

## Briefing for Stage 3 debate of the Housing (Scotland) Bill on 25 June 2014

Shelter Scotland supports the aims of the Housing (Scotland) Bill and welcomes many of the measures in the Bill. Please find below the amendments which we support or do not support, set out in the order in which they will be debated<sup>1</sup>.

### **Group 1: Abolition of right to buy**

**We do not support amendments 38 and 39** in the name of Alex Johnstone MSP which seek to remove the sections in the Bill which will end the Right to Buy.

Shelter Scotland welcomes the ending of the Right to Buy in Scotland, but feel that a 2 year implementation timetable is too long. **We therefore support amendment 72** in the name of Mary Fee MSP which will reduce the timetable from 2 years to 1 year and urge MSPs to vote in favour.

### **Group 2: Allocation of social housing and creation of short Scottish secure tenancies**

**We do not support amendments 1 and 2** in the name of John Lamont MSP. There is no evidence to show that there is widespread allocation of social housing to households who do not have a local connection. Most local authorities already follow best practice about ascertaining if a person has a local connection when allocating houses. It is the lack of socially rented housing which is putting an undue strain on the allocation of social housing in some areas and these amendments will not remedy this problem.

Local authorities already have powers to determine a homeless applicant's local connection when considering whether they have a duty to provide housing. As with all parts of the allocation framework, priority should be determined by individual need as defined in legislation and guidance. This, very importantly, allows people to move in accordance with their life circumstances, employment opportunities and other considerations which should not be detrimental to their chances of being allocated a home.

**We support amendment 40** in the name of Jackie Baillie MSP – reasonable preference and unmet housing need: requirement to provide guidance

This amendment which would require Scottish Ministers to provide guidance on the circumstances where individuals have unmet housing needs. This would replace the current definition which asks social landlords to make this assessment, based on an individual's needs not being met by

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<sup>1</sup> Groupings of Amendments for Stage 3 can be found here.  
[http://www.scottish.parliament.uk/S4/Bills/Housing%20\(Scotland\)%20Bill/b41as4-stage3-g.pdf](http://www.scottish.parliament.uk/S4/Bills/Housing%20(Scotland)%20Bill/b41as4-stage3-g.pdf)

housing options. Given the variety of practices adopted in relation to housing options across Scotland, guidance would provide much-needed clarity to what can be a very complex issue.

**We do not support amendment 41** in the name of Alex Johnstone MSP – factors which may be considered in allocation: age. We strongly object to this amendment as allocation of housing must be based on need and age is not a ‘need’ category.

**We do not support amendment 42** in the name of Mary Fee MSP – factors which must be considered in allocation: sustainable communities. Shelter Scotland believes that in all social housing allocations, it is the applicants’ need that should primarily determine the allocation and therefore we cannot support this amendment to current allocations legislation. While Shelter Scotland believes it is absolutely critical to the sustainability and success of each allocation to take the needs and circumstances of the household into account, the proposed amendment would allow individual landlords to make subjective decisions, as individual and un-evidenced factors could be taken into account when judging impact.

### **Anti-social behaviour, Sections 8 and 15 in the Bill**

Shelter Scotland believes that responses to anti-social behaviour should be strong, consistent and *effective*. However, the proposals in the Bill to change eviction processes (Section 15 – Grounds for eviction: antisocial behaviour) and move tenants on to less secure tenancies (Section 8 – Creation of short Scottish secure tenancy: antisocial behaviour) are problematic and in our view will **not** be effective. For further details about our concerns on this section please see our [written evidence](#) (pages 7 and 8).

**We support amendment 4** in the name of Margaret Burgess MSP, as it does address one of our concerns about section 8 in the Bill, as it will ensure that tenants are informed why they are being put onto a less secure tenancy.

### **Private rented sector**

In the past 10 years the private rented sector in Scotland has doubled in size and now provides a home to 310,000 households, meaning 13% of all households in Scotland currently live in the private rented sector. Many more families now live privately rented homes – 28% of households renting privately in Scotland have children, compared to 25% in the social rented sector meaning the private rented sector now houses proportionately more children than the social rented sector<sup>2</sup>.

With the sector continuing to expand and housing more diverse groups of tenants we believe it’s time to create a sector fit for the 21<sup>st</sup> Century. We are therefore very supportive of the changes this Bill is introducing to improve standards in the private rented sector, and look forward to further reform of the tenancy regime in due course.

