FIRE SPRINKLERS IN RESIDENTIAL PREMISES (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. The following documents are published to accompany the Fire Sprinklers in Residential Premises (Scotland) Bill introduced in the Scottish Parliament on 17 November 2003:
   - Explanatory Notes;
   - a Financial Memorandum; and
   - the Presiding Officer’s Statement on legislative competence.

The Financial Memorandum and Presiding Officer’s statement are required under Rule 9.3 of the Parliament’s Standing Orders. A Policy Memorandum is printed separately as SP Bill 13–PM.
INTRODUCTION

2. These Explanatory Notes have been prepared by the Non-Executive Bills Unit on behalf of Michael Matheson, the member in charge of the Bill. They have been prepared in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. At present there is no requirement in legislation for the mandatory installation of fire sprinkler systems in residential properties in Scotland. For existing properties the owner of the property is responsible for fire safety and whether they choose to install fire sprinkler systems is a matter for them to decide.

5. Regulations on the construction of new buildings and changes of use of existing buildings stem from the Building (Scotland) Act 1959 (c.24) (“the 1959 Act”) which will be replaced by the provisions of the Building (Scotland) Act 2003 (asp 8) (“the 2003 Act”) when it comes into force in 2005.

6. Section 3(1) of the 1959 Act confers upon the Scottish Ministers the power to make building standards regulations in relation to all aspects of building. The current regulations, the Building Standards (Scotland) Regulations 1990 (SI 1990/2179) as amended (“the 1990 Regulations”), specify standards for structural fire protection, means of escape from fire and facilities for fighting fire. However the 1990 Regulations only apply to new buildings and existing buildings when they are being converted.

7. The requirements of the 1990 Regulations can be met by fitting smoke alarms to warn the occupants of fire. Figures from the Scottish Executive show that the number of deaths in Scotland’s homes due to fire is double that of England, Wales and Northern Ireland.

What the Bill does

8. The Bill amends the current law to require the installation of fire sprinkler systems in specified residential properties. These are: houses in multiple occupation (“HMOs”) and sheltered housing. The occupants of these properties are generally considered to be at particular risk from fire.

9. An HMO is a house which is the principal residence of more than two people who are not all members either of the same family or of one or other of two families and who do not own the
These documents relate to the Fire Sprinklers in Residential Premises (Scotland) Bill (SP Bill 13) as introduced in the Scottish Parliament on 17 November 2003

house. The essence of an HMO is that the occupants of the house share facilities for example bathrooms, laundry or cooking facilities.

10. The Bill makes it an offence for an owner, or an agent acting for that owner, to give permission for a house to be in multiple occupation if that house is not provided with a fire sprinkler system of the required standard. This provision will apply to all HMOs except certain categories of house set out schedule 1 to the Bill.

11. The Bill also requires that a fire sprinkler system of the required standard should be provided in all new sheltered housing. Sheltered housing is housing that, because of certain features or design, is suitable for occupation by people who are elderly, disabled, infirm or in some other way vulnerable. The requirement is enforced as part of the building regulations which must be adhered to as a condition of the granting of a building warrant under the 2003 Act to construct new sheltered housing or convert an existing building to sheltered housing.

12. The Bill has no retrospective effect and does not affect a permission given or a building warrant granted prior to it’s coming into force.

13. The Bill provides for its extension by order made by the Scottish Ministers to other categories of house or residential premises.

COMMENTARY ON SECTIONS

14. The Bill is in four Parts, dealing separately with the requirement for a fire sprinkler system, HMOs, sheltered housing and some miscellaneous provisions including future extension of the fire sprinkler system requirement to other categories of house or residential premises.

Part 1: General purpose

Section 1: Provision of fire sprinkler systems in houses in multiple occupation and sheltered housing

15. This section establishes the principal requirements of the Bill. It requires certain HMOs and sheltered housing to have a fire sprinkler system of the required standard installed. The types of HMO and sheltered housing to which the provisions of the Bill apply are set out in paragraphs (a) and (b).

16. Section 4 defines a “house in multiple occupation” as a house which is occupied by more than two qualifying persons (see paragraphs 31 to 35). “Qualifying person” is defined at section 5 (see paragraph 36).

