The Private Housing (Tenancies) (Scotland) Bill was introduced in the Parliament on 7 October 2015. The Bill contains provisions that would allow local authorities to apply to Scottish Ministers to declare rent pressure zones which would allow action to limit rent increases in rents for sitting tenants in those areas.

This briefing provides information about sources of statistics on private sector rents, trends in private rent levels, current legislative provisions about rents in private tenancies and a background to the debate about the need for rent control measures. The relevant provisions in the Bill are also briefly considered. Further analysis of the Bill as a whole will be provided in a forthcoming SPICe briefing.
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EXECUTIVE SUMMARY

• In 2014, there were around 330,000 households in the private rented sector (PRS), around 290,000 of which rented from a private landlord and 40,000 rented from family and friends. Around 14% of households live in private rented accommodation. The PRS has more than doubled in size since 2001 and is now the most common form of tenure for younger households.

• Different sources of private rent statistics exist. The Scottish Government first published private rental statistics in November 2014 based on data from the Rent Service Scotland market evidence database which is used to calculate housing benefit for tenants renting from private landlords. These statistics will be updated each year. Non-government data is available from a number of lettings agents.

• Scottish Government data indicates that, in the year to September 2014, the average rent for a 2-bed property was £596 per month. However, there are wide geographical variations across Scotland. Average monthly rents for a 2 bed property ranged from £442 in Dumfries and Galloway to £898 in Aberdeen and Shire.

• Much of the debate about rent control has focussed on rising rent levels within the PRS. The Scottish Government data showed that average rents for 2 bed properties increased by 3.6% from 2013 to 2014. Over the four year period from 2010 the cumulative increase in rents for 2 bed properties was 11.2%. Again there are wide geographical variations, rental values in Aberdeen and Shire increased by 39.8% compared to West Dunbartonshire where they decreased by 2.7%. Recent private sector data suggests that rents in the Aberdeen area have been declining, reflecting the downturn in the local economy.

• The above statistics are based on average rental values. However, because of the wide range of rental values in the PRS, using median rent levels\(^1\) may be more appropriate. Furthermore, when looking at trend data, real terms values (which have been adjusted for inflation) may be more useful. Depending on what values are considered, different trends emerge. Using cash terms average figures, rents for 2 bed properties have increased by 11.2% from 2010-2014. However, using real terms, median rent data rents have declined by 5.4% over the same period.

• Changes in private rents are likely to differ across different tenancies (new lets, sitting tenancies) and different households according to the type of family and the income bracket they are in. These changes are likely to have different effects on households: while for some households rents may have become more affordable over time, for others they may have become less affordable. Aggregate private rental figures by property size do not offer sufficient detail to be able to draw conclusions on the social consequences of rental values and changes in rental values over time.

\(^1\) Average prices are skewed by the existence of outliers (i.e. particularly expensive or cheap rentals) while median prices provide a figure which splits the data in two: half the rental values are above the median value and half are below. Median prices are not distorted by outliers in the data.
Across Great Britain there has been debate about whether there needs to be some form of regulation of private rents is needed. The UK Government has been opposed to any legislative change but has introduced a model tenancy agreement which tenants and landlords can use voluntarily. It suggests that if a tenancy agreement last for more than two years the landlord and tenant need to agree whether the rent will stay the same for the whole term. If the option to increase the rent is agreed then they need to agree whether the increase should be based on a fixed percentage increase each year or by the annual change in the CPI.

Most private tenants will have a short assured tenancy agreement, created under the Housing (Scotland) Act 1988. The legislation does provide a role for the Private Rented Housing Panel to set rents where rent rises are considered excessive. But these legislative provisions are rarely used.

In Scotland, in the context of the consultation on the Private Housing (Tenancies) (Scotland) Bill campaigning groups have argued for and against rent regulation. For example, the Living Rent Campaign has argued for some form of rent control measure that is linked to housing standards and quality. On the other hand, PRS4Scotland is opposed to any rent control measures, arguing that such measures would hinder investment in the sector resulting in a more limited choice for tenants.

The Private Housing (Tenancies) (Scotland) Bill seeks to introduce a new tenancy for private tenants. This will apply to all future lets, replacing the existing assured and short assured tenancies. The Bill provides that rent increases can take place no more than once in any 12 month period and landlords must give tenants at least 12 weeks’ notice of change in rent. In certain circumstances, tenants can refer the proposed increase in rent for the adjudication to a rent officer at Rent Service Scotland.

Under the Bill’s proposals, local authorities can to apply to Scottish Ministers to declare rent pressure zone which would allow action to limit rent increases in rents for sitting tenants in those areas, up to a five year period.

Despite a general trend towards deregulation since the 1980s, many countries still have rent controls in place.

De Boer and Bitetti (2014) carried out a comparative case study of the rental markets and housing regulations in four different countries: the Czech Republic, Germany, Finland and the Netherlands. They argued that both too strong and too weak rent price protection in the PRS can have adverse effects. Of the four case studies, they argued that Germany appears to have the best rent setting regulation in terms balancing the interests of tenants and landlords and avoiding market distortion.
INTRODUCTION

In 2014, there were around 330,000 households in the private rented sector (PRS), around 290,000 of which rented from a private landlord and 40,000 rented from family and friends (Scottish Government 2015a). As Figure 1 shows around 14% of households live in private rented accommodation. Since 2001, the PRS has more than doubled in size while the proportion of owner-occupied housing has declined slightly. This may have been caused partly by the economic downturn and the difficulty potential home owners have subsequently experienced in securing a mortgage (Scottish Government 2015b).

![Figure 1: Households by Tenure, 2014](image)

Source: Scottish Government 2015a

Younger households in Scotland are now more likely to live in the PRS than in any other tenure. The 2014 Scottish Household Survey reported that the percentage of households with a 16 to 34 year old highest income householder that live in the private rented sector has increased substantially from 13% in 1999 to 41% in 2014, to the extent that this is now the most common tenure for these households. Private renting households are more likely to be single adults (32%) or households with two adults (29%) compared with other tenures. Just over a fifth of households in the PRS are families – a proportion that has been growing in recent years (Scottish Government 2015a).

