5,200 depending upon whether carpets were needed (see appendix 2)

What are the likely drivers of future rent increases?

c. The unintended consequence of the introduction of the PRT lease is that it will almost certainly result in higher rents, as landlords are now exposed to the new financial risk of tenants being allowed to give just 28 days notice to leave. This is already resulting in more void periods for landlords. During void periods landlords still have to cover all their ongoing costs e.g. mortgage, compliance, Council Tax, Utility bills etc whilst the property is empty and no rent is being received.

d. Compliance with new Energy Performance Certificate (EPC) regulations - these remain unknown but could potentially result in significant one off capital costs for landlords, a proportion of which they may need to recover via higher rents in order to be able to remain financially viable and continue to offer rental properties.

2) What are the current drivers of the supply of rental property?

The main reasons that limit the supply of rental properties are ....

1) The huge increase in Land and Buildings Transaction Tax – On a 1 bed flat costing £250,000 the additional cost of purchasing a Buy to Let property by a landlord compared to 5 years ago is £9,600 (due to LBTT)

On a typical 3 bed flat in South Edinburgh, costing £350,000 the additional LBTT cost is £18,100 compared to 5 years ago (see appendix 3)

2) House prices have accelerated, so the additional cost to a landlord of buying a property to rent out in Edinburgh is £39,567 extra in 2018 than in 2014 (see appendix 4)

3) Lenders are now much more strict about lending on Buy to Let properties and now usually require a minimum 20% deposit from Landlords. Five years ago they only wanted a 10% deposit, hence landlords now need to find a further £35,000 to buy a typical 3 bed flat (see appendix 5)

4) Uncertainty of rental income – again due to the new PRT lease. Previously a landlord would be relatively safe in the knowledge that the tenant would stay for 12 months under their lease. This is no longer the case, and furthermore the tenant can now slip well behind in their rent payments before they can be finally evicted.

5) Greater costs – as detailed earlier w.r.t. mortgage interest relief, compliance costs and future unknown costs e.g. EPC regs

The combined effect of all these factors has been to kill off the Buy To Let market. It is no longer financially viable to buy properties to then rent out, unless a landlord happens to be in the very unusual position of being a cash buyer, and doesn't need a mortgage. The maths simply don't add up. The combination of all the factors listed above means that a potential Buy to Let landlord wanting to buy a 3 bed flat to rent out now needs to find an extra £92,667 capital compared to 5 years ago.

Even on a 1 bed flat purchase the extra capital required compared to 5 years ago is around £60,000. Every year a proportion of landlords sell their properties, either due to ill health, death, or they need the capital for other purposes. Historically they have been replaced by new landlords, or existing landlords buying more properties. There doesn't appear to be any published data to analyse this trend. However, anecdotal evidence suggests that the supply of properties may now be shrinking. The Scottish Government's own figures show that the number of flats or houses to rent as a whole with an HMO licence fell for the first time in 8 years in 2018. This fall in supply is only likely to accelerate in view of the earlier

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))?

points.

What would be the effect of limiting annual rent increases to 1% above CPI?

Such a move 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. The key risks/costs are as follows:

1) 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, hence any kind of rent increase restriction would mean that landlords would then be at risk of being unable to service their mortgage payments.

2) 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% i.e. find an extra £35,000 to £70,000 to buy a £350,000 3 bed property.

3) 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 repairs. Over time the condition of rental properties in Scotland will steadily deteriorate. This will also happen if mortgage rates rise.

#### Conclusion

The UK Government and the Scottish Government should be doing everything possible to increase the supply of rented properties in the market, as simple economics will come into play and have the effect of moderating rent increases. By making it more attractive for current and prospective landlords, they will increase competition and help minimise rent increases.

Instead, the combination of UK Government tax changes, coupled with the Scottish Government's LBTT, plus relentless increases in regulations for landlords, is reducing the supply of rental property, which is driving up rent levels. This is being compounded by the additional financial risks now being experienced due to the PRT lease, and will further be impacted by new EPC requirements.

The effects are already being seen, with the reduction in the supply of HMO properties.

Against this backdrop, if the Scottish Government now impose rent caps, this will reduce the supply still further, because the risks are too high relative to the rewards, and landlords will lose confidence and exit the market and invest their capital elsewhere. The Scottish Government will be remembered by young people as the Government that not only made it impossible to afford to buy a flat, but also to find one to rent as well. The effect would be devastating.

