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# **Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh**

## **Delegated Powers in the Housing (Scotland) Bill (as amended at Stage 2)**



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# Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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# Introduction and overview of the Bill

1. This report considers the delegated powers in the Housing (Scotland) Bill (“the Bill”) as amended at Stage 2.
2. The Committee previously considered the delegated powers in this Bill at Stage 1 and published its [report](#) on 4 September 2024. The Committee was content with 34 of the 50 delegated powers. The Committee made recommendations in respect of the remaining 16 powers.
3. The Bill completed Stage 2 on 3 June 2025. The Bill was subject to significant amendment during its passage. Several powers have been revised, one power removed and there are also several new delegated powers, all of which are considered in this report.
4. This Bill was introduced by the Scottish Government on 26 March 2024. The lead committee was the Local Government, Housing and Planning Committee. As this report is after Stage 2, it is addressed to the Parliament.
5. The Bill is said to contain a package of reforms in response to the need to improve housing outcomes for people in rented accommodation and facing homelessness to help deliver the “New Deal for Tenants”. The Bill makes provision over 7 parts to deliver the policy intent with the main areas being rent and rent control areas, evictions, tenants’ keeping of pets and personalisation, unclaimed tenancy deposits, registration of letting agents, conversion of certain tenancies, ending of joint tenancy agreements, homelessness prevention, as well as other housing matters.

# Delegated Powers

6. At Stage 2 the Bill was amended to remove one power, revise 12 powers, and add 14 new powers to make subordinate legislation conferred on Scottish Ministers. The Scottish Government has prepared a [Supplementary Delegated Powers Memorandum](#) (“SDPM”) which sets out the new and revised powers and provides an explanation of what each power allows, why they have been taken and why the parliamentary procedures are considered appropriate.

# Review of powers

## Section 6(1): Power to issue guidance about carrying out of assessments of rent conditions

**Power conferred on:** Scottish Ministers

**Power exercisable by:** Guidance

**Parliamentary procedure:** No procedure

**Revised or new power:** Revised power

### Provision

7. At Stage 1, section 6(1) provided a power for the Scottish Ministers to issue guidance for local authorities about the carrying out of assessments of rent conditions. This power has been amended at Stage 2 to extend the list of consultees listed in section 6(3) to include persons who appear to the Scottish Ministers to understand the impact of rent increases on rural areas.
8. The power has also been amended to provide that the requirement to consult may be met by consultation carried out before the section comes into force.
9. The power to issue guidance under section 6(1) is not subject to any parliamentary procedure.

### Committee consideration

10. The Scottish Government states in its SDPM that the amendment to the list of consultees is designed to ensure that the needs of those in rural areas are considered in the preparation of guidance under section 6. It states that the amendment which enables pre-commencement consultation to count towards the duty to consult is designed to enable guidance to be produced quickly after commencement.
11. The Committee was content with this power at Stage 1. The amendment to the list of consultees limits the guidance issuing power further. The Committee considers that enabling consultation to be carried out before the commencement of the provision is practical in the circumstances, to enable guidance to be issued efficiently.

12. **The Committee finds the power to issue guidance acceptable in principle and is content that it is not subject to any parliamentary procedure.**

## Section 7(1): Power to issue guidance about reports

**Power conferred on:** Scottish Ministers

**Power exercisable by:** Guidance

**Parliamentary procedure: No procedure**

**Revised or new power: Revised power**

**Provision**

13. On introduction, section 7 provided a power for the Scottish Ministers to issue guidance for local authorities about reports to be prepared following assessments of rent conditions. A Stage 2 amendment has converted the power to a duty to issue such guidance. Guidance must also now include provision about the eligible reasons for the recommendations which may be given in the local authority's report.
14. The power has also been amended to provide that the requirement to consult may be met by consultation carried out before the section comes into force.
15. The power to issue guidance under section 7(1) is not subject to any parliamentary procedure.

**Committee consideration**

16. The Scottish Government states in its SDPM that the conversion of the guidance-making power to a duty to issue such guidance is designed to provide clarity for landlords and tenants as to the reasons why rent control could be recommended by a local authority. The amendment enabling pre-commencement consultation to count towards the duty to consult is designed to enable guidance to be produced quickly after commencement.
17. In relation to the conversion of the power to issue guidance to a requirement, the Committee considers that this provides the Parliament with certainty and therefore the Committee is content with the power as amended. The Committee makes the same comment as at paragraph 11 in relation to early consultation.

**18. The Committee finds the power to issue guidance acceptable in principle and is content that it is not subject to any parliamentary procedure.**

**Section 9(1): Power to designate area as a rent control area and impose rent controls for area (and further restrictions on the power in section 10, 11 and 12)**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

**Provision**

19. Section 9(1) gives the Scottish Ministers power to make regulations to designate all or part of a local authority as a rent control area, in light of a report from a local authority issued following an assessment of rent conditions.
20. Where the local authority has recommended to the Scottish Ministers that they

designate all or any part of the area of the local authority as a rent control area, the Scottish Ministers must lay a statement before the Scottish Parliament with the local authority's recommendation then, subject to subsection 1A, by regulations designate the recommended area as a rent control area. The condition in 1A provides that the Scottish Parliament may, within two weeks of such a statement being laid, by resolution agree that, notwithstanding the recommendation of the local authority, no regulations should be made.

