

**Consultation response**  
**Shelter Scotland**  
**written evidence on**  
**the Housing**  
**(Scotland) Bill**

**From the Shelter policy library**

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**Shelter**

## Shelter Scotland written evidence on the Housing (Scotland) Bill

Shelter welcomes the proposals for legislation covering the private sector in Scotland. Since devolution the legislative focus has overwhelmingly been on changes to the landscape of social housing, with little attention paid to the private sector. This sector has long required a policy focus that leads to increased standards fit for twenty-first century homes, better rights for tenants living in the private rented sector, increased management standards for landlords and better legal redress for tenants.

Shelter contributed to the development of the policy agenda on the private sector as a member of the Housing Improvement Task Force, and made a number of recommendations for the creation of a more vibrant private sector, and in particular a better functioning private rented sector. Our response focuses largely on these key areas, and on proposals relating to mobile homes. However, we also make points relating to the impact of introducing sellers' surveys on those who may wish to exercise their Right to Buy.

The following principles are fundamental to developing proposals for a Private Sector Housing Bill.

- A healthy private sector is important for the functioning of the housing market as a whole. Physical conditions within the private sector should not be viewed in isolation from broader housing policy. Concentrations of disrepair can lead to abandonment of properties, low demand and market failure. This housing bill could include a number of provisions to prevent and respond to these housing problems. A focus on area renewal, the introduction of Compulsory Leasing Orders for empty homes, and the creation of a thriving private rented sector could provide many areas of Scotland with a new lease of life.
- Policy makers have by and large viewed the private rented sector as a small sector that provides for households on a transitory basis, before they enter owner-occupation. In contrast to England, the private rented sector has not increased in size, with the only real growth in the last ten years being in the major cities. However, the lack of affordable housing in the social rented sector, and the increase in house prices have meant that many more people are turning to the private rented sector to be housed. These fairly recent trends have increased the need for more active government engagement to create a thriving private rented sector. The policy agenda should create a sector that is easy to enter and remain in, and provides a sustainable housing solution to those who cannot access social housing or buy their own home.
- The continuation of an unregulated private rented sector throughout the late 1990s resulted in a weakening of the relationship between private landlords and the public

sector. Landlords viewed regulation as a threat to business opportunities and there was a continuing perception of landlords as being purely motivated by making money. Of course neither caricature is wholly accurate, but a debate on the private rented sector must respond to landlords' concerns; balancing that with the legal rights of tenants and the long-term health and reputation of the sector.

- For over a generation, people living in mobile homes have had far less security than those living in permanent structures. However, current legislation makes a distinction in rights between those who own and those who rent their mobile homes. Public policy must accept and act on the principle that anyone who rents a mobile home should have equivalent rights as those who rent permanent structures.

## Empty homes

Focusing on prevention and resolution of disrepair will have a positive impact on future standards in owner-occupied accommodation. However there are still a large number of properties that, for various reasons, are already beyond use. At present there are 87,000 empty homes in Scotland; 23,000 are long-term vacant for six months or more, 41,000 are transitionally vacant, and little information is known on the rest. So while the majority of empty properties are empty for weeks or months, there is a significant number that are beyond use for long periods.

A concentration of empty homes in a community represents waste in terms of unmet housing need. Even clusters of one or two properties, empty dwellings represent a very visible sign of policy failure and can undermine the credibility of the local housing strategy. Properties lying empty for long periods of time can also attract acts of vandalism or antisocial behaviour. Large concentrations of empty homes, as is the case in some parts of Glasgow, can rapidly turn an area perceived to be attractive into one in which no one wants to live.

There have been a number of schemes in recent years such as the Empty Homes Initiative (EHI) that were somewhat successful at responding to the issue of empty properties. However, an evaluation of the EHI showed that the voluntary nature of the scheme reduced its potential effectiveness; property owners could not be compelled to take part. **The EHI proved that there is a need for local authorities to have the statutory powers they require to bring a property back into use. A legislative opportunity exists with the private sector housing bill, to make it easier for local authorities to bring private sector properties back into use.** Bringing empty homes back into use should be part of a wider programme of government initiatives that includes tackling low demand and market failure, ensuring all homes meet a decent standard, and increasing the availability of affordable homes.

