This subject profile provides a general introduction to housing issues in Scotland. It describes the legislative and administrative framework relating to housing and summarises recent policy developments. This briefing updates and replaces SPICe briefing 09/42.
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EXECUTIVE SUMMARY

• Just under two thirds, 62%, of Scotland’s housing stock is owner-occupied, while around 23% is in the social rented sector (that is, owned by local authorities and Registered Social Landlords). About 10% of stock is in the private rented sector.

• Housing policy in Scotland is devolved but it is also influenced by reserved matters, such as welfare benefit policy and mortgage regulation. Future influences on housing policy are likely to include: the impact of the credit crunch, particularly on the availability of mortgage finance for first time buyers; the importance of the private rented sector; the increasing number of households and the ageing population and constraints in public sector spending, particularly capital spending.

• Over the previous three parliamentary sessions a substantial amount of housing related legislation was passed. The legislation has been wide ranging in nature and has included provisions to: improve physical and management in the private rented sector; reform the social rented sector tenancy regime including reform of the right to buy; social rented sector regulatory reform and provisions to improve the rights of homeless persons.

• All local authorities have various strategic duties relating to housing, for example, they are required to assess housing need and demand in their areas and to prepare local housing strategies. Six local authorities have transferred all their housing stock to RSLs, so they do not have a housing management role. The management roles of the local authorities who own their own stock, and RSLs (of which there around 500 operating in Scotland), include the allocation of houses, tenancy management and carrying out repairs and maintenance.

• Since devolution, Scottish Government investment in housing has increased. However, with restrictions in public sector spending the current housing budget has declined. The housing and regeneration budget for 2011-2012 is £399.8 million. In addition, actual spend will be increased by anticipated income from receipts of £20m and almost £136m of ring fenced grants to local authorities (Glasgow and Edinburgh City Council manage the Government’s housing investment for their areas). In 2010-11, the planned budget for housing (including local authority ring fenced grants but excluding regeneration) was £502m.

• Recently, more emphasis has been placed by the Government on the need to achieve greater value for money from government housing subsidies and to develop more innovative models of funding.

• The economic downturn has impacted on the private housing sector. Private sector new build starts and completions are at a long term low level. Accessing the housing market has become particularly difficult for first time buyers because of the high level of deposit needed and this has led to the private rented sector and “mid-market” rented properties, provided by the social rented sector, becoming an increasingly popular option for households who cannot access the market. Both the UK and Scottish Governments have taken action to assist first time buyers to access the housing market.
**INTRODUCTION AND CONTEXT**

**FACTS AND FIGURES**

Table 1 provides some key statistics on housing in Scotland and gives a picture of change since devolution.

Table 1: Key Figures

<table>
<thead>
<tr>
<th>Description</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of households (at March 2009)</td>
<td>2,344,000, an 8% increase since 2000</td>
</tr>
<tr>
<td>Total Housing Stock (at March 2009)</td>
<td>2,469,000 dwellings, of which:</td>
</tr>
<tr>
<td></td>
<td>1.5 million (62%) are owner-occupied</td>
</tr>
<tr>
<td></td>
<td>250,000 (10%) are privately rented</td>
</tr>
<tr>
<td></td>
<td>268,000 (11%) are rented from housing associations</td>
</tr>
<tr>
<td></td>
<td>326,000 (13%) are rented from local authorities</td>
</tr>
<tr>
<td>Since Dec 1999 the proportion of social rented sector dwellings (local authorities and housing associations) has declined by 6 percentage points while the private rented sector has increased by 3 percentage points. The proportion of owner-occupied housing has stayed the same.</td>
<td></td>
</tr>
<tr>
<td>Number of new housing completions (2009-10)</td>
<td>5,960 in the social sector, 20% more compared to 2008-09 and 47% more compared to 1999-2000</td>
</tr>
<tr>
<td></td>
<td>11,412 in the private sector, 29% less compared to 2008-09 and 40% less compared to 1999-2000</td>
</tr>
<tr>
<td>Average House Price (Q3 2010)</td>
<td>£189,600, an increase of just over 170% since 1999</td>
</tr>
<tr>
<td>Number of Homelessness Applications (2009-10)</td>
<td>56,669 a decrease of 1.6%, from the previous year and a rise of around 25% since 1999</td>
</tr>
<tr>
<td>Number receiving housing benefit (Dec 10)</td>
<td>468,720, a 3% rise since Dec 09 but a drop of 2% since 2000</td>
</tr>
</tbody>
</table>

POLICY CONTEXT

Housing policy in Scotland is devolved, but it is also influenced by issues that are outwith the direct control of the Scottish Government, in particular welfare benefits, mortgage regulation, consumer protection and interest rate setting.

Housing policy is further influenced by wider economic and social issues such as the nature of the labour market and household composition. In this respect, four key economic and social challenges that will face the housing system over the next decade have been identified: the impact of the credit crunch, particularly on the availability of mortgage finance for first time buyers; the importance of the private rented sector; the increasing number of households and the ageing population and constraints in public sector spending, particularly capital spending (Scottish Government 2011b).

LEGISLATIVE FRAMEWORK

As Table 2 indicates, there have been a substantial number of legislative developments in relation to housing since devolution. The key piece of legislation relating to social rented housing is the Housing (Scotland) Act 1987 (“the 1987 Act”), although it has been extensively amended over the years. Table 2 provides a broad outline of the provisions in each Act. Some of the provisions in the latter Acts are not yet in force. Members are advised to seek advice from SPICe if more comprehensive information is required.

