

# Private Rented Housing (Scotland) Bill

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## Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated at Stage 2, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Landlord registration numbers**

7, 8, 9, 10, 11

#### **HMO licensing: meaning of development**

28

#### **HMO licensing: refusal**

29, 1, 2, 3, 4, 30, 6

*Notes on amendments in this group*

Amendment 29 pre-empted amendments 1, 2, 3, 4 and 30

#### **HMO licensing: defences against offences**

5

#### **Matters to be considered prior to service of overcrowding statutory notice**

12, 16

#### **Overcrowding statutory notices**

13, 14, 24, 18, 21

#### **Overcrowding statutory notices: alternative housing plans**

23, 25, 26

#### **Overcrowding statutory notices: guidance**

15, 20

#### **Overcrowding statutory notices: information and advice for occupiers**

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#### **Overcrowding statutory notices: power to obtain information**

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**Tenant information packs**

31, 27

**Landlord application to private rented housing panel**

22

**Amendment to the Land Tenure Reform (Scotland) Act 1974**

32, 33

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### Amendments in debating order

#### Landlord registration numbers

**Alex Neil**

- 7 In section 6, page 5, line 9, leave out <registered person> and insert <person who is registered by a local authority (“the registered person”)>

**Alex Neil**

- 8 In section 6, page 5, line 10, leave out from <a> to <registered> and insert <the authority>

**Alex Neil**

- 9 In section 6, page 5, line 15, at end insert—

<( ) Where the house is owned jointly by two or more persons registered by the local authority, the duty in subsection (1) is complied with if the advertisement includes the landlord registration number given by the authority in relation to one of the persons.>

**Alex Neil**

- 10 In section 6, page 5, line 21, at end insert—

<(2A) Subsection (2B) applies where the house is owned jointly by—

- (a) one or more persons who are registered by the local authority (“the registered persons”), and
- (b) one or more relevant persons in relation to whom subsections (2) and (5) of section 93 apply.

(2B) The duties in subsections (1) and (2) are complied with if the advertisement includes either—

- (a) the landlord registration number given by the local authority in relation to one of the registered persons, or
- (b) the words “landlord registration pending”.>

**Alex Neil**

- 11 In section 6, page 5, line 22, leave out <subsections (1) and (2)> and insert <this section>

#### HMO licensing: meaning of development

**Alex Johnstone**

- 28 Before section 13, insert—

##### <HMO licensing: meaning of “development”

In section 26(1) of the Town and Country Planning (Scotland) 1997 Act (c. 8) (meaning of “development”) after “land,” insert “the designation of a house in multiple occupation.”.>

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**HMO licensing: refusal**

**Jim Tolson**

- 29 In section 13, page 9, line 38, leave out subsections (2) to (5)

**Pauline McNeill**

- 1 In section 13, page 10, line 2, leave out <may> and insert <must>

**Pauline McNeill**

- 2 In section 13, page 10, line 2, after <licence> insert <under section 129, or  
( ) the variation of an HMO licence under section 138,>

**Pauline McNeill**

- 3 In section 13, page 10, line 6, at end insert—  
<( ) In considering a breach of planning control under subsection (1), section 124 (time limits) of the Town and Country Planning (Scotland) Act 1997 (c. 8) does not apply.>

**Pauline McNeill**

- 4 In section 13, page 10, line 25, at end insert—

**<129B Refusal: adaptation of accommodation**

- (1) The local authority must refuse to grant an HMO licence if it considers the living accommodation to be concerned as an HMO to be unsuitable for such occupation as a result of any adaptation in respect of—
  - (a) the subdivision of rooms within the accommodation in the HMO, and
  - (b) the adaptation of the rooms within the accommodation which has resulted in an alteration to the situation of the water and drainage pipes in the HMO.
- (2) The local authority must, within 7 days of refusing to grant an HMO licence, serve notice of its decision on—
  - (a) the applicant,
  - (b) the enforcing authority, and
  - (c) the chief constable.
- (3) The notice must—
  - (a) give the local authority's reason for refusing to consider the HMO application, and
  - (b) inform the applicant of the effect of subsection (4).
- (4) No fee may be charged in respect of a further application for an HMO licence in relation to the living accommodation concerned within 28 days of the applicant making subsequent adaptations to it which seek to address the original reason or reasons for the local authority refusing to grant an HMO licence under this section.>