17. “Sheltered housing” is defined in section 15 by reference to its characteristics. It is a house or group of houses with special facilities for people who are elderly, infirm or otherwise vulnerable. Such facilities could include pull cords and bathroom adaptations. Sheltered housing to which this Bill applies will also share a warden or a care service. This definition excludes individual properties that have, for example, been converted by a family for an elderly relative. Such properties will not share facilities such as a warden with other similar houses.
18. “Fire sprinkler system” is defined in section 15 as an automatic fixed pressure water spraying system for extinguishing fires. The system must comply with any British Standard, or if no British Standard exists, the current European Standard. The current British Standard is DD 251:2000 which is a draft for development and is not expected to become a full British Standard until late 2004. The current European Standard is BS EN 12845:2003. Any fire sprinkler system installation and maintenance will require to meet the European Standard until the British Standard comes into force.

**Part 2: Houses in multiple occupation**

*Section 2: Houses to which this Part applies*

19. Section 2 applies Part 2 of the Bill to any house which is in multiple occupation (see paragraph 31) with the exception of those houses which fall within any of the categories specified in schedule 1 to the Bill. These exemptions include, for example, employee residences and women’s refuges. Further details of the houses that are excluded from the provisions of the Bill can be found at paragraph 65. This section also applies the provisions of the Bill to houses which are intended to be HMOs. It may be that at the time the permission is granted the house is unoccupied and would therefore not be in multiple occupation. Section 2 makes clear that the fire sprinkler system requirement will still apply.

20. “House” is defined in section 14 as meaning any part of a building which is a separate dwelling. This definition includes a flat or a detached house. Houses which share cooking facilities or toilet or personal washing facilities will be treated as a single house. So for example, a building which is divided into six flats will be treated as one house for the purposes of this Bill if the six flats share any of the facilities listed in section 14(2) of the Bill.

*Section 3: Offence of giving permission for house to be in multiple occupation without fire sprinkler system*

21. Subsection (1) provides that permission for a property to be an HMO shall not be given by the owner of a house, or an agent acting on behalf of the owner unless provided with a fire sprinkler system. In the modern property market owners frequently employ agents to act on their behalf to market properties, let properties and manage tenants and subsection (1)(b) makes provision for this situation.

22. By virtue of subsection (5) contravention of this requirement by either the owner or the agent is a criminal offence. The use of the qualifying word “knowingly” in the description of the offence ensures that it will be a defence for the owner or the agent to prove that they did not know that permission had been given. It is conceivable, for example, that the owner could permit the house to be in multiple occupation without the knowledge of the agent and vice versa.

These documents relate to the Fire Sprinklers in Residential Premises (Scotland) Bill (SP Bill 13) as introduced in the Scottish Parliament on 17 November 2003

24. “Owner” is defined in section 15 of the Bill as meaning a person who has a heritable interest in the house which is capable of being recorded in the General Register of Sasines or registered in the Land Register for Scotland.

25. Subsection (2) makes clear when permission, for the purposes of subsection (1), is given. This section provides that every time there is a change in occupancy there will be a new permission, even if it is only one of several occupants that changes. An HMO to which the Bill does not apply on its commencement will, for any future change of occupant, require a fire sprinkler system installed. A break in occupancy will also result in a new permission being required.

26. Subsection (3) provides that the mere buying, or taking over the management of, a property does not amount to a giving of permission within the meaning of subsection (1). There may be situations where properties are sold, or where agents for that property change during a period when the property is occupied. In such an event the previous permission continues and section 1 has effect in relation to the new owner or agent only at the point where that person gives his or her own specific permission.

27. Subsection (4) explains that if the occupancy of the property continues unchanged before and after the Act coming into force then there will be no requirement to install a fire sprinkler system.

28. Subsection (5) makes it an offence to contravene the provisions of subsection (1). If an owner or agent knowingly permits the multiple occupation of the property without a fire sprinkler system being installed they will be guilty of an offence. The penalty for such an offence is, on summary conviction, a fine not exceeding level 5 on the standard scale. The standard scale is established by section 225 of the Criminal Procedure (Scotland) Act 1995 (c.46) and level 5 is set at £5,000. In the circumstances where both the owner and the agent permit the multiple occupation of a house without a fire sprinkler system they will both be guilty of the offence and both liable to prosecution.