Evaluation of the EHI looked at the reasons properties remain empty. The results suggest that, at most, only a third of empty properties were empty for economic reasons because the owners could not afford the costs of repairs. A large proportion of properties in Scotland remain empty through the unwillingness of owners to let under any circumstances; this is often because of the management costs involved or the perceived burden of becoming a landlord.

**The Scottish Executive should use this legislative opportunity to give local authorities the power to compulsorily lease empty properties that owners are unwilling or unable to bring back into use.** Compulsory Leasing Orders (CLO) would not give the local authority an interest in the ownership of the property, but rather allow them to ensure that they are brought back into use. When a CLO is in force, the Local Authority takes over the rights and responsibilities of managing the property, but *does not become the legal owner* and so cannot mortgage the property or sell it. They would give the local authority management and maintenance responsibility for the property for a set period, thus reducing management costs and removing the burden of management from the owner. It would allow the authority to use the property to accommodate a household in priority need, or on its housing waiting list. Shelter further proposes that the number of empty homes in a given area should act as one of the criteria for triggering a Market Renewal Area. This approach would allow local authorities to monitor and respond to concentrations of empty homes in a strategic manner.

There are strong arguments for a new power in Scotland to enable local authorities to compulsorily secure the re-use of private sector empty homes, similar to the model introduced in England in the Housing Act 2004. These houses would:

- provide an additional supply of emergency or short term interim accommodation in high demand areas
- help to improve private sector housing conditions and enable local authorities to tackle low demand in run down areas of private housing
- be a cost effective means by which empty properties can be brought back into the housing market on a longer term basis.

Shelter has contacted a number of local authorities in Scotland, in particular in rural areas, and support for Compulsory Leasing Orders is high. The orders are viewed as a useful addition to the options available to local authorities. Around 22,500 homes in the private sector have been empty for more than 6 months and so could potentially be subject to a compulsory leasing scheme<sup>1</sup>. Even if only a small percentage of these were considered suitable for compulsory leasing it would contribute to the local supply of affordable

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<sup>1</sup> Post Census Vacant Survey 2001

housing. This will bolster the Executive's commitment to 5000 new affordable homes over the next year.

## Area renewal

Shelter welcomes the proposal to replace Housing Action Areas with Housing Renewal Areas, and the acknowledgement in the bill of the link between concentrations of poor housing quality, falling house values and low demand.

- The set of criteria that could act as a trigger for Housing Renewal Area status should be amended to include a concentration of empty properties. Adding empty properties to the criteria would significantly contribute to area renewal and as mentioned earlier, alongside local authority powers to compulsorily lease, would allow for a more strategic approach to long-term empty properties.

## Improving standards in the private rented sector

### The repairing standard for private landlords

Shelter welcomes the bill's focus on standards in the private rented sector. The proposals in the bill will place existing common law obligations on private landlords into statute, as well as expanding some of the provisions of Schedule 4 of the 2001 Act so that they apply to landlords in the private rented sector. **However, these new obligations largely embed in statute what is already in common law, and while they will increase the repairing obligation, they may not, in themselves make radical improvements to standards in the private sector.** This is because of the following.

- Private tenants have little security of tenure and are usually in the weakest bargaining position of all tenants; they face real difficulties in getting landlords to carry out repairs.
- Much of the difficulties faced by tenants relate as much to management standards, and the behaviour of the landlord, as they do to the physical nature of the property. For example, tenants need to be assured that the landlord will fix a leaky pipe while also respecting tenants' right to privacy and not entering the property without giving due notice.