21. Where the local authority has not recommended to the Scottish Ministers that they designate all or any part of the area of the local authority as a rent control area, the Scottish Ministers may by regulations designate all or part of the area of a local authority only if they are satisfied that restricting the rate of increase in rent payable under private or student residential tenancies is necessary and proportionate for the purpose of protecting the social and economic interests of tenants in the area. The Scottish Ministers must also be satisfied that such a measure is a necessary and proportionate control of landlords' use of their property in the area.
22. Section 9(3) previously required that regulations made under this section specified a maximum amount beyond which rent could not be increased. Amendments at Stage 2 have removed this provision and section 19 of the Bill now provides for a fixed rent cap which applies to all rent control areas.
23. A new section 9(3A) has been added which requires that regulations must provide that the amount specified must be calculated with reference to the quality, state of repair, and energy efficiency of a property. Given the removal of the power to specify such an amount, this provision appears to be redundant and is discussed below.
24. A new section 9(5A) has also been added, which provides that "rent payable", for the purpose of Part 1 of the Bill, means the amount that is payable in rent, excluding any charges for water, sewage, gas, or electricity which are directly payable to the landlord under the tenancy agreement.
25. Regulations made under section 9 are subject to the affirmative procedure.

### **Committee consideration**

26. At Stage 1, the power to make regulations, following a local authority report recommending that an area should be designated a rent control area, was discretionary. The power to make such regulations where there has been no local authority recommendation remains discretionary. The Scottish Government states in its SDPM that the reason for the change to oblige the Scottish Ministers to designate a rent control area, where a local authority has made such a recommendation, appears to be designed to remove what was seen as the Scottish Ministers' veto over rent control where it is seen as necessary by the local authority.
27. In its SDPM, the Scottish Government highlights that new section 3A appears to be redundant in light of the removal of the power to specify the maximum amount beyond which rent could not be increased, which has been replaced with a fixed rate on the face of the Bill. The Committee asks the Scottish Government whether it intends to bring forward amendments to remove this provision at Stage 3.
28. The Scottish Government also states that the reason for the change to the definition of "rent payable", made by new section 9(5A) appears to be designed to ensure that

increases in utility payments in rent control areas are not caught by the fixed rent cap. However, the Scottish Government notes that the definition will not apply to the restrictions on rent increases which are added to the Private Housing (Tenancies) (Scotland) Act 2016. The Committee asks the Scottish Government whether it intends to bring forward amendments to remove this provision at Stage 3.

29. Finally, the Scottish Government also comments that the inclusion of the reference to student tenancies will also not follow through, given other such amendments have not been taken forward. The Committee asks whether the Scottish Government intends to amend the provision to remove the reference to student tenancies.

30. **The Committee highlights to the Parliament that the change to the definition of “rent payable” and the reference to student tenancies appear to be redundant, in light of other provisions in the Bill.**

31. **The Committee asks the Scottish Government whether it plans to bring forward amendments which ensure that no redundant references (as highlighted in the paragraphs above) remain in section 9 as passed.**

#### **Section 14(1): Power to allow rent increases for specified properties that exceed the amount that is otherwise permitted**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

#### **Provision**

32. Section 14(1) gives the Scottish Ministers power to make regulations to provide that a landlord of certain specified properties in a rent control area may increase the rent payable under the tenancy by more than would otherwise be permitted. The power has been amended in light of the introduction of the fixed rent cap, provided for now on the face of the Bill. However, the substance of the power remains largely the same as at Stage 1.
33. New subsection (4A) clarifies that references in section 14 to increases in rent apply to setting the rent at the start of, and during, the tenancy, and new subsection 5A provides that the requirement to consult prior to laying regulations under the power in section 14 can be met via consultation carried out before commencement of section 14.
34. Regulations made under section 14 are subject to the affirmative procedure.

#### **Committee consideration**

35. The Scottish Government states in its SDPM that the reason for the amendments to the power is due to the creation of a fixed rent cap on the face of the Bill, which require references to the “permitted rate” instead. The reason for the addition of

new subsection 4A is to remove any doubt as to the application of regulations made under section 14(1). The reason for the addition of new subsection 5A is to enable regulations to be produced more quickly after commencement.

36. The Committee highlighted this power to the lead committee at Stage 1, noting that it could be used to make a significant policy choice. In its Stage 1 report, the lead committee highlighted that the Scottish Government had committed to carrying out further consultation in Spring 2025 about the exemption from the scope of the Bill of certain properties, and where rents could be increased in certain circumstances.

**37. The Committee highlights the power to the Parliament, noting that regulations made under the provision could provide for wide-ranging and currently unknown exemptions from the Bill.**

**38. The Committee asks the Scottish Government to set out whether it has consulted further on this provision and what the findings of that consultation exercise were. It also asks the Scottish Government whether it intends to bring forward any amendments to limit the scope of this power at Stage 3.**

### **Section 15(7): Power to change the information that may be requested by a local authority or the Scottish Ministers**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

#### **Provision**

39. Section 15, as amended, creates a right for a local authority to request certain property and tenancy information from both landlords and tenants for the purpose of assisting the local authority and the Scottish Ministers in carrying out their functions under Chapter 1 of the Bill. Section 15(2) provides a list of the information that local authorities can request.
40. The power has been amended in light of the fact that the Scottish Ministers may now request such information, however the power in substance has not been changed.
41. Regulations made under section 15 are subject to the affirmative procedure.

#### **Committee consideration**

42. The Scottish Government states in its SDPM that the change to the power is consequential on the addition of a power for the Scottish Ministers to request the same information that may be requested by a local authority.
43. The Committee was content with the power at Stage 1. Given that the amendment is consequential on the conferral of the power to request such information on the

Scottish Ministers, the Committee is content with the revised power.

- 44. The Committee accepts the power in principle, and is content that it is subject to the affirmative procedure.**

**Section 15(7A): Power to add or remove descriptions of persons from whom information may be sought**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

#### **Provision**

45. Section 15, as amended, creates a right for a local authority and the Scottish Ministers to request certain information from both landlords and tenants. New subsection (7A) has been added to section 15 to enable the Scottish Ministers to modify the section, so as to add or remove descriptions of persons from whom information may be sought by a local authority or the Scottish Ministers.
46. Regulations made under this power are subject to the affirmative procedure.