29. Subsection (6) gives powers to a constable or an officer of a licensing authority (see paragraph 61) where they have reason to suspect that an offence has been committed under subsection (1). In such circumstances the agent can be required to provide the name and address of the owner of the property.

30. Subsection (7) provides that it will be a criminal offence to fail without reasonable excuse to disclose the information set out in subsection (6). Anyone found guilty of this offence will be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

Section 4: Meaning of “house in multiple occupation”

31. Subsection (1) sets out the meaning of a house in multiple occupation. When a house has more than two qualifying people, it will be in multiple occupation. A qualifying person is defined in section 5 of the Bill (see paragraph 36). Section 4 makes clear which combination of
qualifying persons leads to a house being an HMO. There must be at least three qualifying persons unrelated to each other in the house for it to be an HMO.

32. Subsection (2) specifies what “family” means for the purposes of Part 2. This definition includes those who are married and those who live together as a couple.

33. Subsection (2)(b) provides for the types of person that will be deemed to be members of the “same family” for example parents, grandparents and nephews. Subsection (3) further provides that persons related in any of the ways mentioned in (2)(b), but by marriage alone, are to be treated as if they were blood relations and therefore as a member of the same family. Thus, for example, relations of a spouse e.g. in-laws, are counted for the purpose of this Part as members of the same family.

34. Under subsection (3)(b) where persons have a single common parent they are also treated as if they were members of the same family.

35. Subsection (3) also extends these relationships to include stepchildren, foster children and persons brought up or treated as a person’s child.

Section 5: Meaning of “qualifying person”

36. A house (see paragraph 20) will be in multiple occupation for the purposes of this Part when it has more than two qualifying persons living in it. Section 5 defines a qualifying person as a person who lives in the house where it is their principal residence. Subsection (2) provides that students are included as qualifying persons during their period of residence.

37. Subsection (3)(a) provides that, in calculating the number of qualifying persons for the purposes of section 4(1) an owner (see paragraph 24) residing in the property is disregarded. Subsection (3)(b) provides that when the owner resides in the property, any members of that owner’s family (see paragraphs 32 to 35 above) who also reside there, do not count as qualifying persons. If the owner does not reside in the property then the relative will be a qualifying person for the purposes of the Bill.

Part 3: Sheltered housing

Section 6: Sheltered housing to which this Part applies

38. This section provides that it is only housing for which a building warrant to construct or covert to sheltered housing is granted after this Part of the Act comes into force which will require to have a fire sprinkler system installed.

Section 7: Use as sheltered housing treated as conversion

39. The provisions in the 2003 Act covering conversions and change of use become applicable here. Section 1 of the 2003 Act confers power upon the Scottish Ministers to make building regulations. These regulations prescribe standards relating to the design, construction, conversion and demolition of buildings, the provision of services, fittings and equipment in or in connection with buildings. Section 8(1) of the 2003 Act provides that for any building to which
the building regulations apply certain work requires a building warrant before commencement. Such work consists of the construction, conversion, demolition or provision of services, fittings and equipment.

40. Section 56 of the 2003 Act defines “convert”, in relation to a building, as the making of “such change in the use or occupation of the building as building regulations may specify”. However, the current classes of use set out in schedule 3 to the 1990 Regulations classify all dwellings as falling within one class. The effect of this is that the change from a non-sheltered dwelling house to a sheltered dwelling house does not constitute a change of use and a building warrant is not required. Section 7 of this Bill has the effect that a change from non-sheltered to sheltered housing is a conversion that requires a building warrant under the 2003 Act.

41. The effect of section 7, together with section 8, is to provide that where the use of any property is converted to use as sheltered housing a fire sprinkler system will have to be installed.

Section 8: Application of Building (Scotland) Act 2003

42. Subsection (1) inserts a new subsection (5A) into section 1 of the 2003 Act. The effect of this is that the requirement to provide fire sprinkler systems in new sheltered housing will be part of the building regulations and non-compliance with this Part of the Bill will be deemed to be non-compliance with the building regulations made under the 2003 Act. For example, a verifier (see paragraph 62) under the 2003 Act can only grant a building warrant when satisfied that the work involved will be carried out in accordance with building regulations and that everything in the plans and specifications for the building conforms to building regulations. The verifier must be satisfied that on completion of the work or conversion, the building will be provided with a fire sprinkler system before granting a building warrant.

