



Historic Houses Scotland (HHS) represents independently owned historic castles, houses and gardens

Consultation Title	Fair Rents (Scotland) Bill
Date	24th July 2019
From	Historic Houses Scotland
Telephone	
Email	

throughout Scotland. The bulk of Scotland's built heritage is in independent ownership which means that its future stewardship is secured for the benefit of Scotland and the Scottish people at little or no public expense.

Our members, some of whom are private rented sector landlords or tenants, are interested in the functioning of the housing market in Scotland and the Scottish economy and we work closely on areas of common interest with the Scottish Government and other interested stakeholders. One concern we have with the consultation document is the notion of exploitative landlords. Clearly in any sector there are rogue operators who should rightly face sanction, but in our experience the vast majority of landlord / tenant relations are positive, both parties acting responsibly. We are concerned that with around 70% of private rented sector properties owned by small-scale landlords who let out 5 or fewer properties, these landlords accounting for 95% of the total number of private rented sector landlords could leave the market with further challenges such as rent capping/controls.

We therefore welcome the opportunity to respond to this consultation but have significant concerns in respect of the proposed Fair Rents (Scotland) Bill. Housing is not homogenous across Scotland, nor in rural Scotland. This blanket one size fits all approach proposed in the Bill does not adequately address the real challenges nor provide the correct solutions to issues with the private housing rental market and could lead to numerous unintended consequences.

As stated, we are concerned that if the Bill was passed there would be a substantial number of landlords leaving the private rented sector and it should be noted that rural empty homes have unique issues. There are often access and infrastructure problems and from a HHS perspective we are fully aware that once a property has fallen into serious despair it is often not viable to bring it back into useable order.

We strongly recommend that this Bill is not taken forward.

1. 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 supportive
- Partially supportive
- Neutral
- Partially opposed
- Fully opposed
- Unsure

HHS is wholly opposed to the introduction of capping private sector rent increases annually across Scotland as proposed. We also consider it vital that the important issue of rent levels and rent increases is considered in its proper context.

- Rules on restricting rent increases to once every 12 months were a key part of the Scottish Government's Private Housing (Tenancies) (Scotland) Act 2016, which came into force in December 2017. That 2016 Act made a number of regulatory changes including the removal of the no-fault ground on termination, which have placed additional burdens on landlords.
- There is provision in the 2016 Act to designate an area as a Rent Pressure Zone (RPZ). If an area is designated as an RPZ, a cap (maximum limit) is set on how much rents are allowed to increase for existing tenants with a private residential tenancy each year in that area. As yet, no RPZ is in place in Scotland, despite the existence of that power.
- For pre-1989 tenancies a landlord or tenant of a regulated tenancy under the Rent (Scotland) Act 1984, can apply to the Rent Officer to have a 'fair rent' fixed.
- Capping seems to work against the current proposal for improving energy efficiency standards and moving towards low carbon fuel options. The RPZ Guidance states that any improvements relating to energy efficiency will be "*considered on a case by case basis*". Significant improvements will be required to improve the general condition of housing in Scotland. It is unfeasible for property owners to carry these out with no guarantee they can get funding or recoup these costs through rent. The Energy Efficiency Regulations are still being consulted on, and no rental cap should be considered until more details are available.
- Rental caps have been tried before in the UK, and this caused a decrease in supply and resulted in landlords being reluctant to maintain or make improvements to their properties. If further regulation is introduced, many landlords may feel that it is unviable for them to continue to offer private accommodation and take their homes out of the rental sector. We have concerns in a rural context where private landlords offer a substantial proportion of affordable accommodation. If even a small percentage of these properties are removed, there will be substantially increased pressure on social housing in these areas and could result in homelessness for the most vulnerable.
- There is no incentive for those living in the controlled sector to move out when their family moves away, and the space becomes too big for them, as they would if they were paying a market rent. Rooms lie empty while other people remain homeless on the streets. This can lead to further impacts such as employment mobility being stifled when those no longer contributing to the working economy stay put, whilst others who are productive have far longer commutes. It is vital that the wider economic impact of this Bill is thoroughly scrutinised.
- Internationally there have been various endeavours in respect of rent control regimes. As the consultation document itself alludes to there have been "teething problems" in Ireland. In fact there have been a number of issues around exemptions and monitoring of the system in Ireland and the level of rent increase in Dublin in the first quarter of 2018, a year after introduction, was 7% despite the 2% set limit.

As an apolitical organisation, we note that once government becomes involved with controlling rents, there is a risk it becomes a political issue at elections and the longer rent control remains in place, the more difficult it is to remove it: inflation ensures that controlled rents fall further and further behind an economic level, until it becomes politically impossible to remove the controls without a public outcry.

Finally, we note that the suggestion is CPI +1%, whereas it is RPI which includes the costs of housing. This would seem to be anomalous.