Table 2: Key Scottish Housing Legislation

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Description</th>
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</table>
| Housing (Scotland) Act 1987          | • Provides the framework for the management and allocation of social rented housing  
                                          • Gives local authorities duties with respect to homelessness  
                                          • Sets out the provisions regarding the operation of the right to buy  
                                          • Provides local authorities with powers to tackle sub-standard housing in their areas  
                                          • Sets the framework for local authority assistance to owner occupiers to help them improve the condition of their house  
                                          • Provides that local authorities must maintain a housing revenue account for income and expenditure relating to its own housing stock |
<p>| Housing (Scotland) Act 1988          | This Act deregulated the private rental market in Scotland. It introduced two new forms of tenancy in the private sector from 2 January 1989 – the assured tenancy and the short assured tenancy, with less security of tenure. |
| Housing (Scotland) Act 2001          | The focus of this Act is on the social rented sector. It introduced the Scottish Secure Tenancy (SST) for tenants of registered social landlords and local authorities and made reforms to the right to buy and homelessness legislation. It also created a single regulatory framework covering housing across the social rented sector and enhanced the strategic role of local authorities in assessing and tackling local housing |</p>
<table>
<thead>
<tr>
<th>Act</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Homelessness (Scotland) Act 2003</strong></td>
<td>The policy intention of this Act was to improve the rights of homeless people. The Act provides the framework for the eventual abolition of the priority need test by 31 December 2012. This means that all unintentionally homeless people will be entitled to settled accommodation. It also provides that when a landlord raises proceedings for possession, that landlord must inform the relevant local authority. The aim is to give local authorities the opportunity to intervene early in order to prevent homelessness occurring.</td>
</tr>
<tr>
<td><strong>Anti-Social Behaviour (Scotland) Act 2004</strong></td>
<td>This Act established the framework for the private landlord registration scheme and the system for serving anti-social behaviour notices on private landlords.</td>
</tr>
<tr>
<td><strong>Tenements Act (Scotland) 2004</strong></td>
<td>This Act provides a structure for the maintenance and management of tenements if this is not provided for in the owner's title deeds. A key innovation is that it provides for decision making by majority.</td>
</tr>
<tr>
<td><strong>Housing (Scotland) Act 2006</strong></td>
<td>The main purpose of this Act was to address problems of condition and quality in private sector housing. It reformed local authority powers to deal with disrepair in their areas and the system of supporting owners to undertake repairs. It also contained provisions governing the “Home Report” (the set of documents that sellers must provide to potential buyers) and re-enacted, with changes, the system of licensing of houses in multiple occupation which is now contained in secondary legislation.</td>
</tr>
<tr>
<td><strong>Home Owner and Debtor Protection Act 2010</strong></td>
<td>The policy intention of this Act was to strengthened protection for home owners facing repossession. It requires all repossession cases to call in court, lenders to demonstrate to the court that they have considered reasonable alternatives to repossession and enable home owners to be represented in court by approved lay representatives.</td>
</tr>
<tr>
<td><strong>Housing (Scotland) Act 2010</strong></td>
<td>This Act modernises the system of regulation of social housing and ends the right to buy for new tenants and new supply social housing.</td>
</tr>
<tr>
<td><strong>Property Factors (Scotland) Act 2011</strong></td>
<td>This Act provides that Scottish Ministers must prepare and maintain a register of property factors and makes it an offence to act as a property factor without being on the register. The Act also makes provision in relation to the resolution of disputes between homeowners and property factors.</td>
</tr>
<tr>
<td><strong>Private Rented (Housing) Scotland Act 2011</strong></td>
<td>This Act amends the private landlord registration system with the aim of improving enforcement of the scheme and introduces a power for local authorities to serve a statutory overcrowding notice that local authorities can use to address overcrowding in the private rented sector. It also makes relatively minor changes to the system of HMO licensing in the 2006 Act and other miscellaneous provisions such as the duty on private landlords to provide a document (a tenant information pack) at the start of a tenancy.</td>
</tr>
</tbody>
</table>
The remainder of this briefing considers some of the key bodies in the housing sector and provides an overview of some of the main policy areas associated with the sector.

**THE SOCIAL RENTED SECTOR**

The term “social rented sector” is used to describe housing provided by local authorities and registered social landlords (RSLs) that are registered with the Scottish Housing Regulator (see below). Overall, this sector accounts for just under a quarter of Scotland’s housing stock.

Six local authorities: Glasgow; Scottish Borders; Dumfries and Galloway; the Western Isles, Argyll and Bute and Inverclyde, have all completed wholesale stock transfers to RSLs and therefore, do not own any housing stock themselves. All local authorities have key strategic housing functions for their areas, such as assessing housing need and demand and assessing homelessness applications, whether or not they own any housing stock.

RSLs are non-profit distributing organisations (mainly housing associations) that are governed by volunteers and managed by professional staff. Around 250 RSLs exist in Scotland and they range widely in terms of size and provision. Some are large nationwide organisations whereas others are smaller and locally based and some may provide housing for specific groups of people. Many RSLs are involved in some kind of “wider role activity” – that is, helping to tackle the problems affecting their communities that go beyond immediate housing need.