So while the enhanced repair obligation for landlords is welcome, many tenants will continue to fear that requests for repairs will result in an end to their tenancy, and are still without legal redress where landlords manage the property improperly. Improving physical standards cannot, and should not, be looked at in isolation from how properties are managed. A property in poor physical condition is very often a poorly managed property. **The success of the new statutory structure therefore depends on an approach that places physical *and* management standards on equal footing, and on**

**the capacity of tenants to hold landlords to account if these standards are breached.**

The system for managing how landlords in Scotland operate is highly disparate. There is a system (HMO licensing) that requires some landlords to meet basic standards, and another (registration) that will ensure that all landlords pass a test in order to trade. Added to this are the voluntary accreditation schemes through which some landlords are encouraged to increase standards, and in return, can advertise to potential consumers (tenants) that they meet these standards. While public policy is slowly moving in the direction of better management standards within parts of the private rented sector, the various initiatives imply a piecemeal approach in response to various different policy objectives. There is a real risk that unless a single approach is applied across the sector, the system for operating physical and management standards will become unwieldy. In such a system, offending landlords could fall through the gaps between schemes.

**What would Shelter want from a minimum operating standard?**

A Minimum Operating Standard would fill that gap. Similar to the Repairing Standard, a minimum operating standard would modestly enhance all landlords' current obligations, while allowing for this standard to be added to in the future by Scottish Ministers. Shelter has set out its proposal for a Minimum Operating Standard below. Much of this is already in common law or statute; the grey areas would be enhanced obligations for landlords.

**Tenancy Agreements**

- Where the tenancy is an Assured or short Assured Tenancy, a written tenancy agreement setting out the terms of the lease should be provided to the tenant.
- The written tenancy should set out in clear, fair and lawful terms, the terms of the lease.
- The landlord cannot charge the tenant for drawing up a tenancy agreement.
- The name and address of the landlord or agent must be included in the agreement.
- The tenancy agreement must be properly executed by the signatures of the landlord (or agent) and tenant and one witness who includes their address.

**Payment of rent**

- A rent record should be provided, and receipted, in all circumstances where rent is paid.

### **Due Process**

- A landlord must use the correct legal procedures for seeking possession of the accommodation.

### **Accommodation Lists**

- The landlord cannot charge a tenant for placing their name on an accommodation list.

### **Deposits**

- A rental deposit should be no more than the equivalent of two months' rent.
- The tenancy agreement should set out what the tenancy deposit is for, and the circumstances in which it would not be returned in full.

### **Access**

- The tenant must give the landlord reasonable access to the property. The landlord must give 24 hours advance notice in writing of their intention to enter the property.

### **Insurance**

- The landlord should have adequate buildings and third party insurance, where appropriate.

## **A letting code for private landlords**

The Scottish Executive has attempted to move landlords in the direction of better management standards by proposing a Letting Code as part of the forthcoming registration scheme. While the proposals for a Letting Code are a welcome recognition of the need to improve management standards, the Code should not be viewed as an alternative to management standards.

**This is because the landlord would not be legally obliged to adhere to the terms of the Code. The Code is not a statutory standard, or a legal obligation for landlords. Therefore a tenant does not have legal redress if their landlords breached the Code.**

The Letting Code, or other initiatives like voluntary accreditation, will not increase management standard in the private rented sector because they do not set a statutory benchmark for how landlords operate; such an approach is best achieved by setting a Minimum Operating Standard on the face of the bill, alongside the new repairing standard.

The Housing Improvement Task Force felt limited by its remit to include only issues of physical improvement; the Housing Bill faces no such constraint and should view improvement of both physical standards and management standards as part of the same thrust. If it is possible to insert a national registration scheme for private landlords into a bill on anti-social behaviour, it is surely possible for the proposed housing bill to consider issues of management in the private rented sector. **Our proposals would lead to a private rented sector in which all landlords must meet a minimum operating standard (which the vast majority of landlords already meet); in addition to a repairing standard, with legal redress for tenants through the Private Rented Housing Panel.**