#### **Committee consideration**

47. The Scottish Government states, in its SDPM, that the new power is designed to enable the Scottish Ministers to adapt the data collection provisions where it is considered necessary to collect information from other persons.
48. It states that the affirmative procedure is appropriate given that the power allows for the amendment of primary legislation. It also states that that the adding or removing of persons from who information may be sought would have an impact on those persons, and that impact must be assessed. Therefore, it states that the affirmative procedure provides the appropriate level of scrutiny in respect of any such proposal.
49. Currently, information can be sought from the landlord and tenant. The Committee asks, in absence of an explanation in the SDPM, who is likely to be added, and whether the Scottish Government considers that it is foreseeable that any other person than the landlord or tenant should be subject to the information requirement.

- 50. The Committee asks the Scottish Government to set out whether it considers it foreseeable that this power will be used, and to provide examples who such regulations may cover if so.**

**Section 18(1): Power to modify law in connection with the expiry of rent control area designation**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

### **Provision**

51. Section 18(1) previously provided the Scottish Ministers with a regulation making power which could be used on or in anticipation of the expiry of regulations designating a rent control area. This power has been amended at Stage 2 to provide that it can be used in connection with the expiry or revocation of regulations designating a rent control area.
52. Regulations made under this power are subject to the affirmative procedure.

### **Committee consideration**

53. The Scottish Government states in its SDPM that the power has been amended at Stage 2 to provide more flexibility, and the power will now be available to use more generally in connection with the expiry or revocation of any such regulations. When lodging the amendment, the Cabinet Secretary described it as a technical amendment.
54. The Committee highlighted this power to the lead committee at Stage 1, noting that it could be used to make a significant policy choice. It stated that whilst it agrees that it is sensible that there is a mechanism to provide for continuity and certainty in relation to the expiry of the designation of a rent control area for a limited period, it wondered whether such provision could be made on the face of the Bill. The lead committee did not report on this power.
55. It appears to the Committee that the power has been widened, and therefore the Committee asks the Scottish Government for a more detailed explanation as to why it is considered necessary.
56. The power is a Henry VIII power which permits the amendment of primary legislation.

**57. The Committee asks the Scottish Government to set out why it was considered necessary to widen the scope of this power.**

**Section 19(1B): Inserted new section 17C into the Private Housing (Tenancies) (Scotland) Act 2016 – replacing the power previously in section 13 of the Bill**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

## Provision

58. The power that was previously in section 13 of the Bill has been removed via Stage 2 amendment, and section 19 of the Bill (as amended) now inserts an equivalent power into the 2016 Act (as new section 17C).
59. The power enables the Scottish Ministers to make regulations which define what is an exempt property, meaning those properties which will not be subject to the rent cap.
60. New section 17C provides that the duty to consult prior to laying regulations under section 17C can be met via consultation carried out before section 17C takes effect.
61. Regulations under new section 17C are subject to the affirmative procedure.

## Committee consideration

62. The Scottish Government states in its SDPM that the reason for taking the power is the same as that given at Stage 1. The reason given at Stage 1 was that such a power would enable the Scottish Ministers to set out, where they consider that the impact of rent control on certain landlords may be disproportionate, certain categories of property which should be exempt from rent control. It stated that the power to create categories of properties that are exempt from rent control is framed broadly to enable properties to be defined by reference to matters that Ministers consider appropriate, including circumstances relating to the landlord, the tenant or the property type, arguing that this ensures that there is flexibility in terms of the safeguards that can be deployed.
63. The Committee highlighted this power to the lead committee at Stage 1, noting that it possibly could be used to make substantive policy changes, excluding certain properties from the general principles of the Bill.
64. As noted above at paragraph 36, the lead committee reported that the Scottish Government would be carrying out further consultation on this matter. The Committee asks the Scottish Government about the results of this consultation, and whether it intends to bring forward any amendments to limit the scope of this power at Stage 3.

65. **The Committee highlights the power to the Parliament, noting that regulations made under the provision could provide for wide-ranging and currently unknown exemptions from the Bill.**
66. **The Committee asks the Scottish Government to set out whether it has consulted further on this provision and what the findings of that consultation exercise were. It also asks the Scottish Government whether it intends to bring forward any amendments to limit the scope of this power at Stage 3.**

**Section 19(2): Inserted new section 43CB(1) and (2) into the Private Housing (Tenancies) (Scotland) Act 2016 - power to substitute a different index to the one currently specified in the definition of permitted rate, and power to substitute different percentages to the ones currently specified in that definition**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

### **Provision**

67. Part 1 of the Bill has been amended at Stage 2 to provide that a fixed rent cap will apply in every area designated as a rent control area. This is a change from the approach taken in the Bill at introduction which would have seen rent cap specified for each individual rent control area, depending on the prevailing circumstances in that area. The fixed rent cap is set at the rate of increase in the Consumer Prices Index plus one percentage point, or 6%, whichever is lower. This is known as the “permitted rate” and a landlord of a property in a rent control area cannot increase the rent either at the start of a new tenancy or during a tenancy by more than the permitted rate.
68. Section 19(2) of the Bill inserts a new part 4A into the 2016 Act which, amongst other things, provides the meaning of permitted rate in new section 43CA of the 2016 Act and enables the Scottish Ministers via regulations to change the index specified in the definition of “permitted rate” (currently the consumer prices index) and to change the percentages specified in the definition of “permitted rate” (currently specified as one percentage point about the CPI% and 6% as an upper limit on the permitted rate).
69. Regulations made under this power are subject to the affirmative procedure.

