



Tenancy reform in the private rented sector – Getting the balance right

Several changes to private rented tenancies are currently being proposed as part of the Scottish Government's strategy for the sector. A consultation on a new tenancy for the private sector is seeking responses from a range of stakeholders to modernise and simplify the private sector tenancy system for Scotland. In this Briefing, we summarise the consultation proposals and highlight how the Scottish Government's suggestions for tenancy reform could impact on tenants, landlords, lenders and investors.

SUMMARY

- We broadly support proposals for a new Private Rented Sector (PRS) tenancy and welcome changes that that would provide Scottish households with a more flexible and secure tenure.
- We also need the PRS to be investable in order to boost overall housing supply, the lack of which is the main driver in reducing housing affordability.
- We understand the intent of removing no-fault repossessions is to improve security of tenure, however, this requires a balance to be struck with investor interests and the risk that investors may leave the PRS if they cannot take possession of their property when they need to. It is worth noting that evictions in the PRS have decreased by more than a third in the past five years, without Government intervention.
- Introducing rent controls would be a disproportionate response to the moderate rent increases actually experienced in the PRS, which in nearly all parts of Scotland have risen by less than inflation over the last 4 years. Increasing the supply of new homes rather than intervening in the cost of private rentals is the most efficient and effective way to control housing unaffordability.

What's changing and why?

The Scottish Government published a strategy for the PRS in May 2013, with a view to improving the quality of homes, giving greater security to tenants, inspiring confidence among landlords and attracting increased investment. Following recommendations from the Private Rented Sector Tenancy Review Group, the Scottish Government is proposing to replace Short Assured Tenancies and Assured Tenancies with a new private tenancy that will cover all future lets. The proposed tenancy reforms in the consultation are summarised below.

Increasing security of tenure for tenants is a key feature of the new private tenancy. The current proposals suggest removing the no-fault ground for repossession under Short Assured Tenancies, replace monthly tenancy roll-over arrangements with one based on terms laid out in the original tenancy agreement, require a minimum tenancy of six months, and link the Notice to Quit period to the duration of tenancy.

We welcome most of these changes, which would provide additional flexibility for both landlords and tenants within the sector.

We understand the need for tenants to feel more secure, particularly those with families requiring homes close to their place of work and their children's schools. Reforms intending to increase security of tenure for private renters, however, need to be balanced against safeguards for landlords and lenders in order to attract investment and encourage growth of the sector, which is a fundamental aim of the Scottish Government's PRS Strategy. Our concern is that removing the no-fault ground for repossession may hamper future investment. Even though the mandatory grounds are broad, they could easily be changed and have still to be tested. Uncertainty over how difficult it could be to possess their property may cause some landlords/investors to disengage from the sector.