The increasing size and importance of the PRS, as well as rising rent levels in Great Britain, (particularly in the south of England) have prompted debate about the affordability of private rented accommodation and whether some form of rent control is needed (e.g. Guardian 2012). Generally, the rent that tenants pay will be a matter for them to agree with their landlord as part of their tenancy agreement. Usually, if the rent is more than the tenant is willing to pay, the tenant will look for an alternative property.

Reports about private sector rents use a range of data from different sources. The following section provides an overview of the different types of data that are available on rents in the PRS and looks at recent trends in rent levels using Scottish Government data.

PRIVATE RENT PRICES – SOURCES

Statistics on private sector rent levels come from a number of sources and each uses different data and methodologies.
GOVERNMENT DATA

Scottish Government

In November 2014, the Scottish Government published statistics on the PRS in Scotland for the years 2010 to 2014, which it intends to publish on an annual basis (Scottish Government 2014). The publication uses private rent data from the Rent Service Scotland market evidence database which is sourced through a variety of means, including private landlord and letting agent returns, mailshot initiatives, as well as advertised rental information. The rental values in this publication are based on data collected on about 25,000 to 28,000 individual rents each year. The data excludes:

- Any rents related to social housing, mid-market rents, halls of residence, regulated tenancies and private tenancies known to be the subject of housing benefit. There are currently around 94,000 housing benefit claimants living in the private sector – it is not clear how many of these are likely to be excluded from the data.
- Rental information on studio/bedsit properties, properties with 5 or more bedrooms, and bed and breakfast lodgings due to small sample sizes.

The publication presents statistics on rent levels for different property sizes across each of the 18 broad rental market areas (BRMAs) in Scotland. BRMAs are the areas used to determine the local housing allowance rates for housing benefit purposes. Information on the average rent for different property sizes across Scotland as a whole is also presented. However, the publication does not present rental values averaged across all property sizes for BRMAs or at a Scotland level.

Office for National Statistics

Index of Private Rental Housing Prices

Since 2011, the Office for National Statistics (ONS) has used the above Scottish Government data, along with that provided by Valuation Office Agency (VOA) and the Welsh Government (WG) to produce the quarterly experimental Index of Private Rental Housing Prices (IPRHP) (ONS 2015a).

IPHRP measures the change in price tenants face when renting residential property from private landlords, thereby allowing a comparison between the prices tenants are charged in the current month as opposed to the same month in the previous year. The Index uses rental data to create a matched-sample dataset to ensure that only like-for-like properties are compared over time. This dataset retains rental records for 14 months an assumption based on tenancy length – this is an attempt to measure rental price changes for all rents and not just a measure of recent rental market evidence (ONS 2015b).

This is a new official statistic undergoing evaluation and it is therefore recommended that caution be exercised when drawing conclusions from the published data as the index is likely to be further developed (ONS 2015a).

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2 Data at May 2015 from DWP Stat-Xplore.
3 These are the areas used to determine the local housing allowance rates for housing benefit purposes.
4 Scottish level findings should be interpreted with caution: whilst the underlying data aims to be representative of rents within each BRMA, no attempt has been made to apply and formal weighting techniques to account for any specific area-level sample sizes or structures when aggregating up to a single Scotland level figure (Scottish Government 2014).
Family Resources Survey

The Family Resources Survey (FRS) is based on an annual sample of UK households and provides tenure details and information on household characteristics, income and expenditure. Before 2014, the only household data that the Department for Work and Pensions (DWP) published at the regional/country level was the percentage of households by tenure type as a share of all households. In 2015 (i.e. for the FRS 2013/14), the DWP also included regional/country data on rent values by tenure type (social rent, private rent and mortgage-instalment).

NON-GOVERNMENT DATA

Private rent statistics are also published by letting agents. These statistics are generally based on new lets, not changes in rent levels for existing tenants. As the scale, coverage and timing of these datasets varies so will their key statistics.

Table 1 presents a summary of the most recent statistics from the Scottish Government data and non-government sources. Annex 1 provides more information about the non-government sources.

Table 1: Summary of Scottish Private Rent Statistics

<table>
<thead>
<tr>
<th>Source</th>
<th>Date</th>
<th>Key Scottish statistics</th>
<th>Annual Trends</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scottish Government</td>
<td>Up to Sept 2014</td>
<td>Average 2 bed rent is £596 per month. Average rents for 2 bed range from £442 in Dumfries and Galloway to £898 in Aberdeen and Shire</td>
<td>Average 2 bed rent - 3.6% increase</td>
</tr>
<tr>
<td>Your Move</td>
<td>August 2015</td>
<td>Average rent is £546 per month. Of the five regional figures provided, the lowest is in the South region-£511 with the highest in Edinburgh and the Lothians - £617 per month.</td>
<td>Average rent – 1.7% increase</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Range from a 6% rise in the Highlands and Islands to a decrease of 3.6% in Glasgow and Clyde.</td>
<td></td>
</tr>
<tr>
<td>Citylets</td>
<td>Q3 2015</td>
<td>Average rent is £757 per month. Of the seven sub-national figures provided) Aberdeen rents are the highest at £995 per month, and Renfrewshire lowest at £503 per month</td>
<td>Average rent - 2.9% increase</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Range from a 7.5% rise in Edinburgh to 6.7% decrease in Aberdeen.</td>
<td></td>
</tr>
<tr>
<td>Homelet</td>
<td>Three months to August 2015</td>
<td>Average rent is £670 per month</td>
<td>Average rent - 9.1% increase</td>
</tr>
<tr>
<td>Lettingweb</td>
<td>Summer 2015</td>
<td>Data is produced on the four main cities. For a 2 bed property rents range from £918 a month in Aberdeen to £557 per month in Dundee.</td>
<td>Varies from a decline of 7% in Aberdeen to no change in Edinburgh.</td>
</tr>
</tbody>
</table>

According to IPHRP, the price of private rentals has increased over time, rising by 7.0% between January 2011 and July 2015 as shown in Figure 2. This is higher than Wales (3.3%) but lower than England (10.6%) and the UK as a whole (10.2%).