### **Committee consideration**

70. The Scottish Government states in its SDPM that the purpose of the power is to provide flexibility to enable Ministers to respond, where appropriate, to changing economic circumstances, which could leave the permitted rate as specified outdated
71. The Committee agrees that it is appropriate to have such a regulation making power, in order that definitions used in the legislation do not become outdated. It is a narrow power which may only be exercised to amend the index or the number of percentage points above such an index, and as such it will straightforward, where such regulations are laid, for the Parliament to decide whether it agrees with any change to those terms. The affirmative procedure is appropriate in the circumstances.
72. **The Committee accepts the power in principle and is content that it is subject to the affirmative procedure.**

**Section 28(3): Replaced section 37 of the Housing (Scotland) Act 1988 – power to modify the definition of “relevant sum”**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

### **Provision**

73. Section 28 of the Bill (as amended at Stage 2) amends the Housing (Scotland) Act 1988 (“the 1988 Act”) to provide that damages for unlawful eviction may be set by the court or First-tier Tribunal at between 3 and 36 times the “relevant sum”. The “relevant sum” is defined in section 37 of the 1988 Act as one month’s rent or £840 whichever is higher. Subsection 5 provides a power for the Scottish Ministers to modify the definition of “relevant sum” so as to substitute a different amount.
74. The power is subject to the affirmative procedure.

### **Committee consideration**

75. The Scottish Government states in its SDPM that the purpose of the power is to enable Ministers to respond, where appropriate, to changing economic circumstances which could leave the definition of the “relevant sum” outdated. It states that the power will therefore help to ensure that the level of damages remains proportionate and responsive to wider circumstances.
76. The Committee agrees that it is appropriate to have such a regulation making power in order that the legislation keeps up with the value of money. It is a narrow power which may only be exercised to amend this term, and as such it will be straightforward, where such regulations are laid, for the Parliament to decide whether it agrees with any change to the term. The affirmative procedure is appropriate in the circumstances.

**77. The Committee accepts the power in principle and is content that it is subject to the affirmative procedure.**

### **Section 28A(2)(e): Amended section 59 of the Private Housing (Tenancies) (Scotland) Act 2016 – power to modify the definition of “relevant sum”**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

### **Provision**

78. Section 28A amends section 59 of the 2016 Act to set the damages for wrongful termination at between 3 and 36 times the “relevant sum”. The “relevant sum” is defined as one month’s rent or £840, whichever is higher. Section 29A(2)(e) provides a power for the Scottish Ministers to modify the definition of “relevant sum” so as to substitute a different amount.

79. The power is subject to the affirmative procedure.

### Committee consideration

80. As above, the Scottish Government states in its DPM that the purpose of the power is to enable Ministers to respond, where appropriate, to changing economic circumstances which could leave the definition of the “relevant sum” outdated. It states that the power will therefore help to ensure that the level of damages remains proportionate and responsive to wider circumstances.

81. The Committee agrees that it is appropriate to have such a regulation making power in order that the legislation keeps up with the value of money. It is a narrow power which may only be exercised to amend this term, and as such it will be straightforward, where such regulations are laid, for the Parliament to decide whether it agrees with any change to the term. The affirmative procedure is appropriate in the circumstances.

**82. The Committee accepts the power in principle and is content that it is subject to the affirmative procedure.**

*The following powers are very similar in nature and raised the same issues when the Committee considered them at Stage 1. For the purposes of this report, the committee consideration and recommendations are grouped together.*

**Section 29(2): Inserted new section 64E(1) of the Private Housing (Tenancies) (Scotland) Act 2016 – duty to make provision about when it is reasonable to refuse consent to keep a pet**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

#### Provision

83. Section 29 inserts new section 64E into the 2016 Act, conferring a duty on the Scottish Ministers to make regulations making provision about when it is reasonable for a landlord to refuse to consent to a tenant keeping a pet at a let property.

84. Regulations may in particular specify circumstances in which it is or is not reasonable to refuse such consent, or factors that tend to show that the refusal of such consent is or is not reasonable.

**Section 29(2): Inserted new section 64L(1) of the Private Housing (Tenancies) (Scotland) Act 2016 – duty to specify changes to let property and categorise changes as a category 1 or category 2 change**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

**Provision**

85. Section 29 inserts new section 64L(1) into the 2016 Act which confers a duty on Scottish Ministers to make provision to specify changes to a property let under a private residential tenancy as a category 1 change (not requiring landlord's consent) or a category 2 change (requiring landlord's consent). Such regulations must not categorise any structural changes to the property as a class 1 change and may provide that each category of change applies, or does not apply, to a particular type or description of property.

**Section 29(2): Inserted new section 64M(1) of the Private Housing (Tenancies) (Scotland) Act 2016 – duty to make provision about when it is reasonable to refuse consent to make a category 2 change**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument  
Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

**Provision**

86. Section 29 inserts new section 64M(1) into the 2016 Act. At Stage 1, it contained a power for the Scottish Ministers to make provision, by regulations, about the circumstances when it would be reasonable for a landlord to refuse to consent to a tenant's request to make a category 2 change to a let property. At Stage 2, the power has been converted to a duty to make such regulations.
87. The power has also been restricted to stipulate that regulations must provide that it is reasonable for a landlord to refuse consent to any structural changes to the property. Regulations may also specify circumstances where it is or is not reasonable to refuse consent or factors to show that the consent is or is not reasonable.
88. Regulations made under this power are subject to the affirmative procedure.

**Section 30(2): Inserted new section 31B(1) of the Housing (Scotland) Act 2001 – duty to make provision about when a consent condition for keeping a pet is reasonable**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

**Provision**

89. Where tenants are permitted to keep pets in a Housing (Scotland) Act 2001 ("2001"

Act) tenancy, it may be subject to conditions applied by notice from the landlord. New Section 31B(1) confers a duty on Scottish Ministers to make provision about when a condition specified in a landlord's notice is reasonable. Such regulations may specify circumstances in which a condition is or is not reasonable or factors that tend to show that a condition is or is not reasonable.