TABLE 1

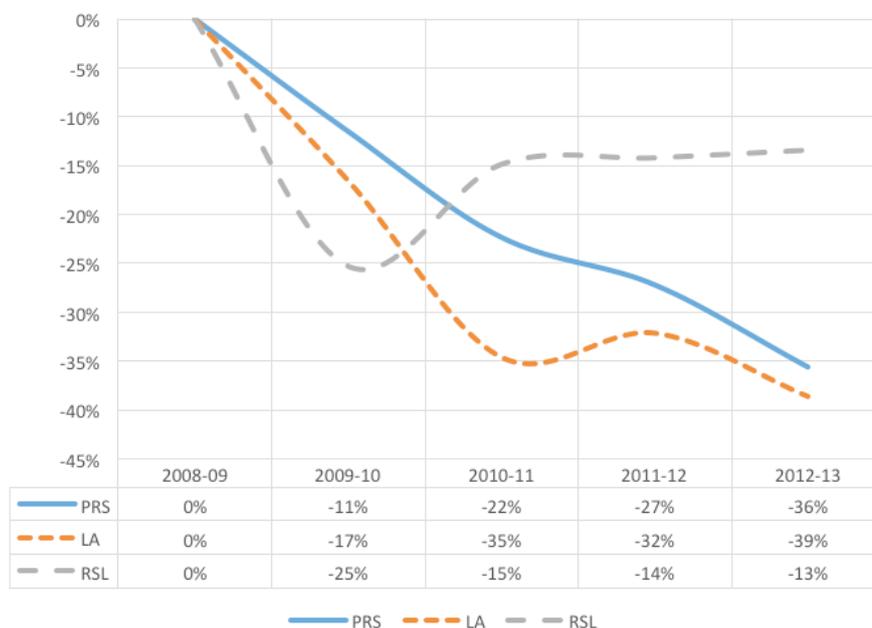
THE PRS HAS EXPANDED RAPIDLY SINCE 2008

Reform	Current	Proposed
No-fault ground for repossession	Landlords can reclaim their property for the sole reason that the fixed term has ended under a Short Assured Tenancy.	This no-fault ground for repossession under Short Assured Tenancies will be removed.
Tenancy Roll-over	Tenancies roll over on a monthly basis once the fixed term has ended.	Tenancies rollover for the duration of the original contract once the fixed term has ended.
Length of tenancy	The shortest duration for a Short Assured Tenancy is 6 months.	A tenant can request a tenancy agreement for less than 6 months.
Notice to quit	Notice to Quit period is between 28 and 40 days.	The Notice to Quit period is linked to how long the tenant has lived in the property: Four weeks' notice is required for tenants residing 6 months or less in the property, 8 for tenants residing between 6 months and 2 years, 12 for those residing 2 to 5 years and 16 weeks' notice for tenants living more than 5 years in the property.
Grounds for repossession	There are 17 grounds in which a tenant can be evicted, all of which require a sheriff's court order.	There will be 8 grounds for repossession: 1. Landlord wants to sell the home 2. Mortgage lender wants to sell the home 3. Landlord wants to move into home 4. Refurbishment 5. Change the use of the home 6. Tenant is 3 months behind on rent 7. Anti-social behaviour 8. Tenant has breached the tenancy agreement
Pre-tenancy notices	Pre-tenancy notices are required to give advance notice of repossession intent.	Pre-tenancy notices no longer required.
Notice of proceedings	The length of notice required depends on the ground for repossession.	A standard 4 week notice is required before repossession proceedings can be raised.
Model tenancy agreement	Tenant Information Pack required for new tenancies	A standard tenancy agreement outlining rights and responsibilities will replace the requirement for a Tenant Information Pack.

Source: Rettie & Co.

FIGURE 1

PERCENTAGE CHANGE IN NUMBER OF EVICTIONS BY TENURE FROM 2008/09 TO 2012/13



Source: Scottish Government and Scottish Housing Regulator

It should be noted that in the last 5 years, the number of evictions of private renters has reduced by more than a third (36%) without legislative intervention. This is despite the fact that the number of households choosing to rent their homes privately has increased by four percentage points during this period, to now house 13% of all Scottish households. Even without the security of tenure guaranteed by Scottish Secure tenancies offered by social landlords, PRS evictions have reduced by the same level as those seen in the social rented sector for the same period. Good landlords know it is not in their interests to lose good tenants.

Rent control- unbalanced and disproportionate

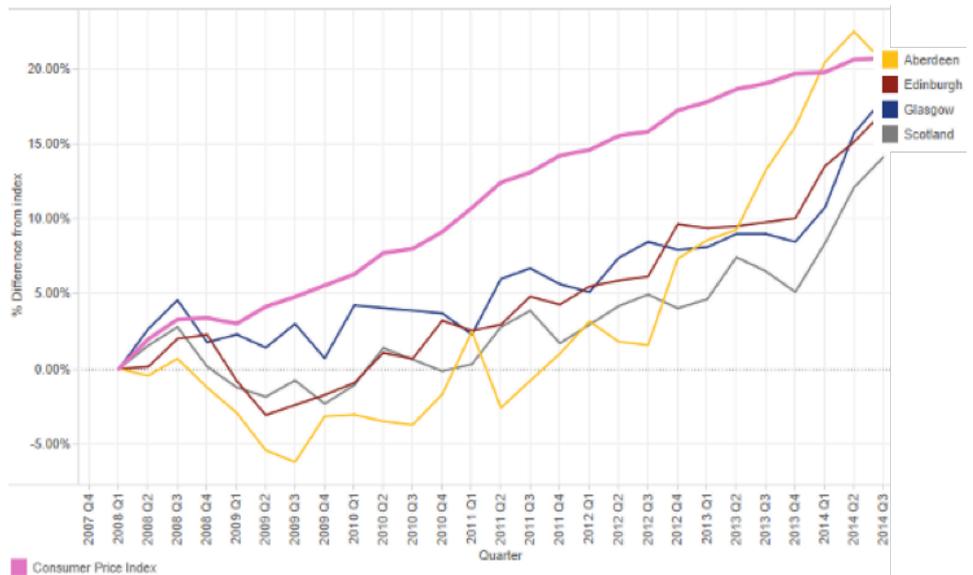
Alongside reforms to enhance security of tenure for tenants and safeguards for landlords, the Scottish Government has included several questions concerning rent levels in the consultation paper. The consultation poses the question of what action, if any, should the Scottish Government take on rent levels in the PRS.

