



**ACORN Scotland**

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## **A housing campaigners guide to the tenancy reform consultation**

### **Overview**

People in Scotland are being asked for their views on proposals for a major reform of the Private Rented Sector, which could see an end to unjust evictions, and even steps toward rent controls.

Edinburgh Private Tenants Action Group, part of ACORN Scotland, has been involved in a Scottish Government tenancy review working group, and has helped inform many of these recommendations. We recognise the need for a modern, easier to understand, tenancy system. However we have also identified several problems with the Scottish Governments proposals.

These proposals for change are likely to be attacked and undermined by letting agents, landlords and their industry associations, at every stage. It is very important we get organised to make sure tenants end up with a better deal out of this consultation, and not more of the same. Part of this will involve housing campaigners having a united message, and it is hoped this guide will help.

### **Why is reform needed?**

The old tenancy system boils down to the Scottish Short Assured Tenancy (SAT), this is what the vast majority of private tenants are on. This is a tenancy agreement with your landlord that outlines your rights and responsibilities. The main problem from a tenants point of view is that you can be evicted very easily once the 'minimum period' (usually 6 months) of your lease is over. Your personal circumstances are irrelevant if it goes to court, eviction is essentially automatic – this is referred to in the consultation as the '*no fault ground for repossession*'.

It is easy to find examples of how unjust this current system is. A family caring for elderly relatives, one with dementia, who had only a matter of weeks to find a new home when their heartless letting agency decided to evict them. We can only imagine how stressful this was for them. Our members have stood up for their rights, only to receive a letter saying they are being evicted. In all these kinds of cases, tenants have no way to defend themselves – eviction is basically automatic if it goes to court.

Alongside being fundamentally unjust, the old regime is very complex and uses very confusing language, such as 'ish' dates, that only the legally trained can understand. There are also some dated grounds for eviction, such as a priest or missionary needing to move into the property. Clearly a modern tenancy regime is needed, and we are excited that it is finally happening after years of campaigning.

### **What should a housing campaigner demand?**

Decent, affordable housing is an essential human right, and housing policy should reflect this. So,

there are a number demands we believe campaigners need to make during the consultation process to improve the situation of tenants, and here are the main ones.

- **The abolition of the 'no fault' ground for evictions (Q1)**

The government proposes removing the fundamentally unjust 'no fault' ground for eviction, as discussed above. This would be a great step forwards for tenants rights, and is probably the single most important part of the proposed new tenancy system. If the no fault ground is not removed, then there would be little point to a new tenancy system at all.

- **No 'mandatory grounds' for evictions, including rent arrears. (Q5)**

Simplified grounds for repossession are proposed, which is welcome. But the devil is in the detail here. They propose that they are all 'mandatory' grounds. this means that if it goes to court, and it is shown that the ground has been breached, eviction will take place. Currently some grounds are 'discretionary', which means that a Sheriff (soon to be a separate Housing Tribunal) can use their discretion whether to evict or not.

Mandatory grounds don't give adequate safeguards for tenants circumstances. For example, some tenants have problems paying the rent, due to wages being late, or delays with housing benefit payments. Being unable to pay the rent should not automatically mean eviction and homelessness. The landlord or mortgage lender wanting to sell is a ground for eviction, but needn't be. In other countries, such as Germany where 60% of people rent from a landlord, if a landlord sells a property, the tenants remain with the terms of their lease intact.

Furthermore, what would the proposed ground 'tenant has otherwise broken their tenancy agreement' involve? Some tenancy agreements have vague or unfair terms that tenants have little choice to accept. Could something as trivial as using blue-tack on the walls be a mandatory ground for eviction? Refurbishment is also proposed as a ground for eviction, but what would this involve? If it is just replacing a carpet, or a little painting, surely the tenant could stay. These grounds are vague, and could be open to abuse.

So we believe campaigners need to ensure all these grounds are discretionary – and the vague ones should be tightened up or removed all together.

- **Increasing security without reducing flexibility for tenants (Q2, 3, 6, 9)**

We should take the opportunity to ensure that tenants gain extra rights to stay in their home as long as they wish, but also have the flexibility to leave, if their circumstances change, or the property, landlord, or letting agency are not meeting their expectations.

We agree with the proposals that tenants should receive longer notice periods from their landlord, depending how long they have lived in the property. However, starting the sliding scale at 4 weeks is not enough. Finding a new home can be hard work, and raising the money for rent and deposit can be difficult, and so we propose starting the sliding scale at a minimum of 8 weeks.

We do not believe that the tenant needs to be restrained by having to give lengthened notice periods however. What landlords call 'void periods', where properties are empty, are only a matter of a week or two with the current notice period tenants need to give, which is one full rental month. Therefore we believe it should be four weeks notice, and not be increased over time.

Also we do not believe that having minimum terms makes sense. The proposal is for a 6 month initial duration, and at the end of that, another 6 month or greater duration. Tenants often require the flexibility to leave a property due to changing work circumstances, at end of an academic year, or if a property is in a state of disrepair. Tenants require more flexibility than this, and we believe they should be free to leave the property with the correct notice given to the landlord.

In the German system there are no minimum or maximum durations, just adequate notice periods. We propose that a similar system is implemented here.

- **Introducing rent controls for affordable rents (Q11)**

We believe that rents are generally too high, with Scottish tenants spending on average nearly a quarter of their income in rent. The number of Scottish households in poverty in the PRS has doubled in the last decade, and high rents are one of the main reasons for this situation. We all understand the idea of fuel poverty, and the need for a living wage – we should also understand rent poverty and the need for a living rent.

We believe that rent regulations need to be introduced. There are many successful examples of rent control, and many ways they could be implemented. We could follow a 'rental index' similar to the German model. Rent boards could be re-introduced which have the power to limit rent increases based on various criteria such as size, quality, and location of the property, but not scarcity. Tenants could also appeal to a rent board to have their rents assessed based on fair criteria to ensure excessive rents are curbed, and people are not pushed into poverty.

The issue of rents relates to security of tenure as well. We have to regulate rents, to ensure that tenants are not forced to leave by unjust rent hikes.

## **Conclusion**

Current housing policy is heavily skewed toward the interests of landlords, and this proposed new tenancy system makes some important steps towards safeguarding tenants rights. Landlords and their industry bodies are going to fight tooth and nail to water down these proposals, so housing campaigners need to be more untied than ever in fighting for a better rental system.