**SOCIAL LANDLORD FUNCTIONS**

RSLs and local authorities, which own their own stock, will perform a variety of different landlord functions including tenancy management and the administration of the right to buy, housing allocations and homelessness, supporting particular needs and arranging repairs and maintenance.

**Tenancy Management**

Most tenants in the social rented sector will have a Scottish Secure Tenancy agreement (SST). Some tenants will have a Short Scottish Secure Tenancy (SSST) agreement which is a less secure tenancy agreement that can be used in limited circumstances. The SST was introduced from 30 September 2002, by the 2001 Act, with the aim of equalising tenancy rights between the local authority and the RSL sector.

Tenants in the social rented sector can only be evicted by their landlord on certain grounds and if the proper notices are served. Shelter (Scotland)’s website provides useful advice on the process for eviction: [http://scotland.shelter.org.uk/getadvice/advice_topics/eviction](http://scotland.shelter.org.uk/getadvice/advice_topics/eviction).

Social landlords are also expected to involve tenants in their decision-making processes and to have tenant participation strategies in place.

**Right to buy**

Tenants with an SST will normally have a right to buy (RTB) the property they are living in, unless they are subject to one of the exemptions or limitations as set out in the 1987 Act (as amended). Reform of the RTB has been a recurrent policy theme since devolution.
The 2001 Act extended the RTB to tenants of RSLs, but also introduced the “modernised” RTB, to most new tenants from 30 September 2002, with less generous terms and conditions. Tenants who had the RTB prior to 30 September 2002, and who have not moved, will generally have retained their RTB on the old terms and conditions. The differences between the two forms of RTB are summarised in Table 3.

<table>
<thead>
<tr>
<th></th>
<th>Qualifying length of tenancy</th>
<th>Maximum Discount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old RTB</td>
<td>2</td>
<td>60% for houses, 70% for flats</td>
</tr>
<tr>
<td>Modernised RTB</td>
<td>5</td>
<td>35% of market value or £15,000, whichever is lower</td>
</tr>
</tbody>
</table>

After a small upturn in 2002 and 2003, RTB sales have declined consistently over the years. In 2010 there were 2,178 sales, a decline of 46% from the previous year, and of 88% from 2002-03 when sales peaked (Scottish Government 2010a).

Exemptions and Limitations

There are a number of exemptions and limitations on the right to buy. These include:

- from 1 March 2011, new tenants, do not have the RTB
- new supply social housing is exempt from the RTB
- tenants of RSLs, which had charitable status as at 18 July 2001, are exempt from the RTB
- many tenants of RSLs will not be able to exercise their RTB until after September 2012
- Local authorities can designate “pressured areas” whereby the modernised RTB is suspended for a set period of time. These provisions will be extended by the 2010 Act to allow for longer designations and to allow designations to apply to particular house types.

These are general rules and individuals should contact their own landlord if they are unsure of their specific entitlement. Government guidance (Scottish Government 2011c) also provides more detail on the provisions.

Allocations

Social landlords must have an allocation policy that sets out how their housing stock will be allocated. The 1987 Act sets out criteria that landlords must take into account when devising their allocation policies. For example, landlords must give “reasonable preference” to certain categories of applicants, such as homeless persons and those living in overcrowded conditions.

Following research (Dudleston A et al.2007, Rosengard, A et al 2007) which reported a lack of understanding amongst social landlords and tenants about the legislative framework surrounding allocations, particularly how the allocation process relates to homelessness duties, and how local communities’ needs can be taken account of, the Scottish Government issued
revised allocations guidance in 2011 (Scottish Government 2011d). The guidance aims to encourage social landlords to make full use of the flexibilities available to them in legislation.

**Homelessness**

Just over 56,000 homelessness applications were made to local authorities in 2009-10, a slight drop since the previous year (Scottish Government 2010a). Most people present as homeless because of a relationship breakdown or dispute within the household. Local authorities have a duty to assess homelessness applications and to provide accommodation and advice and assistance where necessary. In certain circumstances, RSLs must comply with local authority requests to re-house homeless persons.

Extending the rights of homeless persons was a key policy theme of the former Scottish Executive and both the 2001 Act and the 2003 Act contained provisions to give effect to this policy intention. The 2001 Act extended local authorities’ duties to provide temporary accommodation in certain circumstances, while the 2003 Act set the framework for the abolition of the priority need test. This means that after 31 December 2012 all unintentionally homeless households will be entitled to settled accommodation. Settled accommodation normally means a permanent tenancy in a social rented sector property. At the moment, settled accommodation only has to be provided for “priority” households. This is commonly referred to as the 2012 target, or commitment.

Local authorities have been aiming to increase the number of homeless applicants considered priority to 100% by December 2012, in order to be in a position to comply with the new statutory duty. Progress towards the target is being made and currently around 87% of all homeless applicants are assessed as priority (Scottish Government 2011c). However, progress is proving more difficult in some areas, particularly where there are issues about restricted housing supply, and in many areas the use of temporary accommodation has been increasing.

Recent Scottish Government policy has emphasised the homelessness prevention agenda. Local authorities have been developing approaches to preventing homelessness from occurring in the first place, for example, by providing targeted support at young people leaving care. A forthcoming SPICe briefing *Homelessness Subject Profile* will provide further information on homelessness.