Statistics available on private rent levels do not support the need for legislative intervention in the setting of private rents. We believe such measures would damage investor confidence and, importantly, is disproportionate to the reality of the sector. Private rents have not risen above inflation in any of Scotland's major cities over the last 7 years. With the exception of Aberdeen, rents have fallen in all areas in real terms since 2008.

Across all Broad Rental Market Areas (BRMAs), rents have increased by around 5% in the past three years for 2-bedroom properties and less than 10% for 3-bedroom properties (which may include family homes). During this same period, housing association rents increased by closer to 15% for 2-bedroom properties and approaching 20% for 3-bedroom properties. PRS rents have risen less than RSL rents in nearly all parts of Scotland. The only exception is the Aberdeen market, given the very strong demand drivers here and the economic growth in this time, which was much greater than other parts of Scotland. The only other exception is 3-bed properties in the Lothians, where PRS rents have grown by just 2 percentage points more than RSL rents in this period.

FIGURE 2

CHANGE IN RENTS COMPARED TO INFLATION FOR MAJOR CITIES IN SCOTLAND SINCE 2008 Q1



Source: Citylets

FIGURE 3

RENT INCREASES BY BROAD RENTAL MARKET AREAS BY TENURE FOR 2 BEDROOM PROPERTIES BETWEEN 2010 AND 2013



Source: Scottish Government and the Scottish Housing regulator

Rent regulation runs counter to the Government's stated aims of boosting investment in the sector while enhancing tenure security. Landlords often chose to forego annual rent increases because owners understand the value of a tenanted property. Instead of keeping rent levels low, regulation might have the unintended consequence of driving rents upwards, as landlords seek maximum rents where legally allowed rather than increasing them when practically necessary.

Rent control might also contribute to disinvestment in the private rented sector as increasing limitations are placed on asset return. A reduced supply of quality affordable private lets would come at a time where the demand for housing has never been higher. Currently around 15,000 new homes are built in Scotland each year, falling well short of the Government's annual new build target of 35,000 homes. A housing shortage of this scale places increasing importance on the private rented sector to provide the homes Scotland needs. The solution to housing unaffordability is adding to the supply of new homes rather than intervening in the cost of private rentals.

How to respond to a new prs tenancy consultation

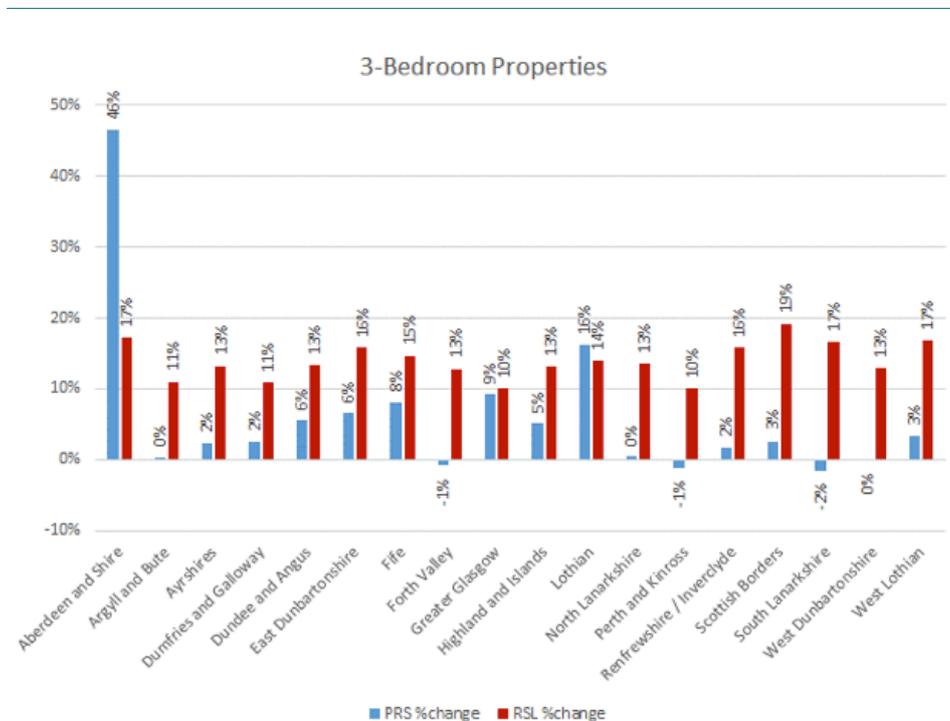
The Consultation on a New Tenancy for the Private Sector is available to download from the Scottish Government website available here:

