

Shelter

Briefing for the parliamentary debate at Stage Three of the Planning etc. (Scotland) Bill

This briefing sets out Shelter's concerns about amendments that would change the way that planning authorities regulate houses in multiple occupation (HMOs). Shelter is aware of the tensions generated within communities where there are a large number of badly managed HMOs. Nevertheless, **Shelter urges MSPs to reject these amendments, which we believe have been developed in too much haste, without any scope for consultation and which we also believe would intensify affordable housing shortages.**

[THIS BRIEFING RELATES TO AMENDMENT NUMBERS 109, 112, 113, 140 & 141](#)

Key Points

- The amendments have been introduced at a very late stage in discussion of this bill, which has allowed no opportunity for consultation and discussion. Such a complex and detailed area of housing policy should have been subject to proper scrutiny by a Parliamentary Committee and dialogue with bodies representing both tenants and landlords in order to fully assess their impact on the private rented sector in Scotland.
- Shelter has had provisional discussions with local authorities and there is concern that these amendments would override local policies, interfere with plans for affordable housing provision and have significant resource implications.
- The policy intention behind the amendments is to restrict and control the number of HMOs. MSPs are aware of the widespread concern about the availability of affordable housing, particularly in Scotland's major cities. These amendments would place additional pressure on a vital housing option for young professionals, students and migrant workers¹. People central to a thriving economy would be pushed out of city centres by measures designed to limit the number of properties to rent.
- The amendments do not address the central problem. HMOs are increasingly common because house prices are so high relative to incomes, forcing people to share. Simply to restrict HMO numbers while ignoring that market reality is short-sighted.
- The HMO licensing regime was reformed as recently as the Housing (Scotland) Act 2006. Licensing is vital to the Parliament's commitment to drive up standards in the private rented sector. Requiring landlords of HMOs to get planning permission on top of a stringent licensing process is both costly and time consuming, and has the potential to act as a disincentive to landlords to let property. At worst, it may result in more landlords seeking to evade licensing. These amendments undermine the programme to foster a thriving and secure private rented sector for Scotland.

¹ HMOs are often characterised as "student-accommodation". However, measures to restrict HMOs would impact just as much, if not more, on young workers. In Edinburgh, for example, only a quarter or people in rented accommodation are students.

These amendments, in the order set out in the Marshalled List, are:

Amendment 109 in the name of Pauline McNeill &

Amendment 112 in the name of Andrew Arbuckle

Both of these amendments would require new HMOs to get planning permission. Amendment 109 is preferable to Amendment 112 because it allows local authorities to individually decide in their local plan how planning permission should apply to HMOs. **However, the amendments do not accurately reflect that for planning purposes, a change in use cannot be established on the basis of the number of people in a property.** To determine a change of use, a planning authority must be able to identify that making a property an HMO will have an impact on, for example, services or traffic². If a property already has three or more bedrooms this is hard to demonstrate. Refusal of planning permission in these circumstances would lead to appeal and be both costly and time consuming for planning authorities.

Amendment 113 in the name of Pauline McNeill

This amendment would mean that planning consent is required if extra rooms are added to a property. It would require significant additional work and cost for planning authorities that has not been fully considered. The amendment would have much wider impact than intended, and apply equally to families seeking to make room for additional children. The application and impact of this amendment has not been investigated.

Amendment 140 in the name of Pauline McNeill

Shelter has some sympathy with the policy intention of this amendment: licensing of HMOs is critical to drive up physical and management standards in the private rented sector and ensure tenants and neighbours get a fair deal. **However, the amendment does not allow for the fact that HMO licensing has only been mandatory across Scotland since October 2000.** Prior to this only seven local authorities operated a discretionary licensing system for HMOs of 5 or more people³. How a requirement to have held an appropriate licence for at least 10 years would apply in areas where there was no licensing system 10 years ago would need to be clarified during debate.

Amendment 141 in the name of Pauline McNeill

This amendment seeks to link the planning and licensing regimes by giving local authorities a power to withdraw a licence as penalty for a breach of planning law. Licensing of HMOs is a question of establishing whether the landlord lets properties with appropriate physical and management standards, and should not be determined by the balance of renting and owner occupation in the neighbourhood.

For more information, contact Rosemary Brotchie, Policy Officer on 0131 473 7191 or Gavin Corbett, Policy Manager on 0131 473 7194

² This position is supported by legal opinion sought by Edinburgh City Council and by case law evidence in England

³ Hector Currie (2002) "Review of the First Year of the Mandatory Licensing of Houses in Multiple Occupation in Scotland" Scottish Executive Social Research.