**Supporting Particular Needs**

A key policy priority of successive governments has been to support people to remain at home for as long as possible, rather than in care homes or hospital settings.

Local authorities are responsible for the provision and planning of housing support services in their areas. These are services that allow people to stay in their own homes, such as the provision of a support worker to provide general counselling or advice, or a warden to maintain the security of a property. Local authorities can provide these services themselves or commission private or voluntary sector organisations to provide them. Previously, these services were funded through the ring fenced “Supporting People” programme. However, resources are no longer ring fenced and are funded through the local government block grant. The removal of ring fencing led to some concerns that these services will be vulnerable to local authority budget cuts, although it is not clear what impact the removal of ring fencing in itself, as opposed to general reductions in local authority budgets, has actually had in practice.

With an ageing population, demands for adaptations are increasing. Social landlords are expected to provide assistance to tenants who need adaptations to their house, in order for them to remain living in it, as long as that need has been identified by an assessment and they
are a priority according to local policy. Funding restrictions can mean that households have to be prioritised for assistance. Further information on major adaptations is available from the Scottish Government at: http://www.scotland.gov.uk/Topics/Health/care/EandA/Adaptations

On a more general note, the Scottish Government has been considering the implications of an ageing population on services. The Reshaping Care for Older People programme seeks to remodel care and support services for older people in ways that are sustainable and that better help older people to maintain their independence. As part of that programme a working group has considered the implications for housing of an ageing population. The working group’s report identified areas where improvements that could be made, such as improved information to older people and better strategic planning (Scottish Government 2010b).

Repairs and Maintenance

Generally, social landlords are responsible for maintaining the houses they own in wind and watertight condition and for major repairs to the structure and installations. The quality of housing stock in the social rented sector has improved over the years, partly in response to the need to meet the Scottish Housing Quality Standard (SHQS) by April 2015. The SHQS was a policy target set out by the Scottish Government in 2004. It differs from the statutory 'tolerable standard' (which is a very basic standard of acceptability) and the building standards as they apply to new housing and is based on a number of broad quality criteria. A precise definition of these broad criteria set out in two Scottish Government letters to councils of May 2004 and July 2004.

The Scottish Housing Regulator monitors progress towards meeting the Standard. Its latest report revealed that at March 2010, 56% of social rented houses complied with the SHQS, with 70% of RSL houses and 43% of local authority houses meeting the Standard. The report suggests that most RSLs will meet the 2015 target but for some local authorities funding the necessary work, given the current pressures on local authority finances will be a “challenging scenario” (Scottish Housing Regulator 2011).

THE REGULATION OF SOCIAL RENTED HOUSING

The Scottish Housing Regulator (SHR) registers and regulates independent social landlords and inspects the housing and homeless services provided by local authorities. Its purpose is to:

- protect the interests of current and future tenants and other service users
- ensure the continuing provision of good quality social housing, in terms of decent homes, good services, value for money, and financial viability
- maintain the confidence of funders

Regulatory reform has been a policy theme of successive governments. The 2001 Act reformed the regulatory regime and gave Scottish Ministers regulatory powers which were carried out by Communities Scotland on their behalf. Communities Scotland was abolished in 2008 and its non-regulatory functions were transferred to the Scottish Government, while the regulatory functions were carried out by a newly established Scottish Housing Regulator.

The 2010 Housing Act makes changes to the status of the SHR and its functions, powers and duties. From 1 April 2011, a new independent SHR with its own board was established. During 2011/12 the new SHR will develop plans for a new regulatory framework and will consult social landlords, tenants, other service users and other stakeholders on this framework. The intention
is that the new regulatory framework will be a more risk-based, proportionate inspection regime that is targeted at the poorer performers. A more targeted approach to regulation will be matched by an increased onus on landlords for self evaluation and reporting. During 2011/12 the new Regulator will exist alongside the existing SHR agency. The agency will continue to regulate using Scottish Ministers’ powers under the Housing (Scotland) Act 2001 until the new SHR has carried out have carried out consultation and are ready to exercise the new functions from the 2010 Act.

Under the 2010 Act Ministers are required to establish a Social Housing Charter which will define the outcomes that social landlords should be achieving and which will be used by the SHR as the starting point for assessing a social landlord’s performance. A discussion paper (Scottish Government 2011f) on the Charter has been published and it is expected to come into effect in April 2012.

**HOUSING INVESTMENT**

Capital investment in social housing comes from a variety of sources. Local authorities largely rely on borrowing under the Prudential Borrowing Framework, receipts from Right to Buy (RTB) and land sales, capital funded from revenue and, in some cases, a relatively small amount of Government investment (see below). On the other hand, Registered Social Landlords mainly fund their developments through borrowing and Scottish Government subsidy.

Historically, most of the Government’s housing investment programme has been directed at RSLs to build new properties or to renovate existing properties. While this is still the case, other types of programmes have expanded, such as initiatives to support low cost home ownership. Recently, the policy agenda has been driven by the current economic climate and the constraints on public expenditure. More emphasis has been placed by the Government on the need to achieve greater value from money from housing subsidies and to develop more innovate models of funding.