The overall problem is that no one in Government appears to be looking at the effect that all these individual changes are having holistically, - they are just being introduced piecemeal. When the costs of providing rental accommodation are increasing outside the control of landlords, rent increases are essential in order for landlords to stay in business and remain viable.

#### Appendix

##### Appendix 1 - Impact of Landlord Mortgage Tax Relief change

Assume a landlord has an 80% LTV mortgage on a £225k one bed property with a 3.5% interest rate (i.e. £525 a month) and rent of typically £700 a month in Edinburgh. i.e. a net income of £175 a month to cover all ongoing costs and provide a profit.

Prior to April 2017, there was 100% tax relief on mortgage interest. The tax bill was:  $(£700 - £525) \times 12 \times 40\% = £840$  a year (assuming the landlord is a higher rate tax payer)

From April 2020, there is zero tax relief on mortgage interest. Instead the mortgage interest only qualifies for a 20% tax credit. The tax bill will therefore be:  $(£700 \times 41\%) - (£525 \times 12 \times 20\%) = £2,184$

i.e. an increase of  $£2184 - £840 = £1,344$  a year or £112 a month. This tax change alone has almost wiped out any net monthly income for the landlord, and leads them with just  $£175 - £112 = £63$  a month to cover all ongoing compliance and maintenance costs and provide a profit.

##### Appendix 2 – Ever greater Compliance Regulations, with resultant additional costs

Over the last few years, landlords with HMO properties have incurred ever greater costs to remain compliant, as more and more regulations have come into force to keep tenants as safe as possible. Here are just a few examples:

- Change entrance door locks to 'Thumb Turn' locks - Typical cost to install £150
- Install carpets everywhere or obtain carpet exemption letters - Typical cost £2500 every 5 yrs
- Smoke detectors in hall cupboards containing any sort of fire hazard - Typical cost £100
- Fire resistant letter boxes to be installed – Typical cost £150

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- Smoke seals and door closers on almost all doors rather than just certain doors – Typical cost £600
- Fire safety glass required on glass above internal doorways – Typical cost £200
- Legionella checks, and Fire Risk Assessments required – Typical annual cost £150

#### Appendix 3

Impact of property inflation, LBTT and mortgage lenders requiring bigger deposits:

Example – a landlord wants to buy a £225,000 1 bed flat in south Edinburgh to rent out with a BTL mortgage:

- In early 2015, Stamp Duty would have cost: £1,000
- In 2019 the LBTT cost is: £10,600

A landlord now needs to find additional capital of £9,600 in order to buy a property to rent out.

Example – a landlord wants to buy a £350,000 3 bed flat in south Edinburgh to rent out with a BTL mortgage:

- In early 2015, Stamp Duty would have cost: £4,250
- In 2019 the LBTT cost is as follows: £22,350

A landlord now needs to find additional capital of £18,100 in order to buy a property to rent out.

#### Appendix 4

Data provided by the Registers of Scotland website shows that the average cost of a property in Edinburgh was £226,551 in 2014 and £266,118 in 2018. This is an increase of £39,567.

#### Appendix 5

A mainstream Bank or Building Society would have required a 10% deposit from a Buy to Let Landlord wanting to purchase a typical £350,000 3 bed flat 5 years ago i.e.£35,000

Today these same lenders typically require at least 20% deposit i.e. £70,000, hence a potential landlord needs to find an additional £35,000 compared to 5 years ago.

## 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.**

The quality of rental property varies massively, from damp, cramped, poorly maintained, unfurnished/badly furnished one bedroom flats from landlords who never respond to tenants requests, to beautiful apartments that have large airy rooms, with beautiful views, are expensively furnished, located in nice areas, and managed by landlords who give excellent service and fix problems within 24hrs. It's all about providing choice, and I don't see how a rent officer who is sitting in a remote office can fairly assess whether the rent being proposed by a landlord or letting agent fairly reflects the quality of accommodation/service level provided. I think rent officers will be inundated by appeals as tenants try their luck at getting rents reduced. In any event, surely when a tenant decides to rent a property they are fully aware of what the rent level is going to be and are agreeing to rent the property at that price, which they presumably feel represents value for money.....so how can it be fair for them to subsequently challenge this? When you buy any other good or service you can't go back the next week and say that you feel you've paid too much and want a relatively uninformed third party to adjudicate on it. Such a move will completely undermine confidence in investors in the market, which will reduce supply and result in a massive shortage of properties for tenants to rent.