**Figure 2:** Index of Private Housing Rental prices (January 2011 = 100), January 2011 to June 2015

The following section looks at trends in rent levels in the PRS in Scotland between 2010 and 2014, using the Scottish Government data. Please note that this data is expected to be updated in November 2015 which may show different trends. As Table 1 indicated, the more recent private sector data highlights decreases in Aberdeen rental values. Citylets, for example, notes that rents have declined by 6.7% in the last year (Citylets 2015).

Two bedroom properties are the most prevalent property size in the PRS in Scotland (Scottish Government 2014) so some figures are presented only for 2 bedroom properties for ease of interpretation.

Rental values can be expressed in a number of different ways:

- In cash terms or real terms: prices in real terms are adjusted for inflation (this can be done with a number of different measures of inflation e.g. the Consumer Price Index or the Retail Price Index)
- With average (mean) or median prices: mean prices are skewed by the existence of outliers (i.e. particularly expensive or cheap rentals) while median prices provide a figure which splits the data in two: half the rental values are above the median value and half are below. Median prices are not distorted by outliers in the data.

Caution must be taken when looking at analyses of rental values. For instance, the change in the cash price of mean rental values is significantly greater than the change in median rental values in real terms in Scotland between 2010 and 2014 (see below).

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5 This is the date at which figures began to be compiled for Great Britain, England, Scotland and Wales in the same dataset.
Mean and median private rental values

Figure 3 shows mean and median private rental values in Scotland in 2014 for different property sizes.

**Figure 3: Mean and median private rents in cash terms (£ monthly), Scotland, 2014**

![Figure 3: Mean and median private rents in cash terms (£ monthly), Scotland, 2014](image)

Source: Scottish Government 2014

Figure 3 shows that mean prices are higher than median prices for all property sizes. For example, the mean private rent for 2 bedroom properties was £596 in 2014 and the median was £550. This indicates the existence of outliers at the higher end of the rental market i.e. particularly expensive dwellings compared to other dwellings in the same category.

Table 2 shows the change in rental values between 2010 and 2014 in cash and real terms and for both mean and median prices. Real terms have been calculated using the Consumer Price Index.

**Table 2: Cumulative percentage (%) increase in average private rents in cash terms and real terms, Scotland, between 2010 and 2014**

<table>
<thead>
<tr>
<th></th>
<th>1 Bedroom Property</th>
<th>2 Bedroom Property</th>
<th>3 Bedroom Property</th>
<th>4 Bedroom Property</th>
<th>1 Bedroom in Shared Property</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash terms</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>8.4%</td>
<td>11.2%</td>
<td>6.6%</td>
<td>13.0%</td>
<td>5.7%</td>
</tr>
<tr>
<td>Median</td>
<td>2.4%</td>
<td>5.8%</td>
<td>0.8%</td>
<td>5.7%</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Real terms</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>-3.1%</td>
<td>-0.5%</td>
<td>-4.7%</td>
<td>1.0%</td>
<td>-5.5%</td>
</tr>
<tr>
<td>Median</td>
<td>-8.4%</td>
<td>-5.4%</td>
<td>-9.9%</td>
<td>-5.4%</td>
<td>-10.5%</td>
</tr>
</tbody>
</table>

Source: SPICe calculations using data from Scottish Government 2014

Table 2 demonstrates the significant differences that exist between mean/median values and cash/real terms. If looking at the mean values in cash terms, it appears that there has been a rise in rental values. By contrast, looking at the median values in real terms, it appears there has been a decrease in rental values.
Figure 4 illustrates the change between 2010 and 2014 in rental values for a 2 bedroom property according to the different ways of measuring rents. Other property sizes show similar trends. Using cash terms mean values, rents for 2 bed properties have increased by 11.2%. On the other hand, real terms median rent data shows that rents have declined by 5.4% over same period.

**Figure 4: Percentage change (%) in private rents for different measures, 2 bedroom properties, Scotland, 2010 to 2014**

Source: SPICe calculations using data from Scottish Government 2014

**Regional Variations in Rents**

There is a wide variation of rental values in the PRS across BRMAs. Figure 5 shows mean rental values for 2 bedroom properties in 2014 in Scotland by BRMA.
Figure 5: Mean private rents in cash terms (£ monthly), 2 bedroom properties by BRMA, Scotland, 2014

The mean rent for a 2 bedroom property in Scotland in 2014 was £596. Aberdeen and Shire had the highest average rental value at £898 per month, 50.7% higher than the Scottish average. Dumfries and Galloway had the lowest mean rental value (£442 per month), 25.8% lower than the Scottish average. The average rent for a 2 bedroom property in Aberdeen and Shire is more than twice the rent in Dumfries and Galloway.

Figure 6 shows the cumulative percentage change in mean rental values between 2010 and 2014.

Figure 6: Percentage change (%) in mean private rents (cash terms), 2 bedroom properties by BRMA, Scotland, 2010 to 2014

Source: Scottish Government 2014
While the average Scottish increase in mean rents for 2 bedroom properties between 2010 and 2014 was 11.2%, Aberdeen and Shire saw the highest increase at 39.8%. West Dunbartonshire saw the biggest decrease in mean rents at -2.7%.