43. Consequently all of the offence provisions of the 2003 Act relating to non-compliance with building regulations will also apply to non-compliance with this Bill in relation to sheltered housing.

44. For example, it will be an offence to fail to provide a fire sprinkler system where this is specified in the relevant building warrant. It will also be an offence to occupy sheltered housing when it is known that a completion certificate has not been granted because a fire sprinkler system has not been provided. In addition failure to comply with a building regulations compliance notice relating to fire sprinkler systems would be an offence in respect of sheltered housing.

45. Section 13(1) of the 2003 Act imposes standard conditions to which every building warrant is subject. Section 8(2) of the Bill provides that where such a condition is stated on the face of a building warrant, the requirement for the installation of fire sprinkler systems must also be stated on the face of that warrant.
Part 4: Miscellaneous

Section 10: Extension of requirements for fire sprinkler systems

46. Section 10 confers upon the Scottish Ministers a power to make orders, amongst other things, to extend the requirement to provide fire sprinkler systems to other residential properties. This is achieved in two ways.

47. Firstly paragraph (a) enables the Scottish Ministers to amend schedule 1 to the Bill to omit, insert or amend any category of house. Schedule 1 lists those categories of house which are to be exempt from the requirement to install fire sprinkler systems.

48. Omitting categories of house from schedule 1 would bring such houses within the requirements of Part 2 of the Bill thereby necessitating the provision of a fire sprinkler system on the next change in occupation.

49. Paragraph (a) of this section also enables the Scottish Ministers to insert a new category of house into schedule 1. As the Bill is currently drafted it generally reflects the 2000 Order and its exemptions. If the exemptions to the 2000 Order were to be extended further then paragraph (a) allows the Scottish Ministers to mirror its effect in respect of fire sprinkler systems.

50. Secondly, paragraph (b) enables the Scottish Ministers to extend to any class of residential premises the requirements of section 1, as far as it relates to sheltered housing and Part 3 of the Bill relating to building warrants for construction and conversion. This power means that any new residential premises could be required to provide a fire sprinkler system at the construction or conversion stage.

Section 11: Ancillary provision

51. This section allows the Scottish Ministers, by order, to make any incidental and other ancillary provision for the purposes of the Act or in consequence of it, or for the purposes or in consequence of an order made under section 10 (see paragraph 46 above). The order making power could, for example, be used to make consequential amendments to other legislation which are required because of the new procedures introduced by the Bill. Or it could be used as a result of any amendments made by the Bill to an order made under section 10.

Section 12: Orders

52. Subsection (1) provides that the powers conferred upon to the Scottish Ministers to make orders under the Act are to be exercisable by statutory instrument.

53. Subsection (2) provides that any order made under the Bill can make different provision for different purposes and can modify any enactment, instrument or document. This subsection allows for the amendment of both primary and secondary legislation, provided that the amendment is made for the purposes of this Bill or in consequence of it.

54. Subsection (3) provides that orders made under section 11, except where they seek to amend any part of any Act, are subject to negative resolution procedure.
These documents relate to the Fire Sprinklers in Residential Premises (Scotland) Bill (SP Bill 13) as introduced in the Scottish Parliament on 17 November 2003

55. Subsection (4) applies to statutory instruments made to extend the sprinkler requirement or any other orders containing provisions which add to, replace or omit any part of the text of an Act. Such orders are subject to affirmative resolution procedure.

56. Subsection (5) requires the Scottish Ministers to consult on the terms of any draft order made under section 10 before laying it before Parliament. It provides a list of organisations and persons that the Scottish Ministers must consult. This includes fire authorities and other people or organisations that the Scottish Ministers consider would be likely to be affected by, or have an interest in, any alteration of the requirement to provide fire sprinkler systems. Subsection (5) goes on to require the Scottish Ministers to take account of the representations made by consultees and to make appropriate amendments to the draft orders, as a result of those representations, before laying them.

Section 13: Offences by bodies corporate, etc.

57. This section applies to the following:
   - bodies corporate;
   - local authorities;
   - Scottish partnerships; and
   - unincorporated associations.