## 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.**

Given my earlier comments which relate to the certain unintended consequence that rent controls will have of reducing supply and making it very hard for prospective tenants to find a property to rent, it seems an unnecessary bureaucratic requirement which will be very expensive for the Scottish Government, and hence for tax payers. Someone would have to pay for this, and if it's landlords then this will just add to the financial burden they have experienced in recent years, and hence reduce the amount of property available to 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)?

Fully opposed

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

This is the wrong solution. I would urge ministers to look at why rents have increased over recent years as most of these have been beyond the control of landlords. The combination of UK Government tax changes, coupled with LBTT, plus relentless increases in regulations for landlords (especially HMO's) is reducing the supply of rental property and driving up rent levels. This is being compounded by the additional financial risks now being experienced due to the PRT lease, and will be further impacted by the new EPC requirements. The effects are already being seen, as for the first time in 10 years there has been a fall in the number of HMO properties, as per Scottish Gov't own data shows. Against this backdrop, if the Scottish Government now impose rent caps this will reduce the supply still further because the risks are too high relative to the rewards, and landlords will exit the market and invest their capital elsewhere. The Scottish Government should be doing everything possible to increase the supply of rented property not reduce it as simple economics will come in to play, just as they have in London, and rents will fall.

## 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.**

As already explained earlier in my submission, a wide range of factors outside the control of landlords have caused rents to rise, and the unintended consequence of the proposals will be to drive these costs up further. For example Mortgage Lenders will be much less willing to lend to the sector and will demand much larger deposits from landlords i.e they will restrict LTV's to possibly just 60%. This will mean that the number of properties available to rent will decline and this will drive up rents. Like it or not, the market needs responsible landlords in order to provide rented accommodation, and if you drive them away then it will starve the market of rental property to the disadvantage of the very people Government are trying to help.

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

The time spent on this Bill would surely be better spent on looking at how the overall supply of rental properties can be increased as this will drive down rents. For example reviewing LBTT levels on second properties.

## 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.**

The unintended consequence of this Bill is that rents will rise even faster, hence disadvantaging young people who won't even be able to afford to find a property to rent, let alone buy one.

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

*No Response*

## 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



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?

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

There will be major unintended consequences of this Bill. It is the wrong solution to the problem of rising rents. Ministers need to look at why rents have risen rather than just trying to cap further increases. Increases have largely happened because of several UK and Scottish Government policy and tax changes which have been introduced piecemeal rather than looking at the overall picture holistically, and rent caps will just exacerbate this. The effect will be to drive up rents even faster and reduce the availability of rental property, so that it is near impossible for prospective tenants to find accommodation at all. This will therefore have a significant detrimental impact on the economy as people are put off moving to Edinburgh due to all the adverse press coverage that will be generated about the shortage of property to rent.

## General

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

Every year a proportion of landlords sell their properties due to ill health, death, or to use the capital for other things. Historically they have been replaced by new landlords or existing landlords buying additional properties. Anecdotal evidence suggests this is no longer happening, and it's backed up by HMO data which shows a decline last year, for the first time ever, in the number of registered HMO properties. This is not surprising as the maths no longer add up, due to the combination of tax changes, LBTT increases, Government regulations, PRT lease impacts etc. which have all combined to make this market no longer viable to landlords.

While this may be music to the ears of some politicians who therefore are happy to see these properties sold back to the residential property market, they fail to realise that the price of these properties are way beyond the means of potential tenants. The net effect therefore will be a steady decline in rental properties, which will cause a major problem for potential tenants as they simply won't be able to find anywhere to live. They will almost certainly have to increase their budget and search for something more expensive, but even then may not find anything available.

As someone who has spent a large chunk of my life in the Mortgage industry working in several high profile financial institutions I am certain that the proposed Bill be mean that mortgage lenders will all but stop lending on Buy To Let mortgages, as they will be very concerned about the ambiguity around how potential borrowers will be able to cover unforeseen costs if their hands are tied in terms of rent increases. (Unforeseen costs such as mortgage rate rises, building repairs, new EPC requirements etc). This will therefore reduce the supply of rental properties available and hence young voters will remember the Scottish Government as making being responsible for not only making it impossible to buy a property but also for making it impossible to find a property to rent as well. Furthermore it will damage the economy as Scotland will no longer be an attractive place to move to from a career perspective, given the difficulty in finding anywhere to live.