**Private rents and inflation**

In its publication *Private Sector Rent Statistics, Scotland (2010 to 2014)* the Scottish Government (2014) compares the increase in mean rents between 2010 and 2014 with the UK Consumer Price Index (CPI). This provides an indication of rent trends relative to the changes of the price of other goods and services. The CPI is a measure of consumer price inflation and is the inflation measure used in the UK Government’s target for inflation. The CPI is also used for purposes such as uprating pensions, wages and benefits (ONS 2015b).

Citylets has also published an “inflation tracker” for Scottish towns and cities that considers changes in rents compared to inflation since 2008. Relevant information can be viewed here: [http://www.citylets.co.uk/research/datahub/](http://www.citylets.co.uk/research/datahub/) and here: [http://www.citylets.co.uk/realrents/](http://www.citylets.co.uk/realrents/).

The change in annual CPI between 2010 and 2014 was 11.7%. Using Scottish Government data, Figure 7 shows that this is higher than the change in mean and median rental values (in cash terms) for 2 bedroom properties between 2010 and 2014.

**Figure 7: Percentage change (%) in private rents (cash terms) for different measures for 2 bedroom properties compared to CPI, Scotland, 2010 to 2014**

![Graph showing percentage change in private rents compared to CPI](http://www.citylets.co.uk/research/datahub/)

Source: SPICe calculations using data from Scottish Government (2014)

Figure 8 shows the only Aberdeen and Shire (39.8%) and Lothian (17.2%) saw a rise in mean private rental values above CPI between 2010 and 2014.
Figure 8: Percentage change (%) in mean private rents (£ monthly) in cash terms by BRMA for 2 bedroom properties and CPI, 2010 to 2014

Comparing household income to household rent

In 2013/14 (most recent data available), median equivalised weekly household income before housing costs (BHC) in Scotland was £460 (Scottish Government 2015c). “Equivalised” means that an adjustment has been made to the data to attempt to account for the different needs of different sized households. Equivalised household income is designed to be comparable across households of different sizes. Median equivalised weekly household income is expressed in real terms (2013/14 prices).  

The median household weekly private rent was £108 in Scotland (DWP 2015). This is equal to almost a quarter (23.5%) of median equivalised weekly household income BHC in Scotland. In comparison, median household weekly social rent was £65, or 14.1% of median household income, while median household weekly mortgage-instalment payments were £113, or 24.6% of median household income.

When looking at rents relative to household income and expenditure, it should be noted that the share of household income spent on rent varies widely across income groups. For example, Figure 9 shows the percentage of total expenditure by equivalised disposable income decile group in 2013 spent on gross and net rent in the UK as a whole. This includes rents in both the private and social sectors. Net rent is gross rent less housing benefit, rebates and allowances.

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6 The Scottish Government provide household income uprated with a variant of the Retail Price Index so RPI has been applied in Figure 10 to median private rents rather than the CPI used in the above sections. There are very minor differences between uprating with the CPI and the RPI between 2010 and 2013.
Figure 9 shows that in the UK as a whole in 2013, for households in the lowest equivalised disposable income decile group, gross rent accounted for almost 40% of total expenditure while it only accounted for 4% of total expenditure for those in the highest decile group.

As a result of housing benefit, allowances and rebates, the difference between the share of expenditure that goes to rent in the lowest and highest income groups decreases. However, net rent still accounts for a higher share of total expenditure for households in low income decile groups compared to higher income decile groups. For example, in the UK as a whole net rent accounts for 11.8% of total expenditure in the lowest income decile group while it accounts for 4.0% of total expenditure in the highest income decile group.

Although it is likely that similar trends exist at the Scottish level, differences in the private and social rent sectors, differences in incomes and income distribution and in demographics will lead to variation in rent as a percentage of total expenditure for households in Scotland.

Between 2010/11 and 2013/14 median equivalised weekly household income BHC went from £464 to £460 in real terms. This was a 0.9% decrease. Figure 10 shows the change in median private rents between 2010 and 2013 in real terms (2013/14 prices using RPI). Please note the values in Table 2 and Figure 9 are different because Table 2 shows changes in median rents in real terms (using CPI) between 2010 and 2014 while Figure 9 shows the change in real terms (using RPI) between 2010 and 2013. The values in Figure 9 are comparable to the 0.9% change in median equivalised weekly household income BHC between 2010 and 2013.
Figure 10: Percentage change (%) in median private rents (real terms, 2013/14 prices using RPI) Scotland, 2010 to 2013

Figure 10 shows that between 2010 and 2013 median private rents decreased for all property types in real terms. They decreased most for 1 bedroom properties and 1 bedroom in shared properties (-10.6% in both cases) and least for 4 bedroom properties (-8.1%).

Although these figures give an indication of trends in household incomes and private rental values in Scotland, any effect arising from these changes will affect different households in different ways. For example, changes in aggregate private rental values do not reveal whether rental values have changed differently across income groups, household types or types of tenancies (sitting tenants or new tenants).

Box 1: Summary of the PRS in Scotland (based on Scottish Government data)

- 2 bedroom properties are the most common type of privately rented dwelling.
- The mean rental value of a 2 bedroom property is £596.
- The highest rental values are in Aberdeen and Shire for all property sizes; the lowest are in Dumfries and Galloway and the Scottish Borders depending on the property type.
- Median rental values are lower than mean rental values for all property sizes.
- Since 2010, mean rental values have risen faster than median rental values: 11.7% compared to 5.8% in cash terms. This is because rents at the higher end of the market are rising faster than rents at the lower end of the market.
- In real terms, both mean and median rental values have fallen since 2010 with the exception of 4 bedroom properties, the mean rental value of which has risen by 1%.
- Changes in private rents are likely to differ across different tenancies (new lets, sitting tenancies) and different households according to the type of family and the income bracket they are in. These changes are likely to have different effects on households: while for some households rents may have become more affordable over time, for others they may have become less affordable. Aggregate private rental figures by property size do not offer sufficient detail to be able to draw conclusions on the social consequences of rental values and changes in rental values over time.
CURRENT LEGISLATIVE PROVISIONS

Most tenants who rent privately will have some kind of tenancy agreement with their landlord that sets out each party’s obligations and the amount of rent due.