The Government’s housing policy paper *Homes Fit for The 21st Century* was published on 4 February 2011 and sets out the Scottish Government's vision for housing to 2020. (Scottish Government 2011e) It makes it clear that traditional models of finance alone cannot be relied on in the future and that there will be a decisive change in the way affordable housing is delivered, using Government funding to lever in the maximum possible investment from other sources, and encouraging innovation.

To encourage greater value for money from government subsidy the Scottish Government reviewed the subsidies on which grant to RSLs, known as Housing Association Grant (HAG), are paid and has reduced the level of these, encouraged efficiencies in housing associations’ procurement activities and promoted collaborative working between local authorities and housing associations.

New models of funding that have been piloted include the National Housing Trust. Developed by the Scottish Government and the Scottish Futures Trust, it allows local authorities to make additional affordable homes available for intermediate (mid market) rent through specific arrangements between developers and special purpose vehicles set up by participating local authorities.
2011-12 GOVERNMENT HOUSING INVESTMENT

The main Scottish Government housing and regeneration budget for 2011-12 is £399.8 million. In addition, actual spend will be increased by anticipated income from receipts of £20m and almost £136m of ring fenced grants to local authorities (Glasgow and Edinburgh City Council manage the Government’s housing investment for their areas).

Housing investment has declined from 2010-11 when the planned budget for housing (including local authority ring fenced grants but excluding regeneration) was £502m. Changes have been made to the way housing budget data has been presented in 2011-12, compared to previous years, as have changes to the way the funding is allocated. Previously, planned funding was set out at the start of a financial year in the Affordable Housing Investment Programme and each local authority area was given indicative allocations to its area.

A large proportion of the budget for new supply housing in 2011-2012 has been committed to projects that have already been approved or to re-pay front funding by RSLs in the previous financial year. Therefore, for 2011-2012, the Scottish Government’s main new housing supply programme is a new £50m Innovation and Investment Fund. This comprises

- At least £20m for Council house building;
- At least £20m for Registered Social Landlord (RSL) building; and
- Up to £10m for An innovation fund open to all providers for all forms of affordable tenure.

This funding is available on a competitive bidding basis and it is expected that announcements on allocations will be made sometime in August 2011. Further details of how the IIF will work have been set out by the Scottish Government (Scottish Government 2011h). It is not yet clear how these arrangements will change in later years, but the focus on value for money, innovation and collaboration is likely to continue.

Apart from the £50m Innovation and Investment Fund, the Scottish Government provides investment for other schemes, such as the Low Cost Initiative for First Time Buyers (LIFT) which enables people who wish to own their home but who cannot afford to pay the full price for a house to own their own home, mainly through shared equity arrangements. The Home Owners Support Fund (HOSF) also helps households at risk of repossession to stay in their own home.

Output

Table 4 below shows that the total number of housing units approved, and completed, through Government investment, peaked in 2009-10 when 8,663 approvals and 8,092 completions were achieved. However, it should be noted that 2009/10 was a record year because of the accelerated budget. It may therefore be more appropriate to look at investment over a number of years. The number of approvals in 2011-12 is expected to drop to around 6,000 units.
Table 4: Scottish Government Affordable Housing Investment approvals and completions 2000-01 to 3rd quarter 2010-11

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</thead>
<tbody>
<tr>
<td>Total units approved through all AHIP activity</td>
<td>6,005</td>
<td>5,237</td>
<td>4,746</td>
<td>6,258</td>
<td>5,408</td>
<td>6,547</td>
<td>7,108</td>
<td>7,066</td>
<td>7,027</td>
<td>8,683</td>
<td>4,772</td>
</tr>
<tr>
<td>Total units completed through all AHIP activity</td>
<td>6,338</td>
<td>6,140</td>
<td>5,219</td>
<td>4,153</td>
<td>5,445</td>
<td>5,888</td>
<td>4,832</td>
<td>5,670</td>
<td>6,221</td>
<td>8,092</td>
<td>4,663</td>
</tr>
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Note: includes, new build, rehabilitation and off the shelf purchases. Includes 1,342 council house approvals and 72 council completions in 2009-10. Approvals in any one year do not necessarily relate to the number of completions in the same year.

Local Authority Housing

As explained earlier, local authorities largely rely on borrowing under the Prudential Borrowing Framework, receipts from RTB and land sales, capital funded from revenue and, in some cases, a relatively small amount of Government investment to fund the building of new houses.

The Prudential Borrowing Framework was introduced from April 2004, replacing the previous system of capital controls which, combined with the prospect of sales under the right to buy and restrictions on the use of right to buy receipts, effectively restricted local authorities from building their own houses. Essentially, the framework means that local authorities can make their own decisions about how much they can afford to borrow, having regard to the Prudential Code issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) in 2004. The Code requires that the capital investment plans of the local authority are affordable, prudent and sustainable.

With the introduction of this framework, and the removal of restrictions on the use of right to buy receipts, local authorities had more choice to build houses that realistically was not possible before. Council house building programmes have been encouraged since 2008 when the Scottish Government announced funding to “incentivise” councils to build more houses. Around £80m has been made available, through three bidding rounds, which is expected to assist the completion of around 3,300 homes (Scottish Government 2011i).

