To—

- All local authorities in Scotland
- All Business Improvement Districts in Scotland
- Association of British Insurers
- Built Environment Forum Scotland
- COSLA
- Registers of Scotland
- Scottish Association of Building Standards Managers
- Scottish Court Service
- Scottish Legal Aid Board
- Scottish Federation of Housing Associations

13 November 2013

Dear Sir/Madam,

DEFECTIVE AND DANGEROUS BUILDINGS (RECOVERY OF EXPENSES) (SCOTLAND) BILL

The above Bill was introduced in the Scottish Parliament by the Scottish Government on 30 October 2013.

The Finance Committee has responsibility, within the parliamentary scrutiny process, for the examination of the cost implications of Bills. The Committee agreed to invite written evidence from the organisations identified above seeking a response to the specific questions attached to this letter.

The estimated financial implications of the Bill’s provisions are set out in the Financial Memorandum (FM) accompanying the Bill (page 7 of the Explanatory Notes).

The Bill

The FM states that the Bill’s provisions are designed to have “minimal ongoing and one-off costs”. The Scottish Government and the Scottish Court Service are expected to face “some marginal costs” whilst the direct costs of implementing the Bill are predicted to fall primarily on local authorities. Individuals and businesses
will also incur some costs, “but only as a result of non-payment of an existing debt.”

A description of the estimates underlying the FM’s predictions is provided in paragraphs 9 to 32. On the basis of these estimates, the FM suggests that “a rough Scotland-wide figure” of 700 charging orders per year could be expected.

A table summarising all expenditure expected to arise as a result of the Bill is provided after paragraph 75.

Costs on the Scottish administration (paragraphs 33 to 46)
The FM estimates that the Government would incur costs of £304 for each early settlement sum it has to determine in the event that the owner and local authority are unable to reach agreement. It states that the “broadly comparable” provision in the Housing (Scotland) Act 2006 came into force on 1 April 2009 and that 125 repayment charges had been registered between then and the time of writing.

The FM predicts that Registers of Scotland would incur costs of around £39,900 per annum in relation to the registration or discharge of charging orders.

The FM anticipates that the Scottish Court Service would incur “minimal costs” as a result of appeals against charging orders. Due to the lack of a statistical breakdown of appeals, no estimate of their potential numbers is provided, although they are expected to be “low”.

Costs on local authorities (paragraphs 47 to 60)
On the basis of estimates produced by a Government-commissioned study, the FM suggests that the Scotland-wide total of unpaid debts owed to local authorities as a result of costs incurred when dealing with dangerous or defective buildings could be in the region of £3.9 million. The £3.9 million estimate was reached on the basis of a pro-rated calculation of figures provided by eight local authorities. The study acknowledged a high margin of uncertainty given the degree in variation of debt between authorities.

The FM suggests that total costs arising from fees relating to charging orders across all 32 local authorities might be £77,000 per annum. It also suggests that local authorities might incur total costs of £4,900 as a result of the discharging of charging orders. They might also incur “minimal” costs in defending against “very occasional” appeals.

However, the Bill provides for the recovery of all such costs from the owner via the charging order.

The FM anticipates that the Bill will result in savings for local authorities if it results in increased recovery of costs from debtors through the use of charging orders.

Costs on other bodies, individuals and businesses (paragraphs 61 to 72)
The FM anticipates only a small number of appeals to arise from the Bill along with a low number of requests for legal assistance. As a result, it envisages the Scottish Legal Aid Board incurring minimal costs.
The FM states that owners of buildings (both domestic and non-domestic) who keep their properties in good order will not be affected by the Bill.

As noted above, the FM suggests that an approximate total of 700 charging orders per annum might be expected.

Local authorities would have the power to recover costs relating to the registration or discharge of a charging order from owners of buildings subject to one (estimated to be around £50-60 each). Local authorities would also be given powers to recover administrative costs (estimated at around £60). Interest on any outstanding debt or defaulted payment would be repayable at a “reasonable” rate to be set by the individual local authority.

Owners of properties subject to a charging order might also incur certain costs should they choose to appeal against it. These would vary depending on the circumstances.

Purpose

For information, the Local Government Committee is the lead committee. It recently issued its own call for evidence and intends to take oral evidence in early 2014 before reporting on the Bill’s general principles in Spring.

To facilitate the parliamentary timetabling of the Bill, the Finance Committee invites you to respond to the attached questions by Friday 20 December. All responses should be sent electronically (in MS Word - no confirmatory hard copy required) to finance@scottish.parliament.uk. Written responses will be handled in accordance with the Parliament’s policy for handling written evidence received in response to calls for evidence.

Please do not hesitate to contact me should you have any questions regarding this letter.

Yours faithfully,

Alan Hunter
Assistant Clerk to the Committee
FINANCE COMMITTEE QUESTIONNAIRE

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by, the Defective and Dangerous Buildings (Recovery of Expenses) (Scotland) Bill’s Financial Memorandum (FM) (page 7 of the Explanatory Notes).

In addition to the questions below, please add any other comments you may have which would assist the Finance Committee’s scrutiny of the FM.

Consultation

1. Did you take part in either of the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

2. Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

3. Did you have sufficient time to contribute to the consultation exercise?

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the FM? If not, please provide details?

5. Do you consider that the estimated costs and savings set out in the FM and projected over 15 years for each service are reasonable and accurate?

6. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

7. Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Wider Issues

8. Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?