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Bob Doris MSP
Convener
Local Government and Communities Committee
The Scottish Parliament
Edinburgh
EH99 1SP

25 May 2017

Dear Bob,

HOUSING (AMENDMENT) (SCOTLAND) BILL

I wrote to you on 6 September 2016, outlining our plans for a Housing (Amendment) (Scotland) Bill. That was in the expectation that the Office for National Statistics (ONS) would classify registered social landlords (RSLs) as public sector bodies in the national accounts, and that the Bill would be required to enable the ONS to revisit its decision and reclassify RSLs back to the private sector. I attach a copy of the letter for ease of reference.

The ONS announced on 29 September 2016 that it had indeed classified RSLs to the public sector. I am writing now to brief you on the preparation of the Bill and our plans for introducing it.

As we had expected, the reasons for the ONS decision were based principally on the extent of some of the powers that the Scottish Housing Regulator can exercise over RSLs. Consequently, the main purpose of the Bill will be to adjust those powers, so as to make them compatible with RSLs being reclassified to the private sector.

To help us ensure that the Bill will achieve its purpose, we have had discussions with the ONS about the adjustments the Bill will need to make to the Regulator's powers. These discussions culminated in us submitting a policy proposal to the ONS last month, in which we described the provisions we propose for the Bill. In addition to adjusting some of the Regulator's powers, our proposal also included a power for Ministers to limit the extent of local authority control over RSLs through constitutional arrangements with RSLs, for example through local authorities appointing members to the governing bodies of RSLs.

While ONS can only make a formal decision on classification on the basis of legislation that has been enacted and brought into force, it indicated – subject to various points of detail being resolved - that the measures we have in mind were likely to lead it to reclassify RSLs back to the private sector.



In view of the response from the ONS, we are now working to settle the detail of the Bill. As this may take a few more weeks, we do not expect to be able to introduce the Bill before the summer recess. However, we expect to have it ready for submission to the Presiding Officer during recess, and - subject to his clearance - to introduce it in early September.

As I said in my previous letter, I would be very happy to meet you, or any of the housing spokespeople for the other parties, to discuss this matter in more detail ahead of the Bill's introduction.

I am copying this letter to Graham Simpson MSP, Alex Rowley MSP, Andy Wightman MSP and Alex Cole-Hamilton MSP.

*Yours aye,
Kevin*

KEVIN STEWART

Minister for Local Government and Housing
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6 September 2016

Dear Bob,

HOUSING (AMENDMENT) (SCOTLAND) BILL

I am writing to you following the publication of the Programme for Government today (6 September) which includes a commitment to legislate, if necessary, to ensure that registered social landlords (RSLs) can continue to be classified in the national accounts as private sector bodies. As it is likely that any Bill would be assigned to the Local Government and Communities Committee, I thought you would find it helpful if I gave you some background information about it.

The current private sector classification of RSLs is at risk because some of the powers of the Scottish Housing Regulator (SHR) are likely to cause the Office for National Statistics (ONS), in its current review of the classification of RSLs, to classify RSLs to the public sector as public corporations. In a similar review of housing associations in England in 2015, the ONS decided, on the basis of a number of controls that the Housing and Communities Agency (HCA) - the regulator of associations - could exercise over them, that the associations should be re-classified from the private sector to the public sector, as public corporations.

The SHR, as the regulator of RSLs, is the Scottish equivalent of the HCA. In light of the situation in England, the Government has reviewed the controls that the SHR can exercise over RSLs, and concluded that the similarities between these and the controls of the HCA over associations, make it likely that the ONS will also decide to classify RSLs as public corporations.

The consequence of the ONS classifying RSLs as public corporations would be that all borrowing by RSLs would be classed as public sector debt. This would have a significant financial impact on the Scottish Government, as the net new borrowing by RSLs would count as public expenditure by the Scottish Government and would be scored by HM Treasury as expenditure within the Scottish Block.

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The Government is committed to providing a budget of over £3 billion over five years to support the delivery of 50,000 new affordable homes, including those provided by RSLs and councils. This plan relies on RSLs augmenting Government funding with their own borrowing of £300 million a year. If their borrowing can no longer be counted as private, the Government would need to find up to an extra £1.5 billion of public expenditure to fund the same programme.

Faced with the same prospect in England, the UK Government acted quickly by introducing amendments to the Housing and Planning Bill at Westminster to remove those of the HCA's powers that gave rise to the ONS private sector classification decision. It made clear that the purpose of doing so was to enable the ONS to reverse its earlier decision. The Scottish Government has concluded that it too would have to use primary legislation to make similar adjustments to the powers of the SHR, to allow RSLs in Scotland to be reclassified back to the public sector. I understand that the administrations in Wales and Northern Ireland are planning to take the same steps in respect of their regulatory arrangements, for the same reasons.

We expect the ONS to announce its decision soon. If the decision is as we expect, we will bring forward legislation urgently to enable the ONS to reclassify RSLs quickly, and to give certainty to RSLs, who – understandably – are concerned by this matter and wish to see it settled as soon as possible.

I hope that the limited and technical nature of the Bill's provisions, and the fact that they are similar to those that were passed at Westminster with the same object in mind, mean that the Bill will command the support of all parties.

I would be very happy to meet you to discuss this matter in more detail if you wish.

I am copying this letter to Alex Johnstone MSP, Alex Rowley MSP, Andy Wightman MSP, and Alex Cole-Hamilton MSP in their roles as housing spokespeople for their parties, and would be happy to meet them too. I am also copying it to the Clerk to the Committee.

*Yours aye,
Kevin*

KEVIN STEWART