Local authorities’ housing capital expenditure is projected to total around £550-600m depending on final outturns, an increase of around 20% since 2009-10 (Scottish Government 2010c). Future levels of investment in council housing will be dependent on a number of factors, such as the capacity to make use of the prudential borrowing framework (which does not suit local authorities with high existing housing debt levels, and debt levels have been increasing), interest rates on new borrowing and the state of the housing market which influences right to buy sales. Table 5 highlights the recent increase in council new build starts and completions.
### Table 5: Number of local authority new build starts and completions 1999-00 to Q3 2010-11

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</thead>
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<td>90</td>
<td>43</td>
<td>15</td>
<td>0</td>
<td>0</td>
<td>6</td>
<td>28</td>
<td>432</td>
<td>250</td>
<td>546</td>
<td>789</td>
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<tr>
<td>New Build Completions</td>
<td>112</td>
<td>65</td>
<td>94</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>6</td>
<td>28</td>
<td>336</td>
<td>384</td>
<td>452</td>
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</table>


### OWNER OCCUPATION

#### THE HOUSING MARKET

The impact of the “credit crunch” and the economic downturn on the housing market manifested itself in a number of ways. Mortgage availability became more restricted, house sales transactions and house prices declined, as did levels of new house building starts and completions.

Recent data suggests house sale transactions are still subdued and private sector house completions are still down from previous years. House prices in Scotland have risen slightly (although are still 6% below the peak prices of June 2008) (Scottish Government 2011). As Figure 1 indicates, private sector new build starts and completions are at long term low levels.

Fig1: Private Sector New Build Starts and Completions 1999-00 to 2009-10

An on-going policy theme in relation to owner-occupied housing has been support to first time buyers and low income households to access the market. First time buyers have been particularly affected by the restriction in mortgage finance and the need to raise substantial deposits (often around 20% of the purchase price) to buy their first home. At a UK level, the UK Government has been encouraging key players in the housing industry to work more closely together to help first time buyers access the market (Department of Communities and Local Government 2011) and there is some evidence that lenders are developing new products (Guardian 2011). For example, some lenders are offering family guarantor mortgages whereby family members provide additional security for the mortgage. Other lenders have developed various arrangements with housing developers, for example, one lender has worked with two building societies to develop an insurance-backed product which underwrites the lenders risk requirement. This cost of the policy is covered by the developer.

In Scotland, the Scottish Government’s Low Cost Initiative for First Time Buyers (LIFT) programme expanded the range of initiatives available to help first time buyers access the market, particularly through shared equity schemes. Under a shared equity scheme, buyers must buy a minimum (60%) equity stake in the property and the Government/RSL or private developer buys the remaining stake. When the property is sold, each party retains the same stake from the selling price. In 2009-10, the number of properties purchased under the Scottish Government's shared equity schemes was 1,979 (Scottish Parliament 2011). The Scottish Government’s recent housing policy paper (Scottish Government 2011) indicated that shared equity would be made a permanent feature of housing policy.

**Repossessions**

With the economic downturn and associated job insecurity the potential for repossessions arises amongst households who may find themselves in changed economic situations. As Table 1 indicates, the number of repossessions by first-charge mortgage lenders, at a UK level, increased from 2008 to 2009 but then fell from 47,000 in 2009 to 36,300 in 2010 which is still a very small proportion of all mortgages)

The Council of Mortgage Lenders (CML) expect repossessions to increase to around 40,000 UK wide in 2011, although they also stress that uncertainties remain, for example the impact of potential rises in interest rates (CML 2011). There is a lack of specific Scottish data in this area to assess the extent of the problem in Scotland.

**Table 6: Number of Repossessions UK, 2008**

<table>
<thead>
<tr>
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<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011 Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>40,000</td>
<td>47,000</td>
<td>36,300</td>
<td>40,000</td>
</tr>
<tr>
<td>% of all mortgages</td>
<td>0.34</td>
<td>0.42</td>
<td>0.32</td>
<td>0.35</td>
</tr>
</tbody>
</table>

Source: data from CML website http://www.cml.org.uk/cml/home

**Support for Homeowners**

In the past few years, a number of policy developments have sought to protect homeowners at risk of repossession. The Scottish Government operates two schemes, as part of the Home Owners' Support Fund, to help owners who are experiencing difficulty in paying loans that are secured against their property - the Mortgage to Rent scheme and the Mortgage to Shared Equity scheme. More information on these schemes is available on the Scottish Government’s website at: [http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/mtr](http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/mtr)
Further protection to homeowners facing repossession was introduced through the Home Owner and Debtor Protection (Scotland) Act 2010 which, amongst other things, places a duty on all lenders to undertake pre-action requirements before starting repossession proceedings (similar provisions for tenants with a Scottish Secure Tenancy are contained in the Housing (Scotland) Act 2010). These pre-action requirements include not making a court application seeking repossession where the debtor is taking steps likely to repay arrears, and to provide the debtor with information about sources of advice and assistance to help the debtor manage their debts.

REPAIR AND IMPROVEMENTS IN OWNER-OCCUPIED HOUSING

Generally, the quality of housing in the owner-occupied sector is better than in the private rented sector, but slightly worse than the social rented sector. In the first parliamentary session the Scottish Executive set up a Housing Improvement Task Force to undertake a major review of housing quality in the private sector. This work culminated in legislative provisions relating to housing quality in the 2006 Act.