58. This section applies to directors, partners, officers or employees (or any other person specified in the section) of one of the organisations listed above. If one of those persons consents to, or connives in, the commission of an offence under this Bill then that person, as well as the organisation itself, will be guilty of an offence. Where the offence is attributable to any neglect on the part of such a person guilt also arises. Both the employee and the organisation are liable to prosecution.

Section 14: Meaning of “house”

59. See paragraph 20 above.

Section 15: Interpretation

60. This section provides interpretation of particular terms used in the Bill. It includes “fire sprinkler system” which is explained at paragraph 18 of these notes.

61. “Licensing authority” for the purposes of this Bill has the same meaning as in section 2 of the 1982 Act. It is the local authority for the area in which any house is situated.

62. “Verifier” for the purposes of this Bill has the same meaning as in the 2003 Act: someone appointed by the Scottish Ministers to monitor the construction process to ensure that design and construction is in accordance with regulations and the building warrant.
Section 16: Short title and commencement

63. This section gives the Bill its short title and contains the commencement provisions of the Act. Sections 10, 11, 12, 15 and 16 come into force on Royal Assent. This is required to allow the administrative provisions of the Bill to commence immediately.

64. Parts 1, 2 and 3 and sections 13 and 14 in Part 4 come into force 12 months after the granting of Royal Assent. The period of 12 months is required to allow those affected by the Bill to put in place the required procedures. For example this time will allow HMO owners to install fire sprinkler systems and local authorities to put in place the procedures to enforce the amendments to building legislation.

Schedule 1: Exempt categories of house

65. The exemptions listed in schedule 1 reflect the categories of house exempted under the 2000 Order, as amended. The Bill also exempts other categories of house including:

- halls of residence;
- employee residences;
- hostels for homeless people; and
- women’s refuges.

66. Sheltered housing which would otherwise be classified as an HMO is also exempt from Part 2 requirements as it is covered separately by the provisions in Part 3 of the Bill.

Schedule 2: Modifications of Building (Scotland) Act 2003

67. Schedule 2 makes modifications to the 2003 Act. These are consequential modifications required to enable the provisions of Part 3 of the Bill to operate through the mechanism established in the 2003 Act. In the main they make textual amendments to the 2003 Act to make specific reference to the provisions of this Bill.

FINANCIAL MEMORANDUM

INTRODUCTION

68. The costs associated with the provisions of the Bill will fall on sheltered housing providers and people who give permission for their properties to be HMOs. The main costs of the Bill will be the installation of fire sprinkler systems in the properties covered by the Bill. These costs will be borne by the owner of the property.

69. The cost of installing a fire sprinkler system varies and depends on the size of the property and the number of properties having fire sprinkler systems installed at one time.
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70. The estimated cost of installing a fire sprinkler system into a new sheltered house is £800, based on the premise that four sprinkler heads will be required. For properties that are converted to sheltered housing the cost will be greater as pipes have to be run into the existing building and new water supply pipes may be required. It is estimated that for a sheltered housing complex the cost per converted house will be £1,000.

71. The cost is greater for HMOs as more sprinklers are required for the larger properties and because more work requires to be done to the property. For example, new pipes may be required or new water tanks installed. To install a fire sprinkler system into an HMO the estimated average cost will be £1,500, it does however depend on the size of the property. It is also more likely that HMOs will be conversions of existing properties. As every property is different the costs will be different in each case.

72. This memorandum utilises the average costs of fire sprinkler system installation.

73. In addition there will be an annual maintenance cost which is estimated as £35 per year per property. Fire sprinkler systems require to be maintained through an annual check so this cost will first arise a year after installation and annually thereafter.

**COSTS ON THE SCOTTISH ADMINISTRATION**

74. The provisions of the Bill relating to HMOs will be enforced by the police and the Crown Office. In the first year of the licensing scheme for HMOs 12 cases for prosecution were prepared by local authorities however none went to court as applications for licences were eventually received.¹

75. It is difficult to quantify for the purposes of this memorandum how many offences are likely to be committed under the Bill. There will not necessarily be a correlation between offences under the 2000 Order and offences under the Bill. It could be that an HMO owner has a licence but does not have a fire sprinkler system.

