

# Housing (Scotland) Bill: (Scottish Government Consultation)

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland. For information only England, Northern Ireland and Wales.

## 1. Executive Summary

The Scottish Government has launched a consultation on the implementation of new rent control powers proposed in the Housing (Scotland) Bill. The consultation covers a range of issues, including exemptions for certain property types (such as Mid-Market rent and Build-to-Rent), circumstances where rent increases above a cap may be permitted, evidence requirements, and the role of local authorities in assessing rents and supporting rent control designations.

Responses are due by **Friday 18<sup>th</sup> July 2025**. [Click here](#) for information and to submit your response; they welcome the answers to the provided questions and general feedback if it is not covered in the questions. [Click here](#) to read the full consultation report.

## 2. Overview

### **Scottish Government Consultation and Call for Evidence on Rent Control Implementation – Housing (Scotland) Bill**

The Scottish Government has launched a formal consultation to gather views on the proposed rent control powers set out in the *Housing (Scotland) Bill*. This consultation seeks to inform how these powers should be implemented in practice, supporting the wider ambitions of *Housing to 2040* to ensure that everyone in Scotland has access to a safe, warm, affordable home.

The consultation builds on previous engagement with stakeholders across the housing sector and provides an opportunity for local authorities, tenants, landlords, investors, developers, and housing professionals to shape the delivery and operation of rent control in Scotland.

The Housing (Scotland) Bill includes powers to designate rent control areas and introduces measures to regulate rent increases within the private rented sector. The current consultation is

focused on the detailed design and operational framework for these powers, with particular attention to local implementation, fairness, and enforceability.

### **Scope of the Consultation**

The consultation covers several key areas critical to the delivery of a rent control system that is proportionate, transparent, and locally responsive:

#### **1. Exemptions for Specific Property Types**

The Bill provides for certain types of property to be excluded from rent caps. The consultation seeks views on whether exemptions should apply to:

- **Mid-Market Rent (MMR) properties**, which are typically offered below market rent by housing associations or local authority subsidiaries.
- **New-build or purpose-built rental properties**, which may require different treatment due to financing structures and investor expectations.

Stakeholders are invited to comment on how such categories should be defined, whether exemptions should be time-limited, and how eligibility should be assessed and monitored.

#### **2. Permitted Rent Increases Above a Cap**

The Bill allows for circumstances where a landlord may apply to increase rent above the level set by a cap. This includes, for example:

- **Substantial improvements** to the property that enhance its value, standard, or energy performance.
- Situations where the rent is **significantly below local market levels**, and an adjustment may be necessary to maintain viability.

The consultation invites views on how to assess such cases, what conditions should apply, and what safeguards are needed to prevent misuse.

#### **3. Evidentiary Requirements and Local Authority Administration**

Respondents are asked to provide feedback on what evidence should be required to support applications for exemptions or above-cap increases. The consultation also considers the potential administrative and resourcing implications for local authorities, including:

- Capacity to analyse local rent levels and housing markets.
- Ability to manage and review applications and appeals.
- Data requirements, IT systems, and staffing needs to support delivery.

#### **4. Local Authority Functions and Support**

Local authorities are expected to play a central role in implementing rent control measures, including:

- Conducting local housing assessments to inform decisions on rent control areas.
- Engaging with tenants, landlords, and other stakeholders.
- Overseeing compliance and enforcement activity.

The consultation explores what support local authorities may require—such as funding, guidance, data access, or staffing—to deliver these responsibilities effectively and consistently.

#### **Objectives and Outcomes**

The purpose of this consultation is to ensure that the rent control powers set out in the *Housing (Scotland) Bill* are implemented in a way that:

- Protects tenants from unaffordable rent increases, particularly in high-pressure housing markets.
- Supports a functioning and sustainable rental sector that continues to attract investment and provide high-quality homes.
- Enables a locally informed and evidence-based approach to rent regulation, with clear roles for local authorities and stakeholders.
- Ensures operational feasibility, transparency, and fairness for all parties.

The views collected through this process will directly inform the development of secondary legislation and statutory guidance following the passage of the Bill.