2. 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 supportive
- Partially supportive
- Neutral
- Partially opposed
- Fully opposed
- Unsure

HHS naturally feels that it is of course entirely appropriate that tenants should have the ability to appeal their rent if they disagree with it. However, we are concerned that if tenants have a guarantee that their rent could be lowered or maintained, but not increased, then all tenants will appeal their rent. This could result in the private rented sector having the same number of appeals as Non-Domestic Rates. Dealing with these appeals will create much additional work and could have an impact on landlord and tenant relationships. Many of the issues which the Bill seeks to address stem from a lack of robust data or evidence. Therefore, gathering this evidence should be the primary purpose of any new legislation.

3. 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 supportive
- Partially supportive
- Neutral
- Partially opposed
- Fully opposed
- Unsure

We are not supportive of expanding the scheme and feel this is unnecessary. The consultation document itself recognises that the scheme is functioning well. Extending the landlord register to include rent prices serves as a blunt instrument comparison – a similarly located pair of houses, one in excellent and one in very poor condition, may rent for dissimilar sums but the only public comparator available would then suggest the very poor house/landlord would be the better of the two. This would present a misleading situation and updating would be involve further administration and checks. Many tenants may also not be happy with their rent level being made available in this way.

4. 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 supportive
- Partially supportive
- Neutral
- Partially opposed
- Fully opposed
- Unsure

Rent Pressure Zones were introduced at the end of 2017. More time is needed to judge the effectiveness of these zones. The premise that these zones are not working seems pre-emptive when no zone has yet been designated across Scotland. There needs to be proper

consideration as to the reason no successful application has been made, rather than simply reducing the criteria. Interestingly, at the time of introduction of RPZs it was noted that methodology for identifying them was more complicated than suggested because rent rises vary according to the demand for particular sizes and types of private rented sector housing in particular locations. This latter point is ignored by the proposed Bill with its all-encompassing approach.

5. 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
Government and the public sector	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Businesses (including landlords)	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Individuals (including tenants)	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For the public sector the introduction of a rent cap and altering the appeals process will generate further work at a time of limited resources. There will be both staffing and time requirements. Given the number of consultations and upcoming reforms to the private rented sector we would suggest that no further regulations are proposed at this time. It is vital to understand the impact of changes in advance of simply making further reforms.

We have set out elsewhere in this response that we believe the costs to landlords will be significant and adversely affect supply in the sector. The potential impact cannot be understated. The regulations on repairing standards and energy efficiency will mean higher costs for landlords and combined with the recent changes with the introduction of the new Private Rented Tenancy landlords are currently facing numerous challenges. It is important for the sector that individuals are not disincentivised from the private lettings market.

Despite the intent, we are not clear that the rent cap will be of substantial benefit to tenants. Any financial gain will in fact be wiped out by the loss of accommodation.

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

On a fundamental level, the aim of the Bill is to tackle rising rents. However, the housing shortage which is driving prices and rents is caused by a multitude of issues. Restrictions on building, complex planning rules, poor infrastructure, remoteness and increased regulation and costs are all factors. We are concerned that all that rent control would achieve is the exodus of responsible landlords over time, exacerbating the housing shortage. We feel the focus should be on the housing market, encouraging more investment, both public and private and provision of incentives, as well as the relaxation of planning restrictions where appropriate and sensible.

7. 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?

- Positive
- Slightly positive
- Neutral
- Slightly negative
- Negative
- Unsure

Introduction of a rental cap, in addition to the other recent and upcoming legislative changes will likely mean a reduction in the number of properties available to rent. This will place further pressure on supply and could potentially affect individuals across the board. The consultation paper itself recognises possible shrinkage in the sector, albeit considers this will not be substantial, without presenting any clear evidence why.

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

The Bill takes such a sledgehammer approach and in isolation from the wider policy context it is difficult to identify how negative impacts could be minimised or avoided. If the Bill is taken forward such would be the number of issues that we are doubtful that avoidance would be possible.

We note paragraph 2.61 of the report commissioned by the Mayor of London on “Reforming Private Renting”, published this year and would suggest such an approach if being taken forward is absolutely vital: *“The Mayor is clear that any system of rent control must both tackle problems around affordability and avoid or mitigate potential negative impacts. Some international examples demonstrate that rent control has the potential to reduce the supply and quality of rental housing if the approach chosen makes investing in the rental market less attractive. Any system should be implemented gradually over time, and its design should be informed by a robust evidence-gathering process, to address such wider impacts and avoid unintended consequences”*.

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

- Yes
- No
- Unsure

We do not believe that the current proposals outlined in the Bill can be delivered sustainably. If long-term, sustainable investment into new rental housing is deterred, this would be a step further away from resolving the underlying housing issue of a lack of supply. If taking this Bill forward there requires to be full economic, social and environmental impact assessments undertaken. Prior UK as well as international experience of rent controls requires to be thoroughly reviewed.

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

HHS feels that the potential impacts of the Bill could be immensely damaging to the private rented sector, not just for landlords or only for tenants, but for both parties. Introducing further powers, while existing powers have not yet bedded in or been properly assessed would not make for efficient legislation. Proper evidence-based consideration is required rather than rushing into a quick fix solution which will create further problems.