The 2006 Act reformed local authorities' powers to tackle disrepair in the private sector with the aim of giving local authorities greater flexibility to address issues in their areas. Another policy intention behind the Act was to encourage home-owners to take greater responsibility for the upkeep of their properties and in this respect local authorities no longer have to provide grants for necessary repair work (unless in exceptional circumstances). This policy was supported by the SNP Government and it was in the third parliamentary term when the relevant provisions of the Act came into force and guidance on the Act was issued.

In order to address to disrepair in owner occupied housing in their areas local authorities can:

- create Housing Renewal Areas to address sub-standard housing on an area wide basis.
- serve a “work notice” on owners of properties that are in disrepair requiring them to undertake specified work
- serve owners of properties with maintenance orders, to ensure that houses (and common parts) are adequately maintained to prevent them from falling into disrepair. It was anticipated that these orders will be particularly useful for flats and tenement properties where there are particular problems with repair of common parts

Given that these parts of the 2006 Act only had to be implemented in full from April 2010, it is not yet clear how local authorities are using these powers and what impact they are having. The City of Edinburgh Council continues to use its powers under a local act, the City of Edinburgh District Council Confirmation Act 1991, to address disrepair in properties in its area.

Schemes of Assistance

Part 2 of 2006 Act created a new scheme of assistance for housing purposes, based on the principle that individual owners have primary responsibility for maintaining their properties in good condition, with assistance available when necessary.

These provisions allow local authorities to provide assistance for house repairs, improvements, adaptations and construction, as well as the acquisition or sale of a house. The assistance can take various forms, including standard and subsidised loans, practical assistance and grants, although Government guidance discourages the use of grants.
Local authorities must prepare and make publicly available a statement on their own scheme of assistance. In certain circumstances - for work required by a work notice or an adaptation to meet the needs of a disabled occupant - local authorities must provide assistance. There are only limited situations where the local authority must provide grant assistance, for example, where the provision of a standard amenity is required to meet the needs of a disabled occupant (Scottish Government 2009a).

THE PRIVATE RENTED SECTOR

Although the private rented sector accounts for only about 10% of total housing stock, it has been growing in importance and has doubled its share of the total housing stock since 1999 (Scottish Government 2009b). Despite its relatively small size, the sector performs an important role in providing flexible accommodation for young and mobile people, and for those who are unable to access social housing.

Private rented sector policy development in the first two parliamentary sessions focussed on improving physical and management standards in the sector. While these policy aims were continued by the SNP Government, there was also more of a focus on the sector’s role in meeting housing needs, particularly for those who cannot afford to buy or who cannot access social rented housing.

TENANCIES

The majority of tenants in the private rented sector have a short assured tenancy. Other, less common, types of tenancies in this sector include assured tenancies and tied tenancies. Before a private landlord or letting agency can evict a tenant they have to follow the correct procedures. Shelter Scotland’s website provides useful advice for private sector tenants threatened with eviction at: http://scotland.shelter.org.uk/getadvice/advice_topics/eviction.

Although there has been no major review of the existing tenancy regime, there have been policies developed aimed at improving the operation of the tenancy regime and the rights of tenants. These include:

- **Tenant Information Pack:** the 2011 Act will introduce a requirement that landlords must, at the start of a tenancy, issue tenants with specified documents – known as a pre-tenancy information pack. This could include, for example, details of repair and maintenance requirements under the Repairing Standard that landlords have to meet.

- **Tenancy Deposits:** the 2006 Act set the framework for a tenancy deposit scheme to be established. The Tenancy Deposit Schemes (Scotland) Regulations 2011, made under the 2006 Act, puts in place a framework for a “custodial” tenancy deposit scheme – that is one where a third party scheme administrator retains the deposit on behalf of the landlord. Once approved tenancy deposit schemes are in place, landlords would be required to pay a tenancy deposit to an approved scheme, to provide information to the tenant, and to ensure that a deposit is held by an approved scheme administrator throughout a tenancy. There will be no cost to landlords to join the scheme. It is expected that schemes will be up and running by the end of 2011.

- **The Repairing Standard:** Private landlords must meet certain basic repair and maintenance requirements (these requirements are known as “the Repairing Standard”). If a tenant is of the opinion that the repairing standard has not been met they can complain to the Private Rented Housing Panel (PRHP). The PRHP is a body
independent of government and consists of members (lawyers, chartered surveyors and lay members) and committees. Once an application has been made to resolve the dispute, the parties can opt to try and resolve the issue through mediation or have a Committee make the decision for them.

**Licensing of Houses in Multiple Occupation (HMOS)**

In response to poor and unsafe conditions in HMOs an HMO licensing scheme was introduced in 2001. HMO properties, i.e. those that are rented out and occupied by three or more unrelated people who share bathroom or kitchen facilities, have had to be licensed by the local authority. For a property to be licensed the local authority must ensure that the landlord is considered a “fit and proper” person to hold a licence, that there are proper tenancy management arrangements in place and that the property meets certain physical standards. As at March 2011 there were 11,881 HMO licences throughout Scotland (Scottish Government 2011a).

The provisions governing HMO licensing, are currently set out in an Order under the Civic Government (Scotland) Act 1982. These provisions will be revoked by the 2006 Act which restates, amends and extends these provisions and comes into force on 31 August 2011.

Some of the key issues relating to HMOs have been how effectively local authorities are able to enforce the HMO licensing provisions and the extent to which concentrations of HMOs in certain areas have raised issues amongst the local community. This latter point has raised debate about the extent to which the planning system can be used to control HMOs as there is no automatic link between the two systems, although local authorities can use planning policies to control the numbers of HMOs in areas for planning purposes.