### **Giving tenants greater redress**

Shelter welcomes the policy principle in the bill that tenants should have better legal redress in situations where landlords evade their repairing obligations. Shelter supports the establishment of the Private Rented Housing Panel, but has a number of concerns about how it would work in practice. Firstly, the remit of the Panel under the bill's proposals would only cover instances where the landlord has not met repair obligations. Shelter fails to see the logic here; the improvement of physical standards is so dependent on good management standards that the powers of the Panel would be severely restricted under the current proposals. It would create a situation where a tenant approaches the Panel because her landlord had failed to repair a broken gutter, and was also refusing to give her a written lease. In such a situation, the landlord's behaviour in relation to the refusal to carry out repairs could be dealt with, but the serious tenancy related issue would be left alone because of the limited remit of the Panel. If situations like this become the norm, the work of the Panel will be undermined in the eyes of tenants. **We strongly recommend that the Panel covers management as well as physical standards on grounds of effectiveness.**

Secondly, the level of knowledge both among the public and among housing practitioners regarding the Rent Assessment Committee is low. Significant resources are therefore required before a Housing Panel could meet the level of service required. Part of these resources should be set aside to publicise the new Panel. One of the benefits of registration is to open up a possible avenue of communication with all landlords: this could be used to publicise the Panel as a whole but also the decisions it takes- thus ensuring that the relatively small number of determinations that the Panel will take will have a much bigger impact on practice. The Panel itself will need to draw on a bigger pool of suitably qualified people to act as members.

Thirdly, the success of the Panel depends on the tenants' bargaining power within the lease. Many tenants on a short assured tenancy may be fearful of losing their tenancy if they complain about their landlord, and as a result will not consider taking their landlord to



a Panel. An opportunity is being missed to look at the operation of the short assured tenancy; a policy focus on this tenancy coupled with the Panel would give tenants the greater bargaining power they need.

### **Dealing with the issue of rental deposits**

The bill rightly recognises the need for a thriving private rented sector for Scotland. Shelter believes that for this to happen, entry to the private rented sector should as straightforward as possible. However, many households are inhibited from entering and staying in the sector because of the potential for disputes over non-return of rental deposits. A household living on a low income could face homelessness if the rental deposit is not returned promptly or is unreasonably withheld. Research has shown that the majority of households are unaware of their right to take a landlord to court over this issue, and even when they are aware, are unwilling to do so<sup>2</sup>. This is compounded by a lack of legal clarity over the issue of rental deposits. Shelter views this bill as a major opportunity to rectify and improve the law in this area.

In Scotland, unlike many other countries worldwide, there is no statutory regulation of rental deposits in the private rented sector. Landlords in the private rented sector in Scotland are free to determine the amount of rental deposit charged<sup>3</sup>, how the money should be held, how quickly it should be returned and who should benefit from the interest accumulated during the tenancy. Millions of pounds in private tenants' money is therefore being held as deposits in Scotland without any regulation for how it should be returned. Research in England shows that as many as half of all private tenants may have experienced their deposit being unreasonably withheld. Unfair withholding of deposits by landlords causes hardship, misery and insecurity to people as they attempt to move from one tenancy to another. Tenants frequently withhold the final months' rent because they anticipate their deposit will be unreasonably withheld. However, this is a risky approach, as it would allow the landlord to take the tenant to court for non-payment of rent. It also causes problems for landlords as some tenants who illegally default on their final month's rent may have caused damage, which the landlord will then have to cover in full.

A Rental Deposit Protection Scheme would simplify the return of rental deposits, to the benefit of both landlords and tenants. However, for such a service to work, it must be mandatory. The experience of introducing a tenancy deposit protection scheme in England has shown that voluntary regulation of rental deposits does not work. Take-up of a pilot voluntary scheme set up in 2000 was poor and by March 2002 a total of only 203 landlords and agents in five pilot areas were participating in the scheme. The voluntary scheme was wound up in June 2003 and the Government legislated for a mandatory national Tenancy Deposit Scheme in the Housing Act 2004.

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<sup>2</sup> Buck, B. Access to Lets: A Future for Rent Deposit Schemes in Scotland Shelter Scotland, 2002.