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<sup>2</sup> All figures - Source: Scottish Household Survey, Annual Report 2012-13  
<http://www.scotland.gov.uk/Topics/Statistics/16002/PublicationAnnual>

## Private rented sector

### Carbon monoxide alarms and electrical safety checks

We are delighted that safety within the private rented sector will be improved with the inclusion at stage 2 of two important measures. Jim Eadie MSP successfully introduced an amendment to ensure carbon monoxide alarms will be installed in all private rented properties. Bob Doris MSP successfully introduced an amendment to bring in electrical safety checks which must be carried out every 5 years in all private rented sector properties.

### Group 3: Right to representation at the First-tier Tribunal

We support the private rented sector tribunal which will deal with landlord and tenant disputes. We would however like to ensure that all tenants who require help and support navigating the tribunal system – through legal or lay representation – will be able to access this. We therefore support the intention of amendment 3 in the name of Jim Hume MSP.

### Group 4: Landlord registration: Letting code

**We support amendment 5** in the name of Patrick Harvie MSP. This amendment will bring into force a lettings code of practice for all private rented sector landlords under the Antisocial Behaviour (Scotland) Act 2004. This would have the effect of clarifying how local authorities apply the ‘fit and proper person’ test in landlord registration, improving the management of private rented sector properties across the board.

### Group 7: Private Rented Housing: rent reviews, rent increases and security of tenure

Shelter Scotland would like to create a more secure and stable sector for tenants, in particular for the growing number of families with children and those effectively locked out of home ownership and the possibility of accessing a socially rented home. Changing from the current short assured tenancy – to a tenancy which provides tenants with greater security of tenure will not only give private tenants a secure housing option, it will also empower tenants to be active consumers and use their rights effectively. As part of any new tenancy arrangement which has additional security of tenure there should be a system which provides for stable and predictable rents, which provides certainty for both tenants and landlords.<sup>3</sup>

We appreciate the focus on reforming the private rented sector which **Patrick Harvie MSP** and **James Kelly MSP** have brought to the Bill. It has been helpful to highlight the need for change and to examine some of the options/models which could provide greater security of tenure coupled with stable and predictable rents. This has been very useful as we move forward to further discussion and consultation on how to create a flexible, secure, well managed private rented sector with stable and predictable rents. It is encouraging that there is broad consensus to make changes which will meet the needs of all private tenants. A report recently published by the private rented sector tenancy review group established by the Scottish Government recommended that a new private tenancy be set up for all future lets. We look forward to working with all stakeholders to

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<sup>3</sup> As we argue in our policy report ‘The case for greater security for private tenants in Scotland’, Shelter Scotland, September 2013  
[http://scotland.shelter.org.uk/professional\\_resources/policy\\_library/policy\\_library\\_folder/the\\_case\\_for\\_greater\\_security\\_for\\_private\\_tenants\\_in\\_scotland](http://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/the_case_for_greater_security_for_private_tenants_in_scotland)

create a thriving, secure and professional housing sector which will provide tenants with a secure and stable home.

### **Group 8: Private rented housing: Enhanced Enforcement Areas**

**We support amendment 51** in the name of Drew Smith MSP. We support the principle behind this amendment which would enable local authorities to take additional action in relation to poor conditions and management in the private rented sector.

### **Group 10 and Group 12: Letting agent registration: duration of registration and Letting Agent Code of Practice**

We support the measures in the Bill to regulate letting agents.

**Amendments 17, 18, 19, 20, 21, 22 and 37** in the name of Patrick Harvie MSP and **amendment 56** in the name of Mary Fee MSP – letting agent regulation.

Shelter Scotland supports the intention of these amendments which would ensure that the code of practice for letting agents covers issues such as: how much rent can be required at the beginning of a tenancy; how much of a deposit can be required; that an agent must provide a tenant with a written tenancy; that agents must not discriminate against tenants who are in receipt of housing benefit; that agents must not discriminate on the basis of their immigration status, or because they have children. We hope all these issues will be covered in the code of practice for letting agents. We also support Patrick Harvie MSP's amendment to require that the code of practice for letting agents comes into force 18 months after Royal Assent.

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