



**SCOTTISH PARLIAMENT'S COMMUNITIES COMMITTEE:
SCRUTINY OF HOUSING BILL**

**WRITTEN EVIDENCE BY
SCOTTISH ESTATES BUSINESS GROUP**

1. BACKGROUND

The Scottish Estates Business Group (SEBG) represents a group of progressive land-based estates with significant agricultural and rural business interests. It aims to promote a modern business approach in the management of Scotland's land resource in ways which deliver social, economic and environmental benefits. The Group seeks to secure a sustainable and prosperous future for rural areas.

Estates are proven business models that assist the development of smaller rural businesses, and landowners and estates have a vital role to play in the ongoing and future development and prosperity of Scotland. SEBG is committed to rural economies and its members work hard across Scotland to stimulate enterprise and economic development.

2. GENERAL PRINCIPLES OF THE HOUSING BILL

Scotland's estates have for long been major providers of property to let, most particularly in rural areas. SEBG members currently manage in excess of 3,000 private let properties across Scotland, mostly in rural areas, so issues related to the condition and maintenance of rural housing are ones with which the Group has much experience. From a rural let sector perspective, we recognise the measures contained in the Housing Bill aim to address issues of below Tolerable Standard (TS) housing, establishing an updated repairing standard and introducing means for tenants to address landlord obligations and believe landlords should have little to fear from the measures proposed.

In principle SEBG applauds the Executive's intention to address property condition and offer our full support, but would caution that Government must ensure that mechanisms are put in place to ensure this policy aim can be delivered. We suggest that the support currently made available by Communities Scotland to Registered Social Landlords (RSLs) should be extended to rural housing providers in the Private Let Sector (PLS), who are already serving a vital role in providing affordable accommodation, particularly in rural areas outwith the reach of the RSLs.

Role of the Private Let Sector

The PLS provides a large proportion of housing to let and has an important role to play, particularly in rural areas, so needs to be encouraged, rather than dissuaded from letting. The vast majority of the PLS is run responsibly and contributes significantly to Scotland's housing needs, particularly in the countryside where potential for expansion of the housing stock is limited. It is right to tackle those who fail to or cannot live up to their proper obligations. But if the burden of regulation and enforcement become too great, then the consequent risk would be that some landlords may be dissuaded from letting at all, at a time when affordable rented property is already in short supply.

It will be important, when implementing measures to help local authorities enforce maintenance legislation, that they are able to continue to work constructively with the majority whilst having the powers necessary to address the minority. SEBG believes an effective way to achieve this would be for the closer involvement of the PLS in the development of Local Housing Strategies, with representation on Local Housing Forums forming part of that approach.

Availability of skilled contractors

The ultimate aim of the proposals – improvement of the Scottish housing stock to above TS and an updated and clearly defined Repairing Standard (RS) – is to be applauded. However, delivery of these objectives will depend not only on the commitment and ability of landlords to complete required repairs and improvements timeously, but on the availability of suitably skilled contractors to carry out the work. Most landlords do not employ building, plumbing, electrical staff and so on but subcontract local suppliers – generally in short supply.

Indeed, this problem can be particularly acute in rural areas, where landlords are often small landowners or farmers who do not have the skills to maintain properties themselves. They need professional support and access to trades skills for the proper maintenance of let properties and often find it difficult to source the range of necessary skills locally. Local authorities must take account of the availability or otherwise of relevant skills when considering the use and timing of their enforcement powers.

One approach to help tackle this difficulty might be for the PLS to develop closer links with their local authorities and with those social landlords with access to maintenance contractors, in the management and maintenance of let property. Such links might see, as a quid pro quo, certain newly vacated properties in the private sector being offered to social landlords for the placement of prospective tenants.

Availability of housing in rural areas

The well-being of Scotland's countryside depends on its ability to maintain a social fabric which provides for key workers with traditional skills and for those who are supporting emerging rural industries. Yet without sufficient affordable housing, Scotland's rural economic development is at risk. In the past, the availability of rural accommodation was less of a problem, with landowners providing for estate workers and gaps in provision addressed by local authorities.

But right to buy for council tenants allied to recent shifts in lifestyles and an upsurge in second home ownership have fuelled rocketing house prices, with a resultant shortage of affordable housing in rural areas. Rural local authorities themselves are unable to provide enough properties, so now more than ever depend on provision by the PLS in areas outwith the reach of the RSLs. The Housing (Scotland) Act 1988 and the introduction of short assured tenancies with rents at market levels gave considerable confidence to landlords to let houses.

Sight should not be lost of the fact that the letting of property is a commercial operation for private landlords. Nevertheless, and particularly in rural areas, many choose to include in their mix of properties for let an element of affordable housing to ensure the maintenance of an adequate local skills base as well as to support the local community. For many rural communities, private landlords have assumed the role of key providers of affordable rented accommodation for those who cannot afford to buy.

The solution to the issue of supply and condition of housing in rural areas cannot be solved by focusing only on increasing standards and by strengthening the powers of local authorities to enforce repairs. The role that the PLS can and does play must also be recognised and supported by funding designed to bridge the financial gap where property is serving a vital social purpose. The issue of lack of resources needs to be addressed where the local private sector cannot meet demand for improved services unaided.