76. It is anticipated that for the purposes of this memorandum the Bill will be subject to minimal enforcement by the police, which is supported by the figures in paragraph 74. Therefore it is thought that any additional costs will be minimal and can be absorbed with no requirement for additional staff or resources.

**COSTS ON LOCAL AUTHORITIES**

**Houses in multiple occupation**

77. The types of HMO that local authorities own and manage, for example, hostels for homeless people are not covered by the Bill. Therefore there is no cost to local authorities in providing fire sprinkler systems in HMOs.

Sheltered housing

78. Local authorities will incur costs under this Bill if they build new sheltered housing properties or convert existing properties to sheltered housing. In the year 1999-2000 local authorities built 69 new sheltered houses, in 2000-01 they built 27 new sheltered houses and in the year 2001-02 they built no new sheltered housing. Taking an average of the last three years this memorandum presumes that local authorities in Scotland build between them a total of 30 new sheltered houses per year.

79. Taking the costs of installing fire sprinkler systems outlined in paragraph 70 the cost in the first year of this Bill to install fire sprinkler systems in newly built sheltered housing will be £24,000.

80. Local authorities will convert on average 400 properties into sheltered housing per year. The costs of installation is £1,000 per property therefore the total cost to the local authorities of installing fire sprinkler systems into converted sheltered housing properties is £400,000.

81. The Bill will thus cost a total of £424,000 in year one for all the local authorities in Scotland.

82. Taking the rate of new construction in subsequent years as the same as in year one in the second year there will be the same costs for newly built or converted properties. A cost for maintenance requires to be added to cover the cost of maintaining the fire sprinkler systems installed into properties in year one of the Bill. As 430 properties would have had fire sprinkler systems installed in year one, each costing £35 to maintain, the total cost of maintenance is £15,050 with a total cost of the Bill being £439,050 for all local authorities in year two.

83. Not all local authorities will provide sheltered housing in the same year. Therefore to estimate more realistic costs this memorandum has averaged the costs of the Bill between all 32 local authorities. In year one the estimated cost to each local authority is £13,250 and in year two £13,720. This information is summarised in the following table:

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>No.</td>
<td>Cost (£)</td>
</tr>
<tr>
<td>-----</td>
<td>----------</td>
</tr>
<tr>
<td>New build sheltered housing</td>
<td>30</td>
</tr>
<tr>
<td>Converted sheltered housing</td>
<td>400</td>
</tr>
<tr>
<td>Properties to be maintained</td>
<td>-</td>
</tr>
<tr>
<td>Total cost per year</td>
<td>-</td>
</tr>
<tr>
<td>Average cost per local authority</td>
<td>-</td>
</tr>
</tbody>
</table>

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2 Written answer S1W-24569
3 Based on average of 2000 – 2002 figures given in written answer S1W-24568
Enforcement

84. The provisions of the Bill relating to sheltered housing will be enforced by local authorities through their existing powers in building regulations. It is anticipated that the Bill will cost local authorities no more than any other change in building regulations to enforce. No new staff will be required to carry out these functions as building regulations are updated on average every two years. This Bill provides for amendment of the existing legislation and falls to be treated in exactly the same way as other amendments by building control departments.

85. As well as enforcement of the HMO provisions of the Bill by the police (see paragraph 74) local authorities as licensing authorities (see paragraph 61) will be involved in seeking the identity of owners of properties where it is thought that an offence is being committed. It is likely however that this will be done as part of other duties and therefore no extra costs are expected to arise for local authorities in this regard.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

86. Others affected by this Bill are individuals or companies and other bodies who build sheltered housing, convert properties into sheltered housing or who give permission for their properties to be HMOs. For the purposes of this memorandum they are separated into registered social landlords and private landlords.

Costs on registered social landlords

87. The Housing (Scotland) Act 2001 (asp 10) introduced a register of social landlords. Broadly speaking, registered social landlords (RSLs) are bodies that were previously registered as housing associations and industrial and provident societies and companies that are registered after the introduction of the new register for RSLs. RSLs provide accommodation for letting and do not trade for profit. Figures from Communities Scotland show that in November 2003 there were 250 RSLs.

88. Costs from this Bill will only fall on RSLs who build or convert property to sheltered housing or who give permission for their properties to be HMOs after the Bill comes into force.