### **3. Consultation questions**

We will explore the highlighted categories in detail. The consultation questions are categorised as follows:

- **Exemptions – properties let below market rent – mid-market rent properties (5Q)**
- **Exemptions – purpose-built rental housing – build to rent (5Q)**
- **Other circumstances where exemptions would be appropriate (1Q)**
- **Demonstrating eligibility for an exemption (4Q)**
- Modified rent control area restrictions – landlords who charge rent significantly below advertised rates (2Q)
- Modified rent control area restrictions – landlords who make improvements to their property (6Q)

- Modified rent control area restrictions – other costs a landlord may face (2Q)
- **Demonstrating eligibility for an increase above the level of the cap (6Q)**
- Ending joint tenancies – requirement for a pre-notice (3Q)
- Requirements for serving the final notice to leave on the landlord (3Q)
- Ending joint tenancies – summary of process (1Q)
- About you (9Q) Required
- Evaluation (1Q)

#### Exemption – properties let below market rent – mid-market rent properties

1. Should mid-market rent properties be exempted from the application of rent controls under the Bill?
2. We have set out some possible criteria which could be incorporated into a definition of MMR for the purpose of a possible exemption. Do you agree with these criteria?
3. Is there an exemption for mid-market rent properties, should this include specific requirements on the level of rent charged, such as a link to local housing allowance rates or to a specified percentile of market rates?
4. Should MMR properties only be exempted from rent control areas for the duration of time that they meet the specified criteria?
5. Are there any other types of housing provision which should also be considered as part of an exemption for MMR property? In this question we ask you to consider only housing provision let below market rents, with binding restrictions on the level of rent that can be charged, or with restrictions on the types of tenants that can be granted a tenancy.

#### Exemptions – purpose-built rental housing – build to rent

1. Should build to rent properties be exempted from the application of rent controls under the Bill?
2. Do you agree with the criteria we have set out which could be incorporated into a definition of build to rent for the purpose of a possible exemption?

The criteria that we have set out are:

- New homes built at scale and offered exclusively for rent (apartments and/or houses)
- New homes provided at scale through conversion of non-residential properties
- On a single site or related sites
- In a single ownership
- With management services provided by a single legal entity via a management regime and a single wide building insurance structure.

3. Are there any other criteria that should be considered as part of a definition of build to rent for the purpose of a possible exemption?
4. Should build to rent properties only be exempted from rent controls for the time-frame that they meet the specified criteria?
5. Are there any other types of new rental housing provision which should be considered as part of this category of exemption?

#### Other circumstances where exemptions would be appropriate

1. Excluding mid-market rent and build to rent/purpose built private rented accommodation, are there other categories of housing provision that should be exempted from rent controls?

#### Demonstrating eligibility for an exemption

1. What information would you consider to be acceptable to demonstrate that a property is eligible for the types of exemptions referred to in the previous sections in this chapter?  
Properties let below market rent, purpose-built rental housing, other circumstances where exemptions would be appropriate.
2. What steps should a landlord need to take to confirm that their property is eligible for such an exemption?
3. Should landlord of an exempt property be required to communicate to tenants and prospective tenants about the exemption?
4. What could the process be for tenants to verify that a property is exempt?

#### Demonstrating eligibility for an increase above the level of the cap

1. What should the process be if a landlord seeks to make a rent increase above the level of the rent cap for any of the reasons referred to in the previous sections in this chapter?  
These reasons include: landlords who charge rent significantly below advertised rates, landlords who make improvements to their property, other costs a landlord may face
  - Landlords should be required to seek approval before raising the rent above the rent cap
  - Landlords should be allowed to raise rents above the cap without a requirement to apply to an external decision maker
2. If landlords were required to seek approval before raising the rent above the rent cap, what kind of information should landlords have to provide to tenants after the rent increase has been approved, and when?
3. If landlords were required to seek approval before raising the rent above the rent cap, what should be considered when designing a process for landlords to apply?

4. If landlords were allowed to raise rents above the rent cap without seeking approval, should they still need to produce evidence to prove that they qualify?
5. If landlords were allowed to raise rents above the rent cap without seeking approval, who should they need to provide evidence/information to and when?
6. If landlords were allowed to raise rents above the rent cap without seeking approval, what should be considered when designing a process for tenants to verify or challenge the increase?

#### **4. APSE Comment**

APSE encourages our members to respond to the consultation, as these proposals will have an impact on the work of local authorities. It is therefore important that local authorities share their thoughts and views regarding these key areas, in order to help provide Scottish Government with information on any potential impacts and challenges the new rent controls may pose.

Local authorities continue to face significant challenges due to ongoing budget cuts and resource constraints across council services. As such, any additional processes or procedures they are required to implement and monitor are likely to further exacerbate these pressures. Therefore, local authority perspectives on funding, staffing, and support will be essential in providing the Scottish Government with an up-to-date understanding of the current landscape and potential challenges.

APSE Scotland runs a Housing, Construction and Building Maintenance Network where local authority managers, officers and councillors share best practice on local authority building and housing services. These meetings are free to attend for APSE members. Past presentations are available online [here](#), and upcoming meetings are listed [here](#). This Network provides a space for local authorities to discuss and debate all areas related to these services.

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Networks are a free service included as part of your authority's membership of APSE and all end with an informal lunch to facilitate networking with peers in other councils. If you do not currently receive details about APSE network meetings and would like to be added to our list of our contacts for your service area, please email [enquiries@apse.org.uk](mailto:enquiries@apse.org.uk)

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