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**Pauline McNeill**

**30** In section 13, page 10, line 25, at end insert—

**<129C Refusal: adverse effect on communal open space**

- (1) The local authority must refuse to grant an HMO licence if it considers the living accommodation to be concerned as an HMO to be unsuitable for such occupation as a result of any adverse effect it would have on communal open space associated with the accommodation.
- (2) The local authority must, within 7 days of refusing to grant an HMO licence, serve notice of its decision on—
  - (a) the applicant,
  - (b) the enforcing authority, and
  - (c) the chief constable.
- (3) The notice must give the local authority’s reason for refusing to consider the HMO application.
- (4) In this section “communal open space” means any land—
  - (a) in communal ownership in relation to a house or houses,
  - (b) whether enclosed or not,
  - (c) on which there are no buildings, and
  - (d) the whole or part of which—
    - (i) is laid out as a garden,
    - (ii) is used for the purposes of recreation,
    - (iii) is used for the purposes of keeping refuse or storage bins, or
    - (iv) lies waste and unoccupied.>

**Pauline McNeill**

**6** In section 35, page 23, line 3, leave out <comes> and insert <and section 13 come>

### **HMO licensing: defences against offences**

**Pauline McNeill**

**5\*** In section 13, page 11, line 5, at end insert—

- <( ) In section 154 of the 2006 Act (offences relating to HMOs), after subsection (1) insert—
- “(1A) It is not a defence to an offence under subsection (1) if the owner of the HMO, subsequent to the committing of the offence, applies for and is granted a licence for that HMO under section 129.”.>

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### Matters to be considered prior to service of overcrowding statutory notice

**Alex Neil**

- 12** In section 17, page 12, line 4, after <may> insert <, subject to section (*Matters to be considered prior to service of overcrowding statutory notice*),>

**Alex Neil**

- 16** After section 17, insert—

#### <Matters to be considered prior to service of overcrowding statutory notice

- (1) This section applies where a local authority is considering serving an overcrowding statutory notice in relation to a house.
- (2) The authority may serve the notice only if it is reasonable and proportionate in the circumstances to do so having regard to—
  - (a) the nature of the adverse effect referred to in section 17(2)(b) by reference to which the notice would be served,
  - (b) the degree to which the overcrowding of the house is contributing to or connected to that adverse effect,
  - (c) the likely effects of service of the notice, and
  - (d) whether there are means other than by service of the notice by which the adverse effect could be mitigated or avoided.
- (3) The authority must take into account—
  - (a) the circumstances of the occupier of the house and of any other persons residing in the house (including, in particular, whether any of them is, as a result of the overcrowding of the house, homeless),
  - (b) the views (if known) of the landlord, the occupier and any other persons residing in the house, and
  - (c) the likely effects of service of the notice on the occupier and any other persons residing in the house (including, in particular, whether it may lead to the occupier or any such person becoming homeless or threatened with homelessness).
- (4) For the purposes of subsection (3), whether a person is homeless or threatened with homelessness is to be determined in accordance with section 24 of the Housing (Scotland) Act 1987 (c.26).>

### Overcrowding statutory notices

**Alex Neil**

- 13** In section 17, page 12, line 8, leave out from beginning to <is> and insert <the overcrowding of which is, in the local authority's opinion,>

**Alex Neil**

- 14** In section 17, page 12, line 30, at end insert—

<( ) Before making an order under subsection (7), the Scottish Ministers must consult—

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- (a) local authorities,
- (b) such persons or bodies as appear to them to be representative of the interests of—
  - (i) landlords,
  - (ii) occupiers of houses, and
- (c) such other persons or bodies (if any) as they consider appropriate (which may include landlords or occupiers of houses).>

### Mary Mulligan

24 In section 17, page 12, line 32, at end insert—

- <(9) The Scottish Ministers must prepare and publish a report in respect of each period of 3 years following the commencement of Part 3 on—
  - (a) the number of overcrowding statutory notices issued,
  - (b) the impact of overcrowding statutory notices on reducing overcrowding,
  - (c) the extent to which persons have been made homeless as a consequence of overcrowding statutory notices, and
  - (d) other measures which have been considered for the purpose of reducing overcrowding,in each local authority area.
- (10) A report under subsection (9) must be produced as soon as reasonably practicable following the end of each period to which the report relates.>