A variety of different tenancy arrangements are possible. Most commonly, private tenants have a short assured tenancy created under the Housing (Scotland) Act 1988 (the 1998 Act also provides for assured tenancies). With short assured tenancies the rent is the “market” rent agreed by the tenant and landlord.

Tenants who began a tenancy before 2 January 1989 (when the 1988 Act’s tenancy provisions came into force) and who have not moved since then, are likely to have a “regulated” tenancy which is subject to a form of rent control under the Rent (Scotland) Act 1984. Each year the number of these tenancies is decreasing as tenants move.

Tenants with a regulated tenancy have the right to apply to the Rent Officer (employed by the Scottish Government’s Rent Service Scotland) to have a ‘fair rent’ fixed. A fair rent is set based on market evidence, comparability and the condition and location of properties. Once the fair rent is registered it cannot be changed within three years unless the landlord and tenant apply jointly or there has been a change in circumstances, such as major repairs or improvements.

Ultimately, the Private Rented Housing Panel has a role in rent setting. Table 3 summarises its role.

Table 3: Summary of PRHP’s role by tenancy type

<table>
<thead>
<tr>
<th>Tenancy Type</th>
<th>Private Rented Housing Panel’s role</th>
</tr>
</thead>
</table>
| Short assured tenancy | If a tenant thinks they are being charged too much rent they can apply to the Private Rented Housing Panel to seek to have a Private Rented Housing Committee make a determination of their rent.  
The Committee will only set a rent if they consider that there are enough similar houses in the area let on assured tenancies to draw comparisons and that the rent is significantly higher than the other rents in the area.  
If the Committee does set a rent, it will be the maximum rent that can be charged for at least 12 months from the date on which it comes into effect. |
| Assured Tenancy     | If a tenant with a “statutory” assured tenancy is dissatisfied with a new proposed rent, they can apply to the Private Rented Housing Panel to ask a Private Rented Housing Committee to set a market rent.  
A tenant would have a “statutory assured tenancy” if they continued to live in the property after the contractual tenancy agreement ends but they do not sign a new tenancy agreement. |

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7 Section 34(1) of the Housing (Scotland) Act 1988
8 Section 34(3) of the 1988 Act
9 Section 34(4)(c)
10 under 24(3) of the 1988 Act.
Any rent set by the Committee will be the maximum rent payable for the tenancy for at least 12 months from the date it comes into effect.

**Regulated tenancies**

If either the tenant or landlord is dissatisfied with the rent fixed by the Rent Officer, then either can apply to the Private Rented Housing Panel to have the fair rent determined by a Private Rented Housing Committee.

The above provisions that allow tenants to apply to the Private Rented Housing Panel about rent matters are rarely used. Only 30 referrals were made to the Rent Assessment Committee in 2013: 21 were regulated tenancy cases; 5 were assured tenancy cases and 4 were short assured tenancy cases (Private Rented Housing Panel 2015).

As landlords can end a short assured tenancy at the end of the term relatively easily, through the “no-fault” ground of possession, the landlord could choose to end the tenancy rather than reduce the amount of rent if the tenant did not agree to it. Thus, tenants may just decide to move tenancy rather than apply to the Panel.

**RENT CONTROL**

Rising rent levels in privately rented properties, particularly in the south of England, have prompted a wide debate across Great Britain on whether some form of rent control is needed. But often the debate has not been specific as to what type of rent controls should be in place. For example, rent control involves limits on how much rents can increase by, and in what time frame. Different measures could be used to restrict rent increases. It could mean an absolute cap in the level of rent charged, although these are very rare across the world. In Berlin and other German cities, for example, rent increases on new leases after a certain date are limited to 10% above the local market rent (Scanlon and Whitehead 2015).

Bearing this in mind, the following section summarises some of the recent debate across Great Britain on rent control in its widest sense.

**ENGLAND AND WALES**

In 2013, the House of Commons Library published a briefing on the history of rent controls to provide some context to the debate. Like all the other countries involved in World War I, Britain introduced rent controls in response to wartime housing shortages (House of Commons, 2013). The *Increase of Rent and Mortgage Interest (War Restrictions) Act 1915* restricted rent on smaller, unfurnished, ‘working class’ dwellings and landlords’ mortgage interest rates to their August 1914 level in order to prevent landlords from profiteering at a time when demand for housing exceeded supply due to the limited construction of new housing (House of Commons Library, 2013). Rent control continued to be applied to some rental agreements until 1989. The *1988 Housing Act* provided that all new private sector tenancies entered into on or after 15 January 1989 would be either assured or assured shorthold tenancies – the rents on these tenancies are not regulated (House of Commons, 2013).

The House of Commons Local Government and Communities Select Committee conducted an inquiry into the private rented sector in 2013. The Committee heard concerns about the affordability of rents, particularly in London and the South East. While the Committee acknowledged that some families are struggling to meet the cost of their rent they did not support rent controls. In their report House of Commons Local Government and Communities Select Committee (2013), the Committee argued that this, “…would serve only to reduce investment in the sector at a time when it is most needed. We agree that the most effective way
to make rents more affordable would be to increase supply, particularly in those areas where demand is highest.”

The Welsh Affairs Committee (2013) also noted that increasing rent levels in the private rented sector has contributed to increased expenditure on housing benefit. It argued that ‘…direct rent controls will be needed to bring down the Housing Benefit bill’ and that ‘…We acknowledge that one of the main reasons for recent increases in the housing benefit bill and projected further increases is inflation in private housing sector rents. Efforts to control housing benefit increases therefore have to include strategies to manage spiralling rents in the private rented sector, including direct rent controls’.