## Committee consideration

90. The Committee held concerns about these powers when it considered them at Stage 1 with the Bill providing no detail on how changes to the property will be categorised or what circumstances may or may not be reasonable for a landlord to refuse consent to pets. In short, it was not obvious to what extent or how much autonomy landlords would have to make decisions on these matters over their let properties.
91. Given the concerns, the Committee drew these powers to the attention of the lead committee, stating *“The Committee considers that some of the powers should be further limited in their exercise. While the Committee accepts the need for some regulation making powers in this area, it considers that it is also essential to provide clarity to the end users of the law. The Committee therefore suggests that this may be achieved in some cases by providing illustrative lists on the face of the Bill.”* The lead committee noted the Committee's views and recommended that the Scottish Government brings forward appropriate amendments to the Bill at Stage 2.
92. These powers were amended at Stage 2 to convert them to duties on the Scottish Ministers. The Scottish Government explains in the SDPM that the purpose remains the same, which is to set out further detail to support the operation of the new rights for tenants to keep pets and make changes to their let property. It is said to be appropriate that these details should be set out in subordinate legislation as the nature of the information and the level of detail that will likely be included would be disproportionate to include on the face of the primary legislation which the Bill is amending.
93. The Scottish Government further explains that the powers have been changed to duties to ensure that the Scottish Ministers make regulations to: -
- specify the types of changes that will be classed as category 1 and category 2. It also notes that the restriction relating to structural changes is to ensure that a landlord's consent is always required for structural changes;
  - make provision about when it would be reasonable for a landlord to refuse consent to a category 2 change to a let property; and
  - make provision about when a consent condition for keeping a pet is reasonable and when it is reasonable to refuse consent to keep a pet.
94. The amendments made at Stage 2 do not address the issues identified previously by this Committee or the lead committee. The Bill still does not provide any detail on these matters or further limit the exercise of any of the powers, other than a landlord's consent will always be required for a structural change to property. The SDPM additionally provides no further detail on what provision might be made through regulations and so the Committee still does not consider that the amendments made provide any clarity to the end users of the law and no illustrative lists have been provided on the face of the Bill.

95. **The Committee highlights its view that the amendments have not addressed the issues previously raised by this Committee, and asks the Scottish Government to set out whether it intends to bring forward amendments at Stage 3 to address these issues.**

**Section 31(3): Inserted new section 122C(4) of the Housing (Scotland) Act 2006 – power to change purposes for which transferred unclaimed deposits may be used**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Removed power**

#### **Provision**

96. Section 122C(1) provides that the Scottish Ministers must use the unclaimed deposits that are transferred to them for specified purposes. Those purposes are specified in the Bill and include providing or securing the provision of advice, information or assistance to private tenants in relation to their rights as tenants and other services or facilities that promote or support the interests of them; preventing private tenants from becoming homeless; and paying or recovering administrative costs that are reasonably incurred by the recipient in the exercise of their functions.

#### **Committee consideration**

97. Prior to amendment at Stage 2, section 31(3) also conferred a power on Scottish Ministers to modify the purposes for which unclaimed deposits that are transferred to the Scottish Ministers, or to a fund administrator, may be used.
98. The Committee was concerned about the power when it was considered at Stage 1 and drew this power to the attention of the lead committee so it could more fully consider the necessity and scope of the power. The Scottish Government explains in the SDPM that this power has been removed in response to concerns raised by the Committee about the scope of the power at Stage 1.

99. **The Committee welcomes the removal of the power.**

**Section 38(3): Inserted new section 48A(1)(c)(ii)(B) of the Private Housing (Tenancies) (Scotland) Act 2016 – power to prescribe evidence in support of a tenant’s statement that a copy of the notice to terminate the tenancy has been given to the other joint-tenants**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Negative**

## Revised or new power: New power

### Provision

100. Section 38(3) inserts new section 48A into the 2016 Act. New section 48(A) sets out requirements for joint tenants terminating a joint tenancy which includes a pre-notice period. Only after the pre-notice period has expired can a joint tenant serve notice to terminate the tenancy. Where a joint tenant gives notice to the remaining joint tenants, they must also provide a statement to the landlord that a copy of the notice has been given to every other joint tenant and such evidence in support of the statement as may be prescribed by the Scottish Ministers.

### Committee consideration

101. The Scottish Government explains in the SDPM that this new power was added to the Bill during Stage 2 amendments in order to enable Scottish Ministers to set out further detail on how the departing joint tenant can satisfy the landlord that a copy of the notice to terminate has been served. The Scottish Government states that this is in line with the general approach to providing clarity on the process. Such regulations would be subject to the negative procedure as they are considered to be similar in nature to the powers to specify the form and manner of notices.
102. The Committee considers this to be a fairly minor power. It does not affect the process of serving relevant notices, but rather to specify how having done that can be evidenced to the landlord. The power is very narrowly drafted; it is limited in how that can be exercised and is administrative in nature. It does not modify any primary legislation so the Committee is content with both the power and the procedure.

- 103. The Committee is content with the power in principle and that it is subject to the negative procedure.**

**Section 38(3): Inserted new section 48A(4A) and (4B) of the Private Housing (Tenancies) (Scotland) Act 2016 – power to vary the minimum and maximum pre-notice periods specified in section 48A(1)(a) and power to vary the period within which the joint-tenant must provide the other joint tenants with a copy of the notice to terminate and the landlord with a statement of compliance**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

### Provision

104. Section 38(3) inserts new section 48A into the 2016 Act. New section 48(A) sets out requirements for joint tenants terminating a joint tenancy which includes a pre-notice period. Only after the pre-notice period has expired can a joint tenant serve notice to terminate the tenancy. The Bill provides a minimum pre-notice period of 2

months, a maximum pre-notice period of 3 months and that within 7 days of the notice being served provide a copy of the notice to any other joint tenant and a statement and evidence to the landlord that a copy of the notice has been given to every other joint tenant.