### Alex Neil

18 In section 25, page 15, line 10, leave out <3> and insert <5>

### Alex Neil

21 In section 27, page 16, leave out lines 3 to 8 and insert—

- <“house” means premises—
  - (a) which are subject to a lease or occupancy arrangement by virtue of which they may be used as a separate dwelling, and
  - (b) the owner of which would, if not registered in the register maintained by a local authority under section 82(1) of the 2004 Act, be guilty of an offence under subsection (1) of section 93 of that Act (disregarding subsection (3) of that section),“landlord”, in relation to a house, means the owner of the house.>

## Overcrowding statutory notices: alternative housing plans

### Mary Mulligan

23 In section 17, page 12, line 24, at end insert—

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- <( ) A local authority serving an overcrowding statutory notice must produce an alternative housing plan for any person who, for the purpose of ensuring that the house to which the notice applies is no longer overcrowded, has been compelled to discontinue their occupation of the house.
- ( ) Before drawing up an alternative housing plan the local authority must consult—
  - (a) the landlord on whom the overcrowding statutory notice has been served, and
  - (b) any person who has been required to discontinue their occupation of the house to which the notice applies.>

### **Mary Mulligan**

**25** In section 18, page 12, line 36, at end insert—

- <( ) Any information or advice provided under subsection (1) must be consistent with the terms of any relevant alternative housing plan.>

### **Mary Mulligan**

**26** In section 27, page 16, line 2, at end insert—

<“alternative housing plan” means a plan produced by a local authority for the purpose of re-housing any persons who have been compelled to discontinue their occupation of a house as a result of steps taken to comply with an overcrowding statutory notice.>

## **Overcrowding statutory notices: guidance**

### **Alex Neil**

**15** In section 17, page 12, line 31, leave out subsection (8)

### **Alex Neil**

**20** After section 26, insert—

#### **<Guidance**

- (1) A local authority must have regard to any guidance issued by the Scottish Ministers about—
  - (a) the discharge of its functions under this Part, or
  - (b) matters arising in connection with the discharge of those functions.
- (2) Before issuing any such guidance, the Scottish Ministers must consult—
  - (a) local authorities,
  - (b) such persons or bodies as appear to them to be representative of the interests of—
    - (i) landlords,
    - (ii) occupiers of houses, and
  - (c) such other persons or bodies (if any) as they consider appropriate (which may include landlords or occupiers of houses).>



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### **Overcrowding statutory notices: information and advice for occupiers**

Alex Neil

17 Leave out section 18 and insert—

#### **<Information and advice for occupiers**

- (1) This section applies where a local authority serves an overcrowding statutory notice in relation to a house.
- (2) The authority must, at the same time as serving the overcrowding statutory notice, also serve on the occupier of the house a notice containing prescribed information and advice in connection with the overcrowding statutory notice.
- (3) If the occupier of the house or any other person residing in the house requests information or advice from the local authority in connection with the overcrowding statutory notice, the local authority must comply with the request, unless the authority considers the request to be unreasonable.
- (4) The local authority may give the occupier of the house such other information and advice as the authority considers appropriate in connection with the overcrowding statutory notice.
- (5) In subsection (2), “prescribed” means prescribed by order made by the Scottish Ministers.
- (6) Such an order may also prescribe the form of the notice to be served under subsection (2).
- (7) Before making an order under this section, the Scottish Ministers must consult—
  - (a) local authorities,
  - (b) such persons or bodies as appear to them to be representative of the interests of—
    - (i) landlords,
    - (ii) occupiers of houses, and
  - (c) such other persons or bodies (if any) as they consider appropriate (which may include landlords or occupiers of houses).>

### **Overcrowding statutory notices: power to obtain information**

Alex Neil

19 After section 25, insert—

#### **<Power to obtain information**

- (1) A local authority may, for the purpose of enabling it to discharge its functions under this Part, serve a notice on a person falling within subsection (2) (referred to as “A”) requiring A to provide the authority with any of the information mentioned in subsection (3).
- (2) A person falls within this subsection if the person appears to the local authority to—
  - (a) own, occupy or have any other interest in a house in the local authority’s area, or