The Tolerable Standard

Whilst it is right to review the TS at regular intervals, and appropriate at times to raise levels of what is considered acceptable property condition, there must be some recognition that Scotland's housing stock, particularly in rural areas, dates back for decades and in many cases centuries. Some properties of such vintage, which already contribute much to Scotland's built heritage, are unsuited to modern methods and standards, for example insulation and resistance to rising or penetrating damp.

In many cases the costs of upgrading this type of older property to the TS in remote and rural areas will be disproportionately expensive when compared to rental income, which is very often hardly sufficient to cover present routine maintenance costs. This is because of the combined effects of the traditional design of older rural property and building materials used in them and the costs associated with providing services to remote locations, as well as the lower levels of rental income they generate.

Often, older rural properties are expensive to maintain but there is no real alternative use for them. When measured against higher building and insulation standards, their viability may become questionable if landlords are asked to do too much too soon without any assistance. Some recognition of the need for flexibility of approach in such cases in applying tighter regulation requires to be built into the legislation, if such properties are not to be lost to the housing sector.

It should also be borne in mind that where landlords in rural areas take active measures to ensure that properties are let to key workers rather than made available on the open market – and this is common practice among progressive owners – the consequence can be lower rental levels. Whilst this may be of benefit to the local community, a consequence is that less funding may be available to upgrade property.

SEBG would be concerned if increased regulation and bureaucracy led such landlords to take the easier option and sell up or reallocate the properties to the second home or holiday market. The risk would be the loss of properties not only to the local let sector but also to the local community through spiraling property prices and the upsurge in purchase of second homes in rural areas by urban dwellers. Another unavoidable consequence of increasing standards, regulation and accompanying administration would be upward pressure on rental levels.

The Repairing Standard

The present RS, the minimum statutory standard of habitable condition as applied to the RSL sector, is currently set out in a very detailed Schedule which makes explicit the tests against which all housing is presently measured, and what constitutes failure when assessed against the RS. The revised RS, as proposed by the legislation, will provide a more up to date assessment of privately rented accommodation.

However, it is important that landlords are aware of the revised and specific standards against which their property is to be measured. Tenants, too, need to know what to expect of their rented accommodation and their own responsibilities, as well as what constitutes failure of the RS.

SEBG would welcome the publication of a detailed schedule to the new RS, giving clear guidelines and examples of what is regarded as acceptable or unacceptable condition, to underpin maintenance plans and also to avoid unnecessary resort by tenants to the Private Rented Housing Panel (PRHP) for arbitration. National consistency in interpretation of guidelines will be important, but sufficient flexibility should be written into the guidelines to allow account to be taken of local conditions.

The inclusion in the Bill of a requirement that the age, character and location of property should be taken into account in any assessment of whether the RS has been met is welcomed, since as stated earlier, many rural properties in particular are unsuited to modern methods and standards. A phased introduction of increased standards would also be helpful for landlords of these types of properties when planning any upgrading work they may necessitate, allowing them to take account of the availability of finance and skilled labour in effecting improvements.

SEBG would also welcome some flexibility in the requirement to give 24 hours notice in writing of proposed remedial or maintenance work. This restriction could be a block on progress as well as overly bureaucratic, in those cases where the alternatives of notification and agreement by e-mail or by telephone may be available and acceptable to both parties.

Private Rented Housing Panel and Committees

The proposed Private Rented Housing Panel (PRHP) and its supporting Private Rented Housing Committees (PRHCs) offer recourse for tenants against private landlords who do not adhere to their statutory repairing obligations. However, as with the RS, SEBG is concerned that there should be a measure of national consistency across regional Committees in their handling of tenant applications.

Guidance on good practice is needed so that landlords can be made aware of the criteria against which applications are assessed and how they might best comply with regulations and carry out their responsibilities properly.

It will also be important that regional knowledge contributes to PRHC assessments and arbitrations so, for example, landlords and managers can be clear about what the PRHC regards as constituting “unreasonable delay”, bearing in mind local conditions which may apply, such as lack of availability of skilled contractors and tradesmen.

Regional or indeed local points of contact for both landlord and tenant with their local PRHC would further aid the development of a partnership approach between landlords, tenants and PRHCs.

If appropriately established, the PRHCs could become helpful tools in the proper management of property maintenance, with both landlord and tenant being made fully aware of what to expect and what constitutes reasonable service by landlords.

SEBG would be pleased to work with the PRHP and its PRHCs to assist in putting together the type of guidance which would be of most assistance to landlords in the proper management of their tenancy obligations. Further, we suggest that tenant representative organisations should similarly play a role in helping to define what tenants may or may not expect of their landlords.

3. OVERALL

Legislation needs to allow for the development of an inclusive and constructive role for the private sector in maintaining and upgrading the standard of Scotland’s let property sector, rather than seeking to achieve improved standards by regulation and penalty alone. Standards need to be easily measured and unambiguous to enable both landlords and tenants to be clear about their obligations and rights.

Closer liaison and partnership between the PLS, Registered Social Landlords, Local Housing Forums and local authorities should help support a constructive and unified approach which should ensure the provision of affordable housing of a suitable standard.

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SEBG
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