105. The amendments made during Stage 2 confers power on the Scottish Ministers to vary the minimum and maximum pre-notice periods and the time period for serving the copy notice to other joint tenants and statement and evidence to the landlord. Such regulations would be subject to the affirmative procedure.

### Committee consideration

106. The Scottish Government explains in the SDPM that this new power is required to provide flexibility to respond to changing circumstances or evidence so notice periods remain fair to the departing joint tenant, remaining joint tenants and landlords. The Scottish Government further explains that the affirmative procedure is considered appropriate given the potentially significant changes that could be made to the procedural requirements affecting landlords and tenants.
107. The Scottish Government states that this power is required to provide flexibility. In the absence of a full and detailed justification for the need for such a power the Committee considers that whilst flexibility is a consideration, there is nothing to suggest such a power is necessary.
108. Any change in timescales can have a significant impact on both landlords and tenants involved in this process. Many other notice periods are provided for within primary legislation which provides clarity for the end users of the law including many of those contained in the Housing (Scotland) Act 2001. In the absence of a full and detailed explanation as to the necessity of this power to amend these timescales and given their potential significance to landlords and tenants, the Committee seeks further information to allow a full and proper assessment of the power.

109. **The Committee asks the Scottish Government to set out a detailed justification for the need to amend such timescales. In so doing, it points out that the SDPM does not provide sufficient detail as to the necessity of the power, particularly given other primary legislation relating to housing sets out timescales on the face of the Act.**

### **Section 38A: Amended power in section 27 (repairs) of the Housing (Scotland) Act 2001**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Negative**

**Revised or new power: Revised power**

### **Provision**

110. Section 27 of the Housing (Scotland) Act 2001 confers a power on the Scottish

Ministers to make regulations for entitling a tenant under a Scottish secure tenancy to have qualifying repairs carried out to the house which is the subject of the tenancy. Regulations made under this provision must specify the maximum amount payable in respect of any single qualifying repair, the period within which a qualifying repair is to be completed, and the repairs which are qualifying repairs.

111. New Section 38A amends the power in section 27 of the 2001 Act. It will now confer power on the Scottish Ministers to make provision for or in connection with entitling a tenant under a Scottish secure tenancy to have qualifying repairs carried out to the house which is the subject of the tenancy.
112. It also extends the list of what is to be specified in such regulations to include the period within which an inspection of the house is to take place to determine whether a qualifying repair is required, the period within which a qualifying repair is to be commenced, compensation payable in relation to a failure to comply with a requirement imposed by the regulations and any review or appeal in relation to a failure to comply with a requirement imposed by the regulations. Such regulations are subject to the negative procedure.

### Committee consideration

113. The Scottish Government explains in the SDPM that the existing power has been revised to “*provide clarity and reassurance for tenants in social tenancies as to the timescales within which repairs will be investigated and commenced*”.
114. The Scottish Government further explains that the existing power in section 27 of the 2001 Act is subject to the negative procedure and there is no need to change that as the duties will apply only to social landlords.
115. The Committee considers that the power is not creating a new power, rather it is making more extensive provision that already existed in section 27. In addition, it lists a number of things that can be done via the regulations so that the Parliament is able to anticipate the type of provision that may be made through such regulations. The existing provision is subject to the negative procedure, and that procedure would appear appropriate to the Committee given the type of provision that may be made and there being no ability to amend primary legislation.

116. **The Committee is content with the power in principle and that it is subject to the negative procedure.**

**Section 41(6): Inserted new section 36C(2)(c) of the Housing (Scotland) Act 1987 - power to specify additional action a relevant body must take in relation to a person who is threatened with homelessness**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

## Provision

117. Section 41(6) of the Bill inserts new sections 36A to 36D into the Housing (Scotland) Act 1987 regarding duties of relevant bodies in relation to homelessness. These provisions include duties on relevant bodies to ask if a person is homeless, to act if a person may be homeless or threatened with homelessness. Where a person is or may be threatened with homelessness a relevant body must take the steps specified in the Bill and must take such other action as the Scottish Ministers may by regulations specify.
118. Section 36C provides that such regulations may include provision specifying the process to be followed in connection with assessing the action required, matters that must be taken into account when carrying out the assessment, and information that must be given to the person following the assessment. The regulations may also make different provision for different purposes and incidental, supplementary, transitional, transitory or saving provision.
119. Regulations made under this section are subject to a requirement to consult every other relevant body and the Scottish Ministers may consult any other person they consider appropriate. They are also subject to the affirmative procedure.

## Committee consideration

120. The Scottish Government explains in the SDPM that this new power has been added at Stage 2 following calls from stakeholders to provide more clarity on what relevant bodies should do when dealing with those threatened with homelessness in addition to the general duties incumbent upon them to take appropriate action to remove or minimise the threat of homelessness.
121. The Scottish Government further explains that this power will allow actions to be tailored more quickly in response to any change to the body's functions and the requirement to consult will ensure any new duty is appropriate and effective. The affirmative procedure is considered by the Scottish Government to be appropriate as the regulations will impose new duties on relevant bodies that will impact on those threatened with homelessness and the affirmative procedure would allow a greater opportunity to analyse the proposed functions.
122. The Committee considers the power does not change the rights of those threatened with homelessness or those that are homeless. It is making provision for further actions to be carried out by relevant bodies. It is narrowly drafted and limited in what it can do. It also provides an illustrative list of what such regulations may do so the Parliament can anticipate the type of provision that may be made. In addition, the power is also subject to a consultation requirement with other relevant bodies and is subject to the affirmative procedure offering a high level of scrutiny. The Committee is therefore content with the new power and the procedure that is to be applied.

