

## **Private Sector Housing Issues for Possible Inclusion in the Housing (Scotland) Bill: A Consultation – Questionnaire**

We invite responses to the consultation paper by **27 September 2009**.

You can use this questionnaire for your response. It covers all the questions included in the consultation paper. You can download a [Word version of the questionnaire](#) from our website

Please reply by email to: [housing2admin@scotland.gsi.gov.uk](mailto:housing2admin@scotland.gsi.gov.uk)

or post your response to:

*Housing Markets & Supply Admin Team  
Scottish Government  
Mail Point 19  
Area 1-J South  
Victoria Quay  
Edinburgh EH6 6QQ*

Please send your completed respondent information form with your reply (see 'handling your response' below).

If you have any queries about how to reply, please contact a member of the team on 0131 244 5528 or email us at [housing2admin@scotland.gsi.gov.uk](mailto:housing2admin@scotland.gsi.gov.uk).

### **Questions**

There are four sets of questions, on:

1. Part 1 of the consultation paper – landlord registration;
2. Part 2 of the paper - licensing of houses in multiple occupation;
3. Part 3 of the paper – matters arising from implementation of local authority powers in the Housing (Scotland) Act 2006; and
4. Annex A - the draft equalities impact assessment.

You don't need to answer all the questions if you don't want to. Different questions may be more or less important to different groups of people or organisations. We want your comments on the areas that matter most to you, so please feel free to focus on as many or as few as you wish. However, we would particularly welcome comments on the draft equalities impact assessment.

### **Handling your response**

We need to know how you wish us to handle your response and, in particular, whether you are happy for us to make your response public. Please complete and return the respondent information form which comes with this questionnaire. This will help us to treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it as such.

The Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002. This means we have to consider any request made to us under the Act for information relating to responses made to this consultation exercise.

**Private Sector Housing Issues for Possible Inclusion in the Housing (Scotland) Bill: A Consultation – Questionnaire**

**Part 1 – Landlord Registration**

**Question 1.1**

Do you consider that a local authority should be able to require persons associated with a property to provide information to help it to carry out its landlord registration functions?

Yes, registration should be compulsory as part of the Housing Bill. Local authorities should be financed to do these, using resources from the General Fund.

Also, we want registration to be more about landlords improving the standards of accommodation services they provide, every landlord should be accredited and achieve better standards.

**Question 1.2**

Do you consider that the maximum fine for failing to register as a landlord or communicating with another person with a view to entering into a lease or an occupancy arrangement without being registered should be increased, and if so do you consider that £20,000 is the appropriate maximum level of fine?

There should be no maximum imposed, the fine should be calculated based on the number of properties registered and there should be a minimum fine, between £3-5,000 per property; and increased proportionally based on the number of properties.

**Question 1.3**

Do you consider that the landlord register should contain additional information, indicating (a) that an application has been received but has not yet been processed or approved, and (b) that a landlord has been refused registration or has been de-registered?

- (a) - Yes
- (b) – Yes

Tenants must have full information to them easily available about all landlords, especially absentee and rogue landlords.

**Question 1.4**

Do you consider that a local authority should have the power to charge a registered landlord a fee for nominating an agent? If so, what do you think would be a reasonable charge?

Yes, a reasonable fee for nominating an agent should be imposed, for example, £1,000. We don't want tenants' rents to be increased as a result of this and indeed no costs should be incurred by or passed on to tenants.

**End of part 1**

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**Part 2 - Licensing of Houses in Multiple Occupation**

**Question 2.1**

Do you consider that Part 5 of the Housing (Scotland) Act 2006 should be amended to expand the definition of a licensable HMO to cover short-term lets? If so, should this be done (a) by counting for the purpose of licensing all occupants who have a main residence elsewhere, or (b) by counting occupants who have a main or only residence outside the UK, or (c) by some other way?

Yes, the license must be to cover short-term lets. It should be done by (c) Both the landlord and local authority; and a register must be kept of those occupying the property regardless of where their main residence is - this has to be compulsory for the health and safety of the occupants.

**Question 2.2**

What implications of any such changes do you think should be taken into account before deciding whether to amend the definition of an HMO?

The implications for health and safety of the occupants. Also, you must consider protecting and raising awareness of the rights of the occupiers in these properties.

In addition, landlords must be required to use approved/qualified tradesmen – this applies to all trades, for example, plumbers, electrician, joiners etc.. PAT testing of all electrical equipment supplied by landlord should be included as a statutory requirement.

**Question 2.3:**

Do you consider that there is a problem with licensed HMOs operating without planning permission?

Yes, HMOs must have planning permission.

**Question 2.4:**

Do you consider that having planning permission (where it is required) should be a requirement for the granting of an HMO licence?

Yes.

**Question 2.5:**

If so, should it be a mandatory requirement, or left to the discretion of each local authority?

This must be a mandatory requirement.

**Question 2.6:**

If such a requirement were in place, do you consider that this requirement should relate only to new applications for licences, not to applications for renewals?

This must apply to all applications.