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- (b) act in relation to the lease or occupancy arrangement to which any such house is subject.
- (3) The information is—
  - (a) confirmation of the nature of A’s interest in the house,
  - (b) the name and address of, and information about A’s relationship with, any other person whom A knows to—
    - (i) own, occupy or have any other interest in the house, or
    - (ii) act in relation to the lease or occupancy arrangement to which the house is subject,
  - (c) such other information relating to the house, or such other person, as the local authority may reasonably require.
- (4) A person commits an offence if the person—
  - (a) without reasonable excuse, fails to comply with a requirement of a notice served on the person under subsection (1), or
  - (b) knowingly or recklessly provides information which is false or misleading in a material respect to a local authority or other person—
    - (i) in purported compliance with a requirement of such a notice, or
    - (ii) otherwise if the person knows, or could reasonably be expected to know, that the information may be used by, or provided to, a local authority for the purpose of the discharge of its functions under this Part.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.>

### **Tenant information packs**

#### **Bob Doris**

- 31** In section 29, page 18, line 4, after <house> insert <, including information about its physical condition (including any particular characteristics or features of the house) and an overall assessment of the standards of safety relating to energy utilities, including confirmation of whether or not a residual current device has been installed within that house>

#### **Mary Mulligan**

- 27** In section 29, page 18, line 4, at end insert—  
<(ia) documents containing confirmation of whether a carbon monoxide detector has been installed in the house;>

### **Landlord application to private rented housing panel**

#### **Alex Neil**

- 22** In section 31, page 22, line 16, at end insert—  
<( ) In section 191 (orders and regulations), after subsection (4) insert—

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“(4A) Regulations under subsection (1) of section 28B (other than such regulations containing only provision under subsection (2)(b) of that section) are not to be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.”.>

### Amendment to the Land Tenure Reform (Scotland) Act 1974

**David McLetchie**

**32** After section 31, insert—

#### <Relaxation of residential restriction on leases of more than 20 years

- (1) Section 8 of the Land Tenure Reform (Scotland) Act 1974 (c.38) (property let under a future long lease, etc. not to be used as a private dwelling) is amended as follows.
- (2) In subsection (3A)—
  - (a) the word “or” immediately following paragraph (b) is repealed, and
  - (b) after paragraph (c), add “; or
  - (d) a body prescribed, or of a type prescribed, by the Scottish Ministers by order made by statutory instrument.”.
- (3) After subsection (3A), insert—

“(3B) An order under subsection (3A)(d) may—

  - (a) prescribe a body or type of body subject to conditions or restrictions,
  - (b) prescribe conditions which a body or type of body must meet for the purposes of subsection (3A),
  - (c) restrict the application of subsection (3A) to specified leases, or leases of specified descriptions,
  - (d) prescribe circumstances in which subsection (3A) is to apply or cease to apply in relation to a body or type of body or any lease,
  - (e) make provision about the consequences, in relation to any lease, of—
    - (i) a breach of any condition or restriction prescribed by the order, or
    - (ii) subsection (3A) otherwise ceasing to apply in relation to a body or type of body or the lease.

(3C) Provision made by virtue of subsection (3B)(e) may, in particular, include provision for the protection of the interests of tenants or occupiers of any dwelling-houses on the property which is subject to the lease.

(3D) An order under subsection (3A)(d)—

  - (a) may modify any enactment, and
  - (b) is not to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.”.>

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### David McLetchie

33 After section 31, insert—

#### <Restriction of right to redeem heritable securities after 20 years

- (1) Section 11 of the Land Tenure Reform (Scotland) Act 1974 (c.38) (right to redeem heritable security after 20 years where security subjects used as a private dwelling) is amended as follows.
- (2) In subsection (3A)(b)—
  - (a) the word “or” immediately following sub-paragraph (ii) is repealed, and
  - (b) after sub-paragraph (iii), add “; or
    - (iv) a body prescribed, or of a type prescribed, by the Scottish Ministers by order made by statutory instrument.”.
- (3) After subsection (3A), insert—
  - “(3B) An order under subsection (3A)(b)(iv) may—
    - (a) prescribe a body or type of body subject to conditions or restrictions,
    - (b) prescribe conditions which a body or type of body must meet for the purposes of subsection (3A),
    - (c) restrict the application of subsection (3A) to specified heritable securities, or heritable securities of specified descriptions,
    - (d) prescribe circumstances in which subsection (3A) is to apply or cease to apply in relation to a body or type of body or any heritable security.
  - (3C) A statutory instrument containing an order under subsection (3A)(b)(iv) is subject to annulment in pursuance of a resolution of the Scottish Parliament.”.>