<http://www.scotland.gov.uk/Resource/0046/00460022.pdf>

The Consultation is open until 28 December 2014.

FIGURE 4

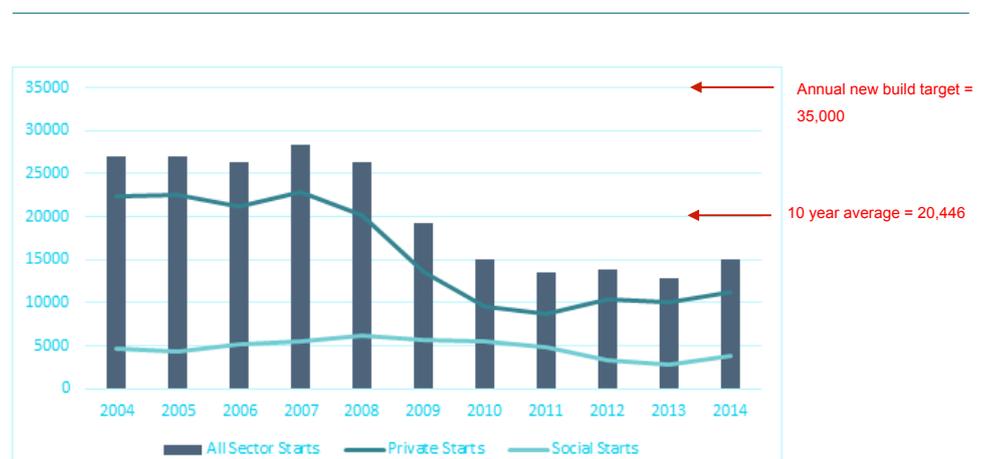
RENT INCREASES BY BROAD RENTAL MARKET AREAS BY TENURE FOR 3 BEDROOM PROPERTIES BETWEEN 2010 AND 2013



Source: Scottish Government and the Scottish Housing Regulator

FIGURE 5

NEW BUILD PRIVATE AND SOCIAL SECTOR STARTS, 2004-2014



Source: Scottish Government

ABOUT RETTIE & CO RESEARCH

This Market Briefing has been prepared by our Research Team, **the largest dedicated residential research team in Scotland**. The Team can help you to **understand and make the right decisions** on what is happening and likely to happen in housing markets. We offer advice that is **robust, objective** and based on not just analysis of these markets, but through **engagement** with our other teams who work in these markets on a **daily basis**.

WE OFFER:

- **Information and advice** on national, regional and local housing markets including prices and sales by property types, and rent levels
- **Analysis of key market drivers**, including economic conditions, and demand and supply indicators
- **Benchmarking** (including by price, sales, rates, product mix, incentives and specifications) through our custom designed in-house Property Tracking System (PTS)
- Assessing current **availability, take-up, occupancy, stock and pipeline** developments
- **Housing market forecasting** on national, regional and local markets, including prices, sales, values, rents (housing and land) by property types and locations
- **Forecasting key market drivers**, including economic conditions, demography and other demand and supply indicators, and assessing the impacts of these
- **Advising on future housing strategies and targets**, based on our assessments of likely future market and economic conditions
- **Inputting into new housing developments and masterplans**, with advice on how these should be market led, as well as on product type, mix, pricing and phasing
- **Devising affordable housing solutions** for future UK housing provision - Our Resonance model involves close private/public sector co-operation to advance the delivery of affordable housing through a flexible and relatively straightforward structure

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For further information, please contact:

research@rettie.co.uk

Dr John Boyle john.boyle@rettie.co.uk 0131 624 4073

Regina Serpa regina.serpa@rettie.co.uk 0131 624 4063

Michael Truscott Michael.truscott@rettie.co.uk 0131 624 4063