<sup>3</sup> The law simply states that the deposit should not amount to more than the equivalent of two months rent.

While a number of models have been developed across Europe and further afield, we recommend that an approach be developed on the basis of the well-established scheme in New South Wales, Australia. This model is easily applied to Scotland on the basis of the size and operation of the sector.

In 1977, the **New South Wales Bond Board** was set up to administer a national custodial scheme for rental deposits. All bonds, or deposits, are lodged with the Board within seven days of the start of the tenancy, with non-compliance punishable by fines. The Board is self-financing from the interest made on the bonds held; funds are also available from interest to help finance dispute resolution. At the end of the tenancy, either or both parties can apply to the board for the return of the deposit. Where there is agreement, payment is made immediately. Where the parties disagree, the matter is referred to a tribunal that meets within two weeks. The Board makes payment on the basis of the decision of the tribunal.

The New South Wales scheme has been extremely successful and has been adopted in other parts of the world. We recommend that the Bill introduce a national custodial scheme for Scotland that would hold rental deposits, and resolve disputes over rental deposits. There may be scope for the Private Rented Sector Panel to develop its role to resolve disputes. The success of the Australian model is based on the short length of time it takes (a matter of weeks) to resolve disputes over deposits. The Panel or other mechanism for resolving disputes must have sufficient capacity to meet demand in a short time period.

Establishing such a scheme would help people *stay* in the private rented sector; preventing homelessness by decreasing the number of households who are unable to find a home because they have lost their deposit illegally. It would also increase confidence in low-income families in the sector, giving them, and landlords, the protection they need by setting up a dispute resolution system over the return of rental deposits. While Shelter recommends the New South Wales model, we would welcome further debate on the most appropriate model for Scotland.

### **Tackling illegal evictions**

Illegal evictions, sometimes known as unlawful evictions, take place when a tenant or someone else living in the property is 'unlawfully deprived' of occupation of the premises. It can be done in a number of ways; by evicting without following due process of law and gaining a court order for possession, by changing the locks when the tenant is away from the property, by engaging in threats of violence towards the tenant. Landlords can also be charged with harassment if they engage in behaviour that is intended to force the tenant from the property, for example intimidation, or withholding or withdrawing services.

Tenants in the private sector are protected from illegal eviction and harassment under the Rent (Scotland) Act 1984 and provisions in the 1988 Housing Act. However, despite the apparent strong legal protection, illegal evictions and harassment persist. This is because the laws protecting tenants from illegal eviction are not being enforced, and as a result legal redress following illegal eviction is extremely difficult to secure. For a landlord to be charged with illegal eviction, the tenant must report the matter to the police, who in turn can decide whether to refer the matter to the Procurator Fiscal for prosecution. In the majority of cases, neither the police nor the Procurator Fiscal consider an illegal eviction as a priority. The difficulties involved in getting the police to investigate, and the Procurator Fiscal to prosecute, act as a powerful disincentive to tenants to take a case against a landlord who has broken the law<sup>4</sup>. Tenants have very little knowledge of their rights regarding security of tenure or regarding due process of law on eviction. Many tenants are unaware that landlords must gain a court order before being able to evict, let alone understand that the law can protect them if the landlord fails to do that.

**The current system effectively makes it easier for landlords to break the law. They can exploit the fact that tenants have little knowledge of the law, and that criminal prosecutions are difficult to secure and very rare.**

The Housing (Scotland) Bill provides a long-awaited legislative opportunity to deal with illegal evictions. As identified above, the problem lies in getting the police to investigate alleged instances, and convincing the Procurator Fiscal to prosecute. Both the police and Procurator Fiscal have many competing priorities and would benefit from the issue of illegal evictions being dealt with elsewhere.