Houses in multiple occupation

89. It is unlikely that RSLs will give permission for the types of properties covered by the Bill to be HMOs. Therefore no costs in this area are expected.

Sheltered housing

90. On average RSLs build 125 new sheltered properties\(^4\) and convert 10 properties to sheltered housing\(^5\) per year.

\(^4\) Based on average of 2000 – 2002 figures given in written answer S1W-24565
\(^5\) Based on average of 2000 – 2002 figures given in written answer S1W-24564
91. Using the same calculation method for local authorities the total costs to RSLs are summarised in the table below:

<table>
<thead>
<tr>
<th></th>
<th>Year 1</th>
<th>Year 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>Cost (£)</td>
</tr>
<tr>
<td>New build sheltered housing</td>
<td>125</td>
<td>100,000</td>
</tr>
<tr>
<td>Converted sheltered housing</td>
<td>10</td>
<td>10,000</td>
</tr>
<tr>
<td>Properties to be maintained</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total cost per year</td>
<td>-</td>
<td>110,000</td>
</tr>
</tbody>
</table>

92. From the table above it is estimated that the overall cost of the Bill in year one for RSLs is £110,000 and for year two is £114,725. It must be remembered however, as with local authorities, not all RSLs will build or convert properties to sheltered housing and the costs of the Bill will only fall on those that do.

Costs on private landlords

93. The costs associated with this Bill will fall, in the case of HMOs, on the people (whether individuals or companies) who give permission for their properties to be HMOs. It is unlikely that any private landlords provide sheltered housing that meets the definition of sheltered housing in the Bill.

Houses in multiple occupation

94. The requirement to licence HMOs began in October 2000. In the six months to the end of March 2001 there were 697 applications for a licence, 25 of which had been granted and 669 of which were pending (sic). In the year to 31 March 2002 a further 1,504 applications were received, 636 licences were granted and 1,190 were pending. The number of applications will increase each year because the requirement to register applies in respect of an increased number of properties each year in October until 2003. Initially the requirement to register applied to properties that had six or more residents who were not members of the same family. From October 2003 the licensing requirements will apply if more than two people, who are not members of the same family, and who do not own the property, live in the property.

95. To ascertain the number of people who will give permission for their properties to be HMOs after the Bill comes into force the licensing figures are used.

96. The Bill does not apply to every type of HMO, specific exemptions are made for employee residences, student halls, hostels for homeless people, women’s refuges and sheltered housing. For the purposes of this memorandum permissions given by the owners of properties in these categories are not included and the figures quoted are only for the types of HMOs which would be covered by the provisions of the Bill.

97. Licences have to be renewed every three years and fire sprinkler systems will only be required after the Bill comes into force say in 2005. The requirement to install sprinklers in an

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6 Scottish Executive Housing Series: HSG/2001/4
7 Scottish Executive Housing Series: HSG/2002/3
existing HMO applies only when there is a change in the tenant. It is recognised that the change of tenant could occur at any time, in some cases before renewal but in many others long after renewal. For the purposes of this memorandum, and in order to produce some costings on which to work, it is taken that at the same time as the licence is renewed a change in the tenant occurs. The costs that are produced in this memorandum are thus likely to be higher than the actual annual costs. It is anticipated however that the costs used will ultimately be incurred at some point in time in the future as a consequence of all HMOs being required to have fire sprinkler systems fitted.

98. In the year to the end of March 2001, 23 licences were in force, which would be due for renewal in 2003-04, before the Bill comes into force. Therefore (using the assumption above regarding when a change of tenant will occur), for the first set of licences granted in 2000-01, it will not be until their second renewal in 2006-07 that they will be required to install a fire sprinkler system.

99. The second batch of licences, granted in 2001-02, are due to be renewed in 2004-05. This is significant as the Bill will come into force sometime in 2005 therefore for the purposes of this memorandum it is assumed that all of these renewals take place after the Bill is in force, as this will represent the most expensive scenario. In March 2002 there were 517 licences in force\(^8\) and this memorandum assumes that these properties will all require fire sprinkler systems installed prior to their owners giving a renewal of permission for those properties to be HMOs. At the end of March 2002 there were 803 applications\(^9\) for licences pending and if they were all granted in 2002-03 they would be due for renewal in 2005-06 requiring fire sprinkler systems before their renewal of permission is given.