Various amendments have been made to the 2006 Act by the 2011 Act. In particular, local authorities will have a discretionary power to refuse to consider an application for an HMO licence if they consider that use as an HMO would be a breach of planning control. Local authorities may also refuse a licence if it considers that there is (or as a result of granting the licence there would be) overprovision of HMOs in the locality.

**Private Landlord Registration**

Private landlords must register themselves, and the properties they own with the relevant local authority, under provisions in the Antisocial Behaviour Act etc (Scotland) 2004. In order to be registered the landlord must pass a “fit and proper person” test, carried out by the local authority. Letting a property without being registered may result in prosecution or a rent penalty notice, which means that tenants would not have to pay any rent.

A key issue concerning the landlord registration scheme has been the varied implementation, and enforcement, of it by local authorities. Some local authorities claimed that it is difficult to enforce because of, for example, the information required to prosecute for breach of the legislation. There has also been debate as to the extent to which the scheme is actually a “light touch” approach to regulation as it was intended to be, and some suggestion that further regulation may deter landlords from entering the market (Local Government and Communities Committee 2010).

In an attempt to address concerns over enforcing the scheme, provisions in the 2011 Act amend the fit and proper person test and increase penalties for breaches of the legislation. A more fundamental review of the private landlord registration scheme has also been undertaken which is still to report.
ENERGY EFFICIENCY

Increasing fuel prices and the need to reduce climate change emissions from the household sector have driven efforts to improve the energy efficiency of housing. Various policy targets in related areas exist which has provided a further impetus to this agenda:

<table>
<thead>
<tr>
<th>Energy Efficiency Related Policy Targets</th>
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<tr>
<td>• by April 2015 houses in the social rented sector will have met the Scottish Housing Quality Standard (see detail earlier in the briefing)</td>
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<tr>
<td>• by November 2016, so far as is reasonably practicable, nobody will be living in fuel poverty in Scotland</td>
</tr>
<tr>
<td>• by December 2020, improved design and greater energy efficiency in housing will have made a contribution to Scotland’s commitments to reduce energy consumption by 12% and greenhouse gas emissions by 42%</td>
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</table>

While the energy efficiency of housing stock has improved, more progress has been made in the social rented sector compared to the owner-occupied sector. The up-front costs of carrying out energy efficiency measures can be a barrier for many owner-occupiers to instigate such measures. For example, internal wall insulation for solid wall properties (which is common in Scotland’s older housing stock) can cost between £5,500 and £8,500 (Energy Action Scotland 2010). While a range of schemes exist to encourage home-owners to improve the energy efficiency of their properties, many of these are information based (Scottish Consumer Council 2011). The Scottish Government’s Energy Efficiency Action Plan (Scottish Government 2010d) identifies a range of actions that are being taken forward to improve energy efficiency.

The Climate Change (Scotland) Act 2009 requires the Scottish Ministers to publish a report on their plans for use of enabling powers for the regulation of energy efficiency standards in existing housing. The report (Scottish Government 2011) concluded that it was not appropriate, at this time, to proceed with regulations. The main reason given for this approach was the difficult economic times which have increased costs to homeowners and landlords and the fact that many current UK energy efficiency measures are under review.

HOUSING BENEFIT

Housing Benefit is reserved, although they are administered by local authorities. There are around 470,000 recipients of Housing Benefit in Scotland. The UK Government has proposed changes to housing benefit with the aim of reducing public expenditure and making the system fairer. In the longer term there are proposals in the Welfare Reform Bill that would replace some existing benefits (including Housing Benefit) and introduce a single benefit – the Universal Credit.

Some of the more immediate changes, mainly in relation to tenants in the private rented sector who are assessed under the local housing allowance arrangements, took effect from April 2011. Assuming that rental values remain the same, these changes will effectively restrict the availability of private rented accommodation that where rent can be fully covered by Housing Benefit. Other proposed changes will affect social rented sector tenants too, for example, the proposal to limit Housing Benefit payments where properties in the social rented sector are under-occupied.
Although there is a consensus amongst key stakeholders that Housing Benefit reform is needed, the Scottish Government has argued that the changes will have negative consequences for Housing Benefit tenants in Scotland and will have detrimental impacts on devolved housing policy (Scottish Government 2011i). SPICe Briefing *Housing Benefit Proposals: Implications for Scotland* (Berry 2011b) provides further detail on the proposals.
SOURCES


RELATED BRIEFINGS

SB 10-34 The Scottish Housing Market - Update (326KB pdf) - 3 June 2010

SB 10-71 Private Rented Housing (Scotland) Bill (425KB pdf) – 3 November 2010

SB 11-22 Private Rented Housing (Scotland) Bill: Stage 3 (346KB pdf) – 7 March 2011

SB 10-19 Housing (Scotland) Bill (677 KB pdf) – 3 March 2010

SB 10-70 Housing (Scotland) Bill: as Amended at Stage 2 (406KB pdf) – 27 October 2010

SB 09-73 Home Owner and Debtor Protection (Scotland) Bill (463 KB pdf) – 22 October 2009

SB 10-11 Home Owner and Debtor Protection (Scotland) Bill - Stage 3 (296KB pdf) – 4 February 2010

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