In May 2014, Ed Miliband, announced that a Labour Government, if elected in 2015, would introduce restrictions on annual rent increases in England (Labour 2014). They proposed to make three year tenancies the norm. The rent would be agreed by the tenant and landlord at the outset of the tenancy and reviewed every year during the three year tenancy with an upper ceiling on any rent increases (Labour online).

More recently, the campaign group Generation Rent has been calling on the mayoral candidates for the 2016 London elections to consider how they can bring down housing costs in London (Generation Rent 2015). Their paper proposes a “flexible rent control” model which would use council tax bands to decide on the value of a home – and the maximum monthly rent would be half of the annual council tax band for a home. Accompanying this basic control, would be the flexibility for landlords to charge above the maximum controlled rent. However, any amount above the maximum would be subject to a 50% surcharge, the proceeds of which would go into a ring-fenced housing fund for social house building (Generation Rent undated)

Current UK Government policy

The current UK Government has no plans to change legislation regarding the assured shorthold tenancy (similar to a short assured tenancy in Scotland). But it has recognised the growing interest in longer term tenancies which could benefit both tenants, who would have greater certainty and stability, and landlords who would have greater certainty on rental income. Therefore, it published a model tenancy agreement for assured shorthold tenancies that can be used by landlords and tenants on a voluntary basis. The recommendations in the model tenancy agreement are summarised in Box 2 below.

**Box 2: Model Agreement for an Assured Shorthold Tenancy**

Tenancies of less than two years: Recommended that the rent is fixed for the whole of the term

Tenancies of two or more years: The landlord and tenant need to agree whether the rent will stay the same for the whole term. If the option to increase the rent is agreed then they need to agree whether the increase should be based on a fixed percentage increase each year or by the annual change in the CPI.

Source: Department for Communities and Local Government (2015)

**SCOTLAND**

In a paper calling for greater security for private tenants, Shelter (Scotland) argued that there was a need to review the procedure for rent increases, with consideration given to starting with
an initial market rent increased by an inflationary index or contractually agreed amounts at agreed points during the tenancy (Shelter (Scotland) 2013).

During Stage 2 and Stage 3 of the Housing (Scotland) Bill in 2013 amendments were lodged to introduce some form of rent control, but these were not passed. For example, James Kelly MSP lodged an amendment (33) that would have required the Scottish Ministers to make regulations specifying the maximum amount that rents could be increased by at each review (reviews could only take place once in a year), such regulations would have had to come into force by January 2015 (Scottish Parliament 2014a). In response, the Minister for Housing and Welfare, Margaret Burgess MSP, rejected the amendment arguing that the matter had not been consulted and that such measures would need “…full public consultation on the basis of clear proposals” (Scottish Parliament 2014b).

Consultation on Private Rented Tenancies Bill

The Scottish Government has issued two consultation papers on proposals to reform the current private tenancy regime (Scottish Government 2014, 2015). The first consultation sought general views on rent levels and whether the Scottish Government should take some kind of action. The second consultation paper outlined the Government’s intention not to introduce general controls on rents but sought views on whether there was a need to introduce limits on rent levels for sitting tenants in “hot-spot” areas.

In the context of this consultation process, campaign groups have been expressing opposing views on rent regulation.

The Living Rent Campaign (LRC) has been campaigning for some kind of rent regulation to “curb excessive rents.” As they have argued:

“Decent, affordable housing is an essential human right, and policy around rents should reflect that fact. We believe that rents are generally too high, with Scottish tenants spending on average nearly a quarter of their income in rent. In Edinburgh the average tenant spends half of their income on 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 (LRC 2015)

They point to practice in other countries that links rents charges to standards and housing quality.

On the other hand, the PRS4Scotland campaign is concerned that the introduction of rent controls (and the removal of the ‘no-fault’ ground for repossession):

“…carry a significant risk of hindering investment in the sector, while dis-incentivising small and large landlords from participating and/or maintaining their properties to a high standard. The consequence of this will be a drying up of supply and a more limited choice for tenants, as well as depleting the quality of Scotland’s housing stock”. (PRS4Scotland online)

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THE PRIVATE HOUSING (TENANCIES) (SCOTLAND) BILL

The following section provides a brief summary of the Bill’s provisions regarding rent. Further analysis of the bill as a whole will be provided in a forthcoming SPICe briefing.

The Bill seeks to introduce a new tenancy for private tenants replacing the existing assured and short assured tenancies. The new tenancy will apply to all future lets. In relation to rent increases the Bill proposes that:

- Rent reviews should take place no more than once in any 12 month period
- Tenants should receive 12 weeks’ notice in advance of a change in the rent.
- If a tenant considers that any proposed rent increase would take their rent beyond rents charged for comparable properties in the area, they will have the ability to refer the increase for adjudication to a Rent Officer at Rent Service Scotland

No national rent controls will be introduced. As the Policy Memorandum to the Bill (Scottish Government 2015e, para 70) states this “…could jeopardise efforts to improve affordability through increasing supply by discouraging much-needed investment.”

Under the Bill’s proposals, local authorities would be able to apply to Scottish Ministers requesting that all or part of their area be designated as a rent pressure zone. In making their application a local authority would be required to satisfy Ministers that rent increases for sitting tenants in the area to be designated were: rising excessively; causing hardship to sitting tenants in the area and having a detrimental effect on the broader housing system. Ministers would able to bring forward regulations that would designate a rent pressure zone and specify the percentage that should be used to calculate the rent cap. Any cap on rents would be at least CPI+1% i.e. landlords would be allowed to increase their rents by CPI +1% at a minimum.

INTERNATIONAL COMPARISONS

As noted above, some campaign groups have cited evidence of rent controls from other countries as a reason why controls should be introduced here. The following section provides a briefing overview of international practice, based largely on a recent study on the PRS in four different countries (de Boer and Bitetti 2014).

Despite a general trend towards deregulation since the 1980s, many countries still have rent controls in place (House of Commons Library 2013).