100. As stated in paragraph 71, the cost of installing a sprinkler system in an HMO is £1,500. The 517 renewals in 2004-05 would cost £775,500 and the 803 renewals in 2005-06 would cost £1,204,500.

101. In addition to the renewal of permissions there will be new permissions granted. However, most permissions will be granted in the first three-year cycle and for the purposes of this memorandum a five per cent new permission rate is assumed from 2003/2004.

102. There will also be an annual maintenance cost that will occur for the fire sprinkler systems installed in 2004-05 in 2005-06. The cost would be £18,970.

103. For ease of reference the figures are summarised in the table below:

<table>
<thead>
<tr>
<th></th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>Cost (£)</td>
</tr>
<tr>
<td>HMO permission renewals</td>
<td>517</td>
<td>775,500</td>
</tr>
<tr>
<td>HMO new permissions</td>
<td>25</td>
<td>37,500</td>
</tr>
<tr>
<td>Maintenance</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total cost per year</td>
<td>-</td>
<td>813,000</td>
</tr>
</tbody>
</table>

\(^8\) Scottish Executive Housing Series: HSG/2002/3
\(^9\) Scottish Executive Housing Series: HSG/2002/3
104. In subsequent years the costs that would be incurred would be for new permissions and maintenance of existing systems. The first two years after commencement will represent the highest capital cost. Thereafter it is estimated that with 40 new permissions each year the annual cost of the Bill to private landlords would be approximately £100,000.

POTENTIAL SAVINGS AS A RESULT OF THE BILL

105. There are significant potential savings associated with this Bill which are set out in the following paragraphs.

106. The diverse nature of fire and the lack of statistics and data makes establishing the average cost of a fire in properties like HMOs or sheltered housing difficult. In the last couple of years the Home Office and the Office of the Deputy Prime Minister (ODPM) have produced reports on the economic costs of fire for England and Wales. The most recent report estimates that the average cost of a dwelling fire in England and Wales, in 2000, was £23,800.

107. The Scottish Executive used the above report to estimate a cost for Scottish fires. In the report, *Fire: Raising the Standard* the average cost of a dwelling fire in Scotland in 2000 was reported as £17,200. In 2001 there were 8,834 dwelling fires with a total cost to Scotland of over £151 million.

108. The cost of attending fires in England and Wales was also estimated by the ODPM. On average fire crews spend almost four hours at each fire. The total response cost for dwelling fires in 2000 in England and Wales was £140 million which was an average cost of £2,422 per fire. In the year 2001 there were 8,834 dwelling fires in Scotland. At an average cost of £2,422, the response cost was over £21 million.

109. As well as property costs and costs to the fire services costs also arise in respect of injuries sustained from fire. These costs were calculated in 2000 by the Department for Transport, Local Government and the Regions and represent the cost-benefit values and savings that would be made if the incident had never occurred. The cost of the injuries were as follows, a minor injury was estimated to be £9,920, a serious injury £128,650 and death £1,144,890.

110. Using the fire statistics for 2001, there were 88 dwelling fire deaths. The total cost to Scotland was over £100 million. In addition there were 1,799 non-fatal casualties in Scotland, if these were all minor injuries then the total cost would be almost £18 million. If however even a quarter of these were serious injuries then the total cost rises to over £70 million.

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12 Scottish Executive Criminal Justice Series: CrJ/2003/4
13 DTLR Highways Economic Note No. 1:2000
14 Scottish Executive Criminal Justice Series: CrJ/2003/4
111. The provisions of the Bill therefore have the potential to save many millions of pounds; one death alone, if prevented by a sprinkler, would save over £1 million, more than the total estimated installation costs for the first year of the Bill. In addition to the potential cost savings outlined above there will also be savings to the National Health Service in Scotland from each fire prevented, negating the use of valuable emergency and hospital staff.

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

112. On 13 November 2003, the Presiding Officer (George Reid) made the following statement:

“In my view, the provisions of the Fire Sprinklers in Residential Premises (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
FIRE SPRINKLERS IN RESIDENTIAL PREMISES
(SCOTLAND) BILL

EXPLANATORY NOTES
(AND OTHER ACCOMPANYING DOCUMENTS)

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