



Housing (Scotland) Bill – highlights or missed opportunities?

On 13 January the Scottish Government introduced its new Housing Bill following its consultation exercise last year. This article comments on Bill highlights, which will be the subject of much debate, both in Parliament and the housing sector, over the coming months.

Right to Buy (RTB)

A key area of discussion to date has been changes to the RTB. The Bill proposes:

- **No RTB for “new supply social housing”** which is any property only let by a social landlord from and after 25 June 2008 (the original date the Government announced this policy). So recently built, or acquired, properties qualify as “new supply” and will not have the RTB. However, if a tenancy is already in place for a “new supply” property before the Bill becomes law it will have the RTB and only when a new tenant takes over that property will the RTB cease.
- **No RTB for people who are new tenants**, i.e. people who become tenants for the first time or those who return as tenants after a voluntary break.
- **“Pressured area” status reformed:** local authorities will be entitled to designate “pressured areas”, suspending modernised RTB, without Ministerial consent. They will have to consult RTB landlords, tenant organisations and residents before making any designation. A designation may apply not only to areas but also to particular house types, and may be for up to 10 years, rather than the current 5 year maximum, expanding the way in which designations may operate.

Already commentators, such as Shelter Scotland, while welcoming the proposals, are lobbying for further restrictions on the RTB. It is worth noting that while RTB restrictions are to be introduced they will be qualified with protections for existing tenants and existing rights so, at most, any restriction will come into operation gradually. It is certain that RTB will attract considerable further debate during the Bill’s passage through Parliament.

Regulation of RSLs

The Bill proposes various alterations to the current regulatory regime, including:

- **Scottish Housing Regulator** is to change from an executive agency of the Government to a statutory body operating independently of Ministers.
- **Registration criteria** for Registered Social Landlords (RSLs) will no longer restrict RSLs to specific constitutional forms but they must still be “not-for-profit”.
- **Part 1 of Schedule 7 of the 2001 Act**, regarding the control of payments and benefits, will be among those matters repealed. Instead, the Regulator is to issue, following consultation, a code of conduct and related guidance, setting out standards of financial management and governance for RSLs.
- A new **“Scottish Social Housing Charter”** will set out standards and objectives (“outcomes”) for all social landlords (RSLs and local authorities). E.g. recent Government consultation on Freedom of Information (FOI) concluded that the FOI Act would not be extended to all RSLs at this time but that the Bill would be used to increase RSLs’ transparency through the Charter.

In this edition

Housing (Scotland) Bill - highlights or missed opportunities?

A look at what the Bill proposes in relation to Right to Buy, alterations for the current regulatory regime and the prospect of private companies becoming RSLs.

Climate Change & Energy Efficiency: Will it affect you?

A look at who must participate in the CRC Energy Efficiency Scheme and what this will involve.

Watch out for...

EU Procurement Thresholds

EU Procurement Remedies Directive

Freedom of Information (FOI) and RSLs

Property Factors (Scotland) Bill

Housing (Scotland) Bill continued

Private companies as RSLs

The earlier Bill consultation identified a high value placed by stakeholders on RSLs being not-for-profit, so interestingly, and in direct contrast to the position in England, the Bill does not propose to allow profit-distributing bodies to become RSLs. Undoubtedly this will disappoint those organisations that had hoped to benefit, e.g., through access to funding, from any such proposal.

Conclusion

Inevitably, as the Bill progresses through Parliament it will be altered, so the full impact of the proposals can only be surmised at this time. However, it is clear that RTB will be restricted – just how much it will be restricted is what may change further. Also, with the new Regulator, the

form and style of regulation is intended to change.

For some, the proposals will not go far enough or may represent missed opportunities, while for others the proposals may be too radical – what do you think? As the matter is debated in Parliament and among the housing sector these differences of opinion will become apparent and may lead to changes before the Bill becomes law.

This article has only considered a few highlights from the Bill and does not attempt to summarise the full proposals set out in that 70 page document! If you have any queries or specific areas of concern in relation to the Bill **bto** is happy to assist you to address these.

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Climate Change & Energy Efficiency: Will it affect you?



The CRC Energy Efficiency Scheme (formerly the Carbon Reduction Commitment) is the UK-wide mandatory climate change and energy saving scheme that is due to start in April 2010. To this end, a draft CRC Energy Efficiency Scheme Order 2010 has been published and will be subject to Parliamentary approval at Westminster before it comes into force.

Corporate organisations (of a certain size and level of energy or fuel consumption, or because they generate or supply energy) and the government (both

devolved and at Westminster) must participate in the Scheme. Among other things, participation involves registration, providing a one-off “footprint report” and annual reports thereafter. Crucially, participants must buy carbon “allowances”, equivalent to their energy consumption, and will be given payments back later based on their original allowance then enhanced, or reduced, depending on their relative success in reducing their energy consumption. Eventually, the intention is that allowances will be trade-able.

If your organisation is not a participant in the Scheme you may still be affected e.g. if you lease property from a landlord who is due to buy allowances and seeks to pass any associated cost onto you as their tenant.

The Department of Energy and Climate Change has published an updated user guide for the Scheme on its website (www.decc.gov.uk).

To discuss how, or if, the Scheme will impact on your business and any steps to take now, contact:

Ralph Riddiough rr@bto.co.uk
or **James Dickson** jd@bto.co.uk

Watch out for...

EU Procurement Thresholds

Changed on 1 Jan. 2010.
Details at www.bto.co.uk

EU Procurement Remedies Directive

From 20 Dec. 2009 this has been in force in Scotland, providing additional remedies for those aggrieved by an EU procurement process – including the potential to set aside a concluded contract.

Freedom of Information (FOI) and RSLs:

Government to consult regarding extending coverage to Glasgow Housing Association only: Will GHA argue it should not be treated differently and the extension should apply to either none, or all, RSLs?

Property Factors (Scotland) Bill

Patricia Ferguson, MSP, is seeking supporters for a Bill which would require property factors to register and make provision for dispute resolution between homeowners and factors.

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