It is difficult to compare PRS regulations from one country to the next. Their design and effect are connected to a range of other factors such as the housing market e.g. the size and nature of the PRS, other housing policies (e.g. tenancy security, rent price regulations, subsidies for owner-occupied housing, supply barriers, etc.), the structure of the housing market and demographic factors (e.g. the percentage of renters in the population). For example, the private rental market in Britain is dominated by individual landlords with a small number of properties providing short-term lettings (House of Commons Library 2013).

There is a great diversity and heterogeneity in private sector rent controls across countries. Many countries have rent controls on new buildings but not new leases (e.g. the Netherlands and Denmark), while in many countries the initial rent setting is free but subsequent rent rises are controlled (e.g. France, Spain and Norway) (House of Commons Library 2013). Countries with strong rent regulation and sizable rented sectors usually have systems that permit rents to adjust to near-market levels rather, not nominal caps on rent levels as was introduced in 1915 in Britain (Whitehead et al. 2012).
In an OECD Economics Department Working Paper, de Boer and Bitetti (2014) carried out a comparative case study of the rental markets and housing regulations in four different countries: the Czech Republic, Germany, Finland and the Netherlands. Table 4 summarises housing legislation and regulations as well as housing market trends in each of these countries, based on the information provided in the Working Paper.

Table 4: Cross-border comparison of housing market and regulation in four countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Regulation levels in the private sector</th>
<th>Housing legislation and regulations</th>
<th>Housing Market trends</th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>Medium</td>
<td>Owner-occupied housing encouraged in 1990s through subsidies, increasing financing possibilities on mortgage market, selling of public housing to sitting tenants. Rental market had very strong tenancy security under Communism, followed by gradual liberalisation of rents for all running tenancies by 2012. New contracts were completely liberalised in 1993 but existing contract were deregulated more slowly, sometimes capped and it was difficult to end contracts of evict non-paying tenants. Related regulations include the absence of a central social housing policy and the right of municipalities to set their own social housing policies</td>
<td>High home-ownership (65%) and home-ownership is a way to create a secure form of housing. PRS has growing and important role (13-14%) but is not secure due to liberal tenancy security rules. Asymmetric deregulation of PRS (new vs. existing contracts) led to severe split in rental market</td>
</tr>
<tr>
<td>Germany</td>
<td>Medium</td>
<td>Owner-occupied housing not stimulated extensively through fiscal targeting. Rental market has strong contract protections and rent control which makes PRS secure form of housing without creating the discouraging investment in the private rental market as there is a long-term demand for renting. Related regulations include the subsidy period for social housing ending after 10-15 years after which social dwellings automatically move into PRS (rent levels often stay low even afterwards) &amp;</td>
<td>One of largest rental sectors in OECD. PRS 41% of total housing stock. PRS strong and stable form of housing. Low home-ownership rate (42%). Low social housing rate (4%). Prices and rents are rising (particularly in large and university cities) in line with strong economic performance and low interest rates.</td>
</tr>
<tr>
<td>Country</td>
<td>Level</td>
<td>Housing Allowances</td>
<td>Remarks</td>
</tr>
<tr>
<td>-----------</td>
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</tr>
<tr>
<td><strong>Finland</strong></td>
<td>Low</td>
<td>Housing allowances help make rents more affordable</td>
<td>High home ownership rate (65%) and cooperative housing rate (4%). Private rental market (17%) as big as social housing market (14%). Deregulation in 1990s led to move away from highly regulated rental regime to a very liberal regime. This led to an increase in PRS dwellings. In many areas there is little price difference between social and private housing.</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>Strong</td>
<td>Owner-occupied housing is encouraged through a favourable tax treatment since 1990s but current change in trend. Related regulations: no means testing for social housing so many tenants in social housing have high incomes.</td>
<td>Dual market: owner-occupied sector (59%) and rental sector (41%). 77% of rental market owned by not-for-profit housing associations. PRS: only 23% of rental market (or 10% of total dwellings). Strong tenancy security.</td>
</tr>
</tbody>
</table>

Rent setting regulations differ widely across countries:

- Rent can be capped to various degrees:
  - “First-generation” nominal rent caps that existed mainly in the 1970s
  - “Market-friendly”, “second-generation” rent regulation regimes that currently exist in most countries
- Private rents can be almost totally liberalised (e.g. the UK or Finland)
- There can be differences between regulation of new contract and regulations for rent increases of existing contracts.
- There can differences in regulation for PRS and social housing

Source: SPICe summary based on de Boer and Bitetti (2014)
Implementing rent setting regulations requires balancing the interests between about (future) housing costs for new and existing tenants and possibilities for yields by landlords. De Boer and Bitetti (2014) note:

“...In the presence of fixed costs of moving and lack of available insurance against a sharp, unanticipated rent increase, well-designed rent control can be welfare-improving. (...) On the one hand, absence of rent regulations can lead landlords to hold up tenants by unexpectedly raising rents, since moving costs make renters less mobile. On the other hand, excessively strict rental regulations (such as cumbersome eviction rules) can lead tenants to hold up landlords’ property. Thus, rental regulations should strike a balance between landlords’ and tenants’ interests, create security of tenure and avoid market segmentation between sitting and new tenants.”

Table 5 shows different PRS rent protection measures and their effects in the four countries.