**End of part 2**

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**Part 3 – Matters Arising from Implementation of Local Authority Powers in the Housing (Scotland) Act 2006**

**Question 3.1**

Where a local authority prepares a maintenance plan because the owner has (or owners have) failed to submit a satisfactory plan by the date specified in the maintenance order, do you consider that the authority should be able to charge the owner (or owners) the cost of doing so?

Yes.

**Question 3.2**

Do you consider that local authorities should have powers to charge owners their expenses in registering documents relating to maintenance? Should this apply to all the documents mentioned in paragraph 29 above, or only some?

Yes, but for maintenance orders only, these costs should be sufficient to take account of repayment charges and discharge of repayment charges.

Sympathetic repayment plans must be put in place where owners may be put into financial hardship because of this. The assessment criteria for this must be set out as a matter of course to ensure fairness.

**Question 3.3**

Do you consider that the situations in which local authorities can pay a missing share into a maintenance account should be extended to include situations where an owner is unwilling to pay?

Yes, this should be made a legal requirement to take the costs from the owners when the house is sold. Through due legal process and to include interest.

**Question 3.4**

Do you support the restoration of the right of appeal against charging orders?

Yes.

**Question 3.5**

Do you support the proposal to allow (though not oblige) local authorities to pass on the expenses of registering repayment charges and discharge of repayment charges?

No, refer to 3.2

**Question 3.6**

What are your views on removing the requirement that Scottish Ministers must approve draft Housing Renewal Area designation orders before they can be made?

No, we want the requirement to remain as it is, the Scottish Ministers must approve draft Housing Renewal Area designation orders, before they can be made. We believe that these designations should be consulted and discussed with the local community; before being put to the Scottish Ministers for their approval.

**Question 3.7**

Do you consider that the situations in which local authorities can provide assistance under section 71 should be extended to include demolition? If so, do you think this should be restricted to non-financial assistance? Would this be demolition only in pursuit of demolition notices as part of an HRA, or demolition more broadly?

Yes to being extended to include demolition, with the caveat that the monies are recouped from the owners. We agree to include both financial and non financial assistance. All decisions should be agreed in consultation with the local community.

**Question 3.8**

Do you support the specific inclusion of energy efficiency measures in “improvement” and “work” in the 2006 Act?

Yes.

**End of part 3**

**Private Sector Housing Issues for Possible Inclusion in the Housing (Scotland) Bill: A Consultation – Questionnaire**

**Annex A - Draft Equalities Impact Assessment**

**Question A.1**

What else do we need to know about private tenants to help us to understand their diverse needs and experiences in relation to landlord registration and short-term lets, and where can we get this information?

Consider consultation with landlords and their tenants and the wider community using a variety of methods to gather robust information.

**Question A.2**

Is there any information we need to know about private landlords to help us to understand their diverse needs and experiences in relation to landlord registration and short-term lets, and where can we get this information?

Gathering information from landlords should be compulsory at the point of registration. Information can also be gathered from tenants and benefits agencies.

**Question A.3**

What else do we need to know about private owners to help us to understand their diverse needs and experiences in relation to local authority powers to deal with disrepair in private houses, and where can we get this information?

Carry out residents' surveys using a variety of methods, for example, door to door surveys.

**Question A.4**

Do you think the changes to the landlord registration system will have a disproportionately negative impact on particular groups of people in our target audience?

No

**Question A.5**

If you think these proposals will have a negative impact on a particular group, why is this?

N/A

**Question A.6**

What positive impacts do you think the changes will have on particular groups of people?

Improving tenants living standards.  
Raising the awareness of the roles and responsibilities of both tenants and landlords.  
Get rid of absentee and rogue landlords.

**Question A.7**

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

N/A

**Question A.8**

Do you think the changes to HMO licensing will have a disproportionately negative impact on any group, or groups, of people?

No

**Question A.9**

If you think there will be a negative impact on a particular group, why is this?

N/A

**Question A.10**

What positive impacts do you think the changes will have on particular groups of people?

Improving tenants living standards.  
Raise awareness of the roles and responsibilities of both tenants and landlords.  
Get rid of absentee and rogue landlords.

**Question A.11**

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

None

**Question A.12**

Do you think the changes to the enforcement and assistance powers will have a disproportionately negative impact on particular groups of people in our target audience?

No

**Question A.13**

If you think these proposals will have a negative impact on a particular group, why is this?

N/A

**Question A.14**

What positive impacts do you think the changes will have on particular groups of people?

Improving tenants living standards.  
Raising the awareness of the roles and responsibilities of both tenants and landlords.  
Get rid of absentee and rogue landlords.

**Question A.15**

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

We feel that it is important that there is no cost to the Local Authority in administering these proposals.

### **Question A.16**

When we complete our impact assessment of the changes to landlord registration, HMO licensing and the local authority powers to deal with disrepair in private housing, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Sexual orientation (Lesbian, Gay, Bisexual and Transgender [LGBT])
- Race
- Religion and belief?

Everybody should be considered on equal terms.

Please continue on a separate sheet if necessary.

**End**

Thank you for taking the time to respond.

Please remember to complete your Respondent Information Form and return it to us with this questionnaire.

[Region 9 Response](#)