Shelter recommends an amendment to the legislation that would change the way investigations are carried out. The bill would place a duty on local authorities to take reasonable practicable steps to investigate where there are accusations of alleged illegal evictions; similar to the duty they currently have under environmental health legislation to investigate instances of nuisance<sup>5</sup>. This would take the burden off the police, and into the hands of local authorities. An individual who has been the victim of illegal eviction would therefore contact the local authority, which would have a duty to investigate. As part of that investigation, it would notify the police as a precautionary measure, though the onus is on the local authority to assemble a case and present this to the Procurator Fiscal in order to consider whether a prosecution is merited. Such a system fits much more efficiently with new duties on local authorities due to be implemented this year. From November 2005, all local authorities will be expected to have staff on hand to investigate

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<sup>4</sup> These disincentives are worsened by the fact that where the procurator fiscal does decide to proceed with a prosecution; no legal aid is available to the tenant, who faces the threat of court costs.

<sup>5</sup> Part III of the Environmental Protection Act 1990 imposes a duty on a local authority to take reasonable practicable steps to investigate any complaints of a statutory nuisance it receives.

the extent to which a landlord is fit to trade, as part of the new registration scheme introduced under the Antisocial Behaviour (Scotland) Act 2004. It is conceivable that such staff could investigate instances of alleged illegal evictions.

The Housing (Scotland) Bill provides a long-awaited opportunity to implement the Homelessness Task Force recommendation on illegal evictions. Amending the bill to place a duty on local authorities to investigate is a practical step towards enforcing the current legal framework and securing legal actions.

A duty on local authorities to investigate won't automatically ensure that the Procurator Fiscal initiates more prosecutions. However, investigations by expert local authority staff with knowledge of housing law may result in the fiscal being more likely to take action. A well-investigated and assembled case is also more likely to result in prosecution in court. A small change to the law in the Housing (Scotland) Bill will make a major change to how we deal with landlords who act illegally and put households at risk of homelessness.

## **HMOs**

Shelter welcomes the provisions in the bill to legislate specifically for a HMO scheme, rather than the current system that licenses the activity of letting property. However, it is unclear whether the bill is viewed as an opportunity to review how the HMO licensing system works in practice and rectify some operational problems. It is our view that the new legislation should cover the following.

- Resolve the problems faced by local authorities in identifying HMO landlords operating without a licence. Shelter has always considered arguments regarding the need for risk assessments of HMOs rather than an inspection regime as useful to the debate. However, up until now, we have been restricted in providing a detailed view on whether risk assessment is a way forward, because of the previous remote possibility of primary legislation for HMOs. Shelter recommends that regulations arising from the legislation should give local authorities greater powers to identify landlords who are not complying with the scheme. It may also be worth viewing this as an opportunity to consider how to better encourage landlords to operate within the scheme, and whether incentives could be built in to the scheme.
- That the regulations arising from legislation set out management or physical standards, in effect ensuring that each local authority consistently applies the Benchmark Standards produced by the Scottish Executive.
- The legislation should give the Executive, rather than local authorities, the opportunity to set fees. Shelter supports this view, as local authorities have felt the tension between the need to set high fees in order to put systems in place to ensure landlords comply, and the need to keep landlords within the market.

In general, Shelter supports the proposal to develop primary legislation on HMOs but seeks clarification on what regulations arising from legislation would cover. We would urge the Communities Committee to seek clarification on the following points.

- Whether the Scottish Executive would use this legislative opportunity to extend the range of properties exempt from the scheme.
- Why the decision regarding which category of HMO property should be licensed is being given to local authorities, when currently the decision rests with the Scottish Executive and it is not clear that this system causes any problems. We would also ask for more information relating to the proposal that the Scottish Executive be given the power to prescribe mandatory conditions of a license.

## Mobile homes

The issue of mobile homes is pertinent within this bill as they are a form of accommodation often used by households that cannot secure other forms of housing. In general, there are two groups of households who live in mobile homes in Scotland. The first are those who have chosen to live on licensed and well-maintained sites for a number of reasons, one of which is an inability to buy their own home. This group has a considerable amount of legal protection, but faces problems in ensuring these laws are enforced, and in responding to rent increases from landlords. The second group are those who are forced to live in mobile homes because of homelessness, an inability to find suitable rented housing. In general, this group lives on sites without planning permission or a site licence, in poor quality homes, and are not counted by census figures, so the actual size of the group is unknown. People who live on unlicensed sites have very little legal protection, and generally have little knowledge of their rights. Legislation on mobile homes should protect and respond to the needs of **both** these groups of residents. However, there should also be an acceptance of the need to reduce the number of people who live in mobile homes on unlicensed sites.