Table 5: Cross-border comparison of PRS regulation and consequences in four countries

<table>
<thead>
<tr>
<th>PRS rent regulation</th>
<th>Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Czech Republic</strong></td>
<td>Sitting tenants are disproportionately favoured which exacerbated Communist-era problems with rental market e.g. black market for regulated dwellings, problems of accessibility and affordability for outsiders and high rents for new deregulated tenancies.</td>
</tr>
</tbody>
</table>
| Split market:       | - New contracts were completely liberalised in 1993: no caps on initial rent levels, subsequent rent reviews or restrictions on the terms of tenancy.  
|                     | - Existing contracts were protected very strongly: government set maximum rents and rent freezes; there was strong tenancy security (rent increases and rent termination virtually impossible).  
|                     | - Rent freezes stopped in 2006  
|                     | - Rents for existing contracts deregulated between 2007 and 2012 |
| **Germany**         | Difference in protection between existing and new tenancies has led to large rental price differences for comparable housing quality in tight housing markets. As the rents in new contracts have been rising strongly in the past years, this has led to calls for further price regulation of rents. |
| Most common method of rent price formation for new contracts: local reference rent, which is the locally determined average of the prices of new contracts and rent increases in existing contracts for dwellings of comparable quality. Rent increases of the past four years are used. |
| For existing contracts the local reference rent gives a maximum, and there is an additional rent cap which limits the scope for rent increases over three years to a maximum of 20%, even if the local reference rent would permit a higher rent increase.  
| This form of rent price regulation is relatively flexible, and investors indicate that in practice it does not form a barrier for investment. Although legal... |
protection exists for initial rents in PRS, in reality they are unregulated.

**Finland**
No legal limits for initial rents or annual increases in PRS since abolition of strict rent control regulation in 1990s.

**Netherlands**
Strong rent price regulation for 93.5% of all rental dwellings (both existing and new tenancies) (equal to 2.5% of total housing stock) - the remaining 6.5% are unregulated.

Rules in the regulated sector apply to both new tenancies and existing rentals with a monthly rent below EUR 681. Maximum initial rents are set based on a system of objective characteristics of the dwelling, including size, amenities, energy efficiency, and neighbourhood factors, but location or the market value of the dwelling are not important factors. The maximum annual increase in rent is usually set at inflation level (since 2013 it is possible to increase rent above inflation value).

- Increased certainty about the price level but strong lock-in effects for sitting tenants (many households in dwelling of housing associations have an income above income limit at entry of social housing) so government has introduced higher maximum rent increases for all regulated dwellings.
- Distortion of housing market: strong differences between regulated and unregulated rental market. The past 10 years have seen strong concentration of people with lower incomes in the regulated rental sector and concentration of higher income people in the owner-occupied sector.
- System of initial rents poses little problem as maximum rents are well above market value.
- Cap on yields and flexibility for landlords that are dependent on political decision for their maximum revenues in regulated housing. This has led to a reduction in regulated rental housing supply.

Source: SPICe summary based on de Boer and Bitetti (2014)

De Boer and Bitetti (2014) argue that both too strong and too weak rent price protection in the PRS can have adverse effects, summarised in Table 6.

**Table 6: Consequences of too strong and too weak rent price protection in the PRS**

<table>
<thead>
<tr>
<th>Too strong</th>
<th>Too weak</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Dualisation problems of market</td>
<td>- Changes the demand for the PRS and gives consumers a push to the owner-occupied sector</td>
</tr>
<tr>
<td>- Adverse effects for outsiders</td>
<td>- In the absence of any regulation, rent increases are completely dependent on the negotiations of the tenant with the landlord</td>
</tr>
<tr>
<td>- Adverse effects for sitting tenants through lock-in effects leading to a deterioration of rental market accessibility and difficulties for people to move into dwellings that would better suit their needs</td>
<td></td>
</tr>
<tr>
<td>- Push to the owner-occupied market for people who do not have access to the regulated market</td>
<td></td>
</tr>
<tr>
<td>- Does not lead to stable PRS</td>
<td></td>
</tr>
</tbody>
</table>

Source: SPICe summary based on de Boer and Bitetti (2014)

De Boer and Bitetti (2014) suggest that of the four case studies, Germany appears to have the best rent setting regulation in terms balancing the interests of tenants and landlords and avoid market distortions. Its localised system of regulation that follows market developments through
local reference rents and that balances security for tenants and flexibility for landlords of as tenants, landlords and public actors is being used as a basis for a new system of rent regulation by other countries such as the Czech Republic (de Boer and Bitetti 2014).

ANNEX 1: SOURCES OF NON-GOVERNMENT DATA

The following information has been sourced from the relevant organisation websites/publications

City Lets

Started in 2007, CityLets publishes quarterly statistical reports based on over 50,000 annual Scottish lettings advertised on Citylets. Observations are recorded when a property is removed from the site as let. Citylets believe such transaction-based observations provide a better reflection of the market. The data is cleansed to remove multiple entries and other anomalies. The cleansing process continues to guide refinements to data recording. Averages are calculated on a monthly or quarterly basis as weighted (mix adjusted) means. Indices are constructed holding composition (property type and number of bedrooms) fixed at the average of the last three years. This ensures that changes in the index reflect rent changes and not changes in composition, which are likely to occur seasonally. Research reports are available at this link: Citylets

Your Move: Scottish Buy to Let Index:
The index is based on analysis of approximately 3,000 properties across Scotland. Rental values refer to the actual values achieved for each property when let. This Buy-to-let index has been prepared by The Wriglesworth Consultancy for Your Move, part of LSL Property Services. It has been compiled using information extracted from Your Move’s management information. The latest report is available here:
http://www.lslps.co.uk/documents/buy_to_let_index_scottish_jun15.pdf

Homelet
Homelet, part of the Barbon Insurance Group, publishes its rental index using data on the actual rental prices when the tenancy starts, rather than advertised costs. Data is gathered from their tenancy referencing services – they reference up to 1,700 applicants (across GB) each day. The data used in the HomeLet Rental Index is aggregated to local authority, county, city and regional level only. The latest Homelet Rental Index report is available at:
http://homelet.co.uk/assets/documents/June-2015-HomeLet-Rental-Index.pdf

Lettingweb
Letting Web produce a Letting Stat bulletin. The rental statistics in the report are based on latest advertised rent levels on lettingweb.com. They are not an indication of rent changes for existing tenants.
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