- 123. The Committee is content with the power in principle and that it is subject to the affirmative procedure.**

**Section 41(6B): Inserted new section 40A(1) of the Housing (Scotland) Act 1987 – power to change the meaning of “homelessness” and “threatened with**

## homelessness” in Part II of that Act

### Power conferred on: Scottish Ministers

### Power exercisable by: Regulations made by Scottish statutory instrument

### Parliamentary procedure: Affirmative

### Revised or new power: New power

### Provision

124. Section 41(6B) inserts new section 40A into the Housing (Scotland) Act 1987 which confers power on the Scottish Ministers to modify section 24 to change the meaning of “homeless” and “threatened with homelessness” for the purposes of Part II of the 1987 Act. Such regulations may make different provision for different purposes, incidental, supplementary, consequential, transitional, transitory or saving provision and may modify any enactment in making such provision.
125. Regulations made under this section are subject to a requirement to consult every other relevant body and the Scottish Ministers may consult any other person they consider appropriate. They are also subject to the affirmative procedure

### Committee consideration

126. The Scottish Government explains in the SDPM that this new power has been taken in response to calls from stakeholders for more clarity on when a person is homeless or threatened with homelessness and to enable changes to respond to changing social and economic circumstances.
127. The Scottish Government further explains that it considers the affirmative procedure is appropriate as this will permit the modification of key definitions which will have an impact on who can access these services.
128. The Committee considers that these are detailed definitions that are central to Part II of the 1987 Act. The definitions have been amended over time, however, always via primary legislation. It is not clear to the Committee how this new delegated power provides clarity on when a person is homeless or threatened with homelessness. The power will allow central and fundamental definitions of “homelessness” and “threatened with homelessness” contained in primary legislation to be amended via subordinate legislation with the justification for taking such a power in the SDPM being insufficient. The Committee therefore asks for a full and proper justification for the necessity of this power.

129. **The Committee asks the Scottish Government for a detailed justification for the need to amend these fundamental definitions. The Committee highlights its view that the SDPM does not provide sufficient detail on the necessity of this power, and it is not obvious how this would provide further clarity as it simply permits key definitions, and as such those who can access homeless services, to be modified via subordinate legislation.**

### Section 47B(2) and (6): Inserted new section 67E of the Housing (Scotland) Act 2010

**- power to modify new Part 5A of the 2010 Act and make such further provision as Ministers consider appropriate in relation to the review and appeal of the Scottish Housing Regulator's decisions**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

**Provision**

130. Section 47B of the Bill inserts a new part 5A into the Housing Scotland Act 2010. It creates a new process to review certain decisions of the Housing Regulator which are appealable to the First-tier Tribunal for Scotland. New section 67A lists the decisions that can be reviewed; section 67B sets out what must be done when reviewing decisions; section 67C deals with appeals to the First-tier Tribunal and section 67D lists the persons who may review or appeal decisions.
131. Inserted section 67E confers power on the Scottish Ministers to modify part 5A of the 2010 Act and to make such further provision as they consider appropriate in relation to reviews and appeals of decisions by the Regulator. Regulations made under this power are subject to the affirmative procedure.

**Committee consideration**

132. The Scottish Government explains in the SDPM that the review and appeals system is new and changes may be required should procedural issues arise in light of operational experience once it is implemented.
133. The Scottish Government further explains that this could involve substantive changes being made to the process, including modification of primary legislation, and so the affirmative procedure is considered appropriate in this instance.
134. Part 5A of the 2010 Act sets out the types of decisions that can be reviewed and appealed, who can review or appeal decisions and how decisions are to be reviewed. This is an entirely new process to be applied to the housing regulators decision making process. Any and all parts of the process in part 5A could be subject to modification through the exercise of this power. Albeit that the power is drafted widely the Committee considers that the Bill provides sufficient detail for the Parliament to be able to anticipate the type of provision that may be made.
135. However, what is not clear is whether there has been any stakeholder engagement about this part of the Bill or this power and whether there should be a requirement to consult with certain bodies or those affected by any regulations, such as the housing regulator, before any changes are made. The Committee seeks the Scottish Government's views on this given the impact it will have for the housing regulator in making their decisions and the impact this may have on those who are reviewing or appealing decisions.

**136. The Committee asks the Scottish Government to set out:**

- **what stakeholder engagement there has been in relation to this power to date.**
- **What consideration it has given to whether there should be a requirement to consult with the housing regulator or other affected stakeholders before making regulations under this power given the impact they may have on those involved in the process.**
- **Whether it intends to bring forward amendments to this power at Stage 3.**

**Section 47C(2)(e): amended section 5 of the Property Factors (Scotland) Act 2011 - power to modify section 5 of the Act to add, remove or vary any material in section 5(2) to (4)**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

**Provision**

137. Section 47C of the Bill amends the Property Factors (Scotland) Act 2011. It adds in various new factors that must be taken account when determining whether someone is a fit and proper person to be a property factor.
138. Inserted section 5(5) confers power on the Scottish Ministers to add to, remove or vary any material in subsections (2) to (4) (considerations to be taken into account when assessing whether someone is a fit and proper person). Such regulations are subject to the affirmative procedure.