The proposals in the bill are based on the Park Homes Working Party that covered England and Wales. A profile of mobile homes use in England shows a sector of high quality and well-maintained sites. The changes introduced in the Housing Act 2004 in England give improved rights to bequeath or pass on their mobile home to family members, security of occupation and allows for secondary legislation to improve the terms of tenancy. However, basing proposals on the Park Homes Working Party report does not generally reflect the differences in Scotland; climate, the age profile of residents, the different tenure split, the differences in quality of units and in particular the prevalence of mobile home use in the crofting counties.

**In general, Shelter proposes a two-pronged approach to dealing with the issue of mobile homes. The Housing Bill provides a useful opportunity to reform a number**

of areas of the law on mobile homes, and we make specific proposals below. However, the age of the current legislation, combined with its sheer complexity suggests that we need a thorough overhaul of the legislation. Shelter therefore calls on the Scottish Executive to commit to a review of legislation on mobile homes at a later date.

### Reforms required to the current legal framework

Almost ten years ago, Shelter Scotland and CoSLA hosted a seminar on the issue of mobile homes, in which Shelter called for three changes to the legal framework on mobile homes.

1. That the provision of the 1960 Act should be made mandatory. This would ensure that model standards on mobile homes, which were then issued by the Scottish Office, were mandatory.
2. That those renting mobile homes should have security of tenure equivalent to those renting permanent structures.
3. That the anomalies of the 1983 Act for owners are rectified. The provisions of the 1983 Act are those that the Scottish Executive has proposed to reform in this bill.

Only one of the recommendations made ten years ago would be met by the proposals for this private sector Housing Bill. **A Bill for the private sector provides an opportunity to meet the other two recommendations, and bring mobile homes legislation up to date for the thousands of people living in this form of accommodation in Scotland.**

We have a number of specific proposals regarding the provisions in the Housing (Scotland) Bill.

- We welcome the proposal to give ministers the power to add vary or repeal Schedule 1 of the 1983 Act. We believe that this should be used to scrap the rule arising from the 1983 legislation that gives site owners entitlement to 10% of the sale of a mobile home on their site. Such a rule would be inconceivable on permanent structures and increases the possibility of homelessness for a household on a low income.
- The bill, like the most recent legislation in 1983, relates narrowly to those who own a mobile home and let a stance, and not to those who live in a mobile home that is rented. Mobile home renting is quite common in rural areas and the historical crofting counties. Shelter proposes that the bill also covers these households, and makes a number of proposals to strengthen their rights. Security of tenure for households to rent mobile homes falls far short of that for those in bricks and mortar homes, and is covered by legislation dating back to 1975. That, coupled with the low level of

knowledge among residents of their legal rights, puts households in a very weak bargaining position. For this reason, a policy focus is required which would finally provide legal protection for the thousands of households in Scotland renting a mobile home as their primary residence. The private sector housing bill should rectify the legal disparity between those renting mobile homes, and those who own them. It should ensure that households renting mobile homes have defence against eviction, are afforded protection under the Rent Acts, and are given the same security of tenure as those renting permanent structures.

### **A review of mobile homes legislation**

Finally, Shelter calls on the Scottish Executive to commit to a review of the current legislation on mobile homes. A strategic approach to the inequalities faced by mobile home residents in Scotland should consider:

- generating a profile of mobile home use in Scotland
- ensuring enforcement action on poor site standards
- scrapping the 10% commission on the sale of mobile homes
- increasing physical standards in rented mobile homes
- improving security of tenure for people who rent mobile homes
- reducing the number of households living on unprotected sites.

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