**Committee consideration**

139. The Scottish Government explains in the SDPM that this new power is necessary to provide flexibility to respond to changing social or economic circumstances so changes can be made to ensure the criteria is appropriate and fair to the applicant while also protecting end users.
140. The Scottish Government further explains that the affirmative procedure is considered appropriate as changes may be required to be made to primary legislation. Changes made can also give rise to impacts on both property factors and property owners which would require to be fully assessed, and the higher level of scrutiny is said to provide that opportunity.
141. The Committee considers that there is a high level of detail in the primary legislation. Whilst there can be implications for property factors and property owners, the power is narrowly drafted in that it can only be used to add to, remove or vary the existing material already listed in subsections (2) to (4). The legislation

lists the considerations; however, it would appear appropriate that a power to enable changes to be made to those considerations is in the Bill. The Committee is content with the power and the procedure to be applied for the reasons noted above.

**142. The Committee is content with the power in principle and that it is subject to the affirmative procedure.**

**Section 47H(2): Inserted new section 14A into the Property Factors (Scotland) Act 2011 - power to make provision for about the requiring of information from a property factor**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Negative**

**Revised or new power: New power**

### **Provision**

143. Section 47H of the Bill inserts new monitoring and compliance in sections 14A to 14E into the Property Factors (Scotland) Act 2011. New section 14A deals with a power to obtain information and allows the Scottish Ministers to serve a notice on a person who appears to be a property factor requiring the person to provide them with information specified in the notice.
144. New section 14A(2) confers power on the Scottish Ministers by regulations to make further provision about the requiring of information and, in particular, may make provision about the form of the notice and the manner of service and the time within which information must be provided.
145. Regulations made under this provision are subject to the negative procedure.

### **Committee consideration**

146. The Scottish Government explains in the SDPM that this new power is necessary to provide property factors with further clarity on the process which they can be requested to provide information.
147. The Scottish Government further explains that this is considered to only provide basic procedural steps allowing procedural issues that may arise after the initial operation of the process to be addressed. The negative procedure is considered appropriate given the procedural nature of the power.
148. The power is narrowly drafted in that it can only be exercised to make further provision about requiring information from a property factor. It also lists the type of provision that can be made which is procedural and administrative in nature and is common in modern primary legislation. The Committee finds the power and the procedure to be applied appropriate.

**149. The Committee is content with the power in principle and that it is subject to the negative procedure.**

### **Section 51A: Amended power in section 33(1) of the Local Government in Scotland Act 2003**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: Revised power**

#### **Provision**

150. Section 33 of the Local Government in Scotland Act 2003 confers power on the Scottish Ministers to provide that the amount of council tax payable in respect of a chargeable dwelling and any day is to be subject to a variation if, on that day, there is no resident of the dwelling and for the calculation of the amount of that variation. Subsection (1A) provides that any variation may not increase the amount of council tax payable in respect of a chargeable dwelling and a day by more than the basic amounts payable, so can't be more than twice the amount.
151. Section 51A of the Bill amends the 2003 Act by repealing subsection (1A) thereby removing the limitation on the exercise of the power in section 33(1). The power, as amended, is subject to the affirmative procedure.

#### **Committee consideration**

152. The Scottish Government explains in the SDPM that this revised power is necessary to provide flexibility to respond to housing market conditions and policy priorities to encourage the productive use of unoccupied homes.
153. The Scottish Government further explains that there may be financial implications due to significant council tax increases and so the affirmative procedure, that is applied to the current power, would be appropriate for the power as revised to provide a high level of scrutiny.
154. The Committee considers that the amendment is widening the exercise of the original power. The power itself is narrow in that it can only be used to increase the council tax of unoccupied properties. It can do no more than that, however, it will no longer be subject to the limitation of increasing it no more than twice the value. The affirmative procedure is appropriate given that there can be potentially significant financial consequences attached to the policy decisions made and the affirmative procedure will allow a high level of scrutiny to be applied.

**155. The Committee is content with the power in principle and that it is subject to the affirmative procedure.**

### **Section 51F(1) and (5): Duty to make regulations to define what constitutes a**

**housing emergency and evidence of exit from a housing emergency, and a power to set out the actions that may be listed in the Scottish Ministers strategy to end a housing emergency (where one is declared)**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

**Revised or new power: New power**

**Provision**

156. New section 51F(1) confers a duty on the Scottish Ministers by regulations to define the conditions which would constitute a housing emergency and evidence of exit from a housing emergency within 6 months of the Bill receiving Royal Assent. Where a housing emergency is declared by the Scottish Ministers, they must publish a strategy on the actions they will take to end the housing emergency.
157. New section 51F(5) confers a power on the Scottish Ministers by regulations to set out the actions that may be listed in a strategy published by the Scottish Ministers. Regulations made under either new power is subject to the affirmative procedure.

**Committee consideration**

158. The Scottish Government explains in the SDPM that this power is designed to give clarity to the public on what constitutes a housing emergency and how one can be brought to an end.
159. The Scottish Government further explains that the affirmative procedure is considered appropriate give the public interest in defining a housing emergency.
160. The Committee considers that there is very little detail in the Bill on what would constitute a housing emergency and what type of provision may be made in respect of actions to be taken. This is a framework power. The detail of these provisions are to be left to subordinate legislation without any requirement to consult those who may be affected. The Bill does not contain detail about what a housing emergency will be, what that will mean for tenants and landlords, or how that will affect those involved. Nor is this information in the SDPM. The Parliament is consequently unclear as to what type of provision may be made and how significant an impact such provision may have. The Committee asks the Scottish Government for further information to allow a full and proper assessment of the necessity and scope of the power.

**161. The Committee asks the Scottish Government to set out:**

- **why the detail of what constitutes a housing emergency and what type of provision may be made in respect of actions to be taken is not provided on the face of the Bill which would provide clarity to the public;**
- **What type of provision may be made by these regulations;**

- **What consultation has taken place with stakeholders and the public to date on what the provisions may contain; and**
- **What consideration it has given to whether there should be a requirement to consult with the public or other affected stakeholders before making regulations under this power.**
- **Whether it intends to bring forward any amendments to this power at Stage 3.**

