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Housing: subject profile

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This briefing provides an overview of housing in Scotland. It describes recent trends in housing tenure, the housing market and provides information on the policy and legislative background. It also covers the main proposals in Scottish Government Housing to 2040 policy document which will guide the work of the Scottish Government over this parliamentary session.



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Introduction

This subject profile provides an overview of housing in Scotland. It describes recent trends in housing tenure, the housing market and provides information on the policy and legislative background.

It also provides information on some of the main proposals in the Scottish Government Housing to 2040 policy document which will guide the work of the Scottish Government over this parliamentary session.

Given the range of activity in this area, the briefing is not exhaustive. More detailed briefings on specific topics will be produced throughout this session.

Context

Key organisations

There are many organisations involved in housing. Table 1 provides a summary of some of the main organisations.

Housing policy is devolved but there are a range of other factors and policies that affect housing, some of which are reserved to the UK Government. For example, the Bank of England sets monetary policy including interest rates and the UK Government is responsible for a range of other relevant matters including consumer protection, working age means-tested benefits and tax relief for private landlords.

Table 1: Key organisations involved in housing

Organisation	Role
Scottish Government	Responsible for setting national strategy and policy. Provides funding to councils, Registered Social Landlords (RSLs) and others and leads national initiatives. Some social security powers relevant to housing, including powers to vary the housing element of Universal Credit and Discretionary Housing Payments. Maintains the register of letting agents and property factors.
UK Government	Responsible for consumer protection legislation, much social security policy and some taxation relevant to housing.
Councils	Have strategic duties such as preparing local housing strategies. Have a range of specific statutory functions such as assessing homeless applications and administering the private landlord registration scheme. 26 of the 32 councils also own their own housing stock and act as a social landlord.
Registered Social Landlords (RSLs)	Most commonly housing associations. There are around 160 RSLs in Scotland and they vary in size. Some are more focussed on the provision of specialist accommodation. Tenants play an important role in governing many RSLs.
Scottish Housing Regulator	Regulates how councils and RSLs manage their housing stock, how RSLs manage their finances and governance arrangements, and council homelessness services.
First -tier Tribunal for Scotland (Housing and Property Chamber)	Considers disputes about civil private rented matters and property factors.
Scottish Public Sector Ombudsman	Is the final stage for complaints about councils, housing associations, the Scottish Government and its agencies.
Financial Conduct Authority and other financial institutions (UK-wide)	Regulate and provide finance for council, RSL and private housing

Legislative overview

Since devolution, there has been a substantial amount of housing related legislation (see Annex 1). Further details on the legislative provisions are provided, where appropriate, throughout the briefing.

During the last parliamentary session, no new housing primary legislation passed. Most of the focus was on implementing legislation passed in the previous session or introducing

new secondary legislation.

Policy development and Housing to 2040

The Scottish Ministers' vision for housing from 2011 to 2020, 'that all people in Scotland live in high quality sustainable homes that they can afford and that meet their need', was set out in the strategy Homes Fit for the 21st Century.¹ Since its publication, plans have been updated² and more specific strategies have been produced.

Over the years, Scottish Government policy development has been assisted by the work of various groups such as the Joint Housing Policy and Delivery Group and the Homelessness and Rough Sleeping Action Group.

At the outset of the COVID-19 pandemic, the Scottish Government made a range of rapid policy decisions affecting housing including:

- introducing legislation to protect renters from eviction
- additional funding for homelessness services
- temporary changes to Land and Buildings Transaction Tax (LBTT)
- [guidance for social housing providers](#) about the management of their homes.

Housing to 2040

In 2018, the Scottish Government began consulting on its long term housing strategy, Housing to 2040, which was finally published in March 2021. It sets out a vision and principles³ and a route map which sets out the actions that will be needed to get there.⁴ In some areas there are more concrete proposals for the action that will be taken while in other areas more definite plans will be set out following consultation.

In short, the aim is that:

“ by 2040, everyone will have a safe, high-quality home that is affordable and meets their needs in the place they want to be. ”

Scottish Government, 2021⁴

The broad aims are set out as:

“

- **Affordability and choice:** Our aim is for everyone to have access to a home that is affordable and choices about where they live, no matter what tenure they live in.”
- **Affordable warmth and zero emissions homes:** Our aim is for housing to contribute to tackling climate change by 2045 by delivering homes that are warm and affordable to heat and reducing the emissions caused by housing and housing construction.”
- **Improving the quality of all homes:** Our aim is for all homes to be good quality, whether they are new build or existing, meaning everyone can expect the same high standards no matter what kind of home or tenure they live in.”

Scottish Government, 2021⁴

The wide range of actions include:

- publishing a new Rented Sector Strategy covering social and private rented housing, and bringing forward a new Housing Bill early in Session 6 of the Scottish Parliament to strengthen tenants' rights and improve the housing rights of people experiencing domestic abuse
- delivering 100,000 affordable homes by the end of 2031/32
- setting a single set of standards for housing quality and accessibility in legislation
- decarbonising heating in all homes in line with Scotland's climate ambitions
- continuing with the updated plan to end homelessness and rough sleeping
- undertaking an audit of current housing and homelessness legislation to understand how best to realise the right to adequate housing
- taking action in the housing market so it operates fairly and provides affordable housing options and choices in all communities
- working with stakeholders to develop a shared understanding of affordability.

The ambitious, long term and wide ranging nature of the document has been noted and welcomed by some stakeholders.^{5 6} There have also been some concerns expressed, for example:

- the extent to which it reflects true housing systems thinking
- how the intermediate stages will be joined up, monitored and evaluated
- how it is implemented, given concerns about capacity and resources for implementing existing regulations.⁶

Households and household changes

In 2019, there were around 2.5 million households in Scotland, an increase of around 15%

since 1999. This has coincided with an increasing population and the increased prevalence of smaller households.⁷

Changes in the Scottish population and households have important implications for housing policy. For example, it will affect how much new housing is needed, where the housing is needed and what type of housing needs to be built.

From 2018, the population is projected to increase by 2% to 2028 and by 3% to 2043. The projected growth in households is greater at 5% and 10% respectively, given the higher numbers of people living alone.⁸

Most of the growth in households is among older age groups. The proportion of households headed by someone aged 75 or over is projected to increase by 23% by 2043. In contrast, the proportion of households headed by someone aged under 75 is projected to decrease.⁸

Of particular relevance for housing planning purposes is the geographical variation in household projections. Between 2018 and 2028, increases in the number of households are projected in 28 of Scotland's 32 council areas, with Argyll and Bute, Inverclyde, Comhairle nan Eilean Siar and North Ayrshire projected to have decreases. The fastest growing areas are in the east of the country, with projected increases of 16% in Midlothian and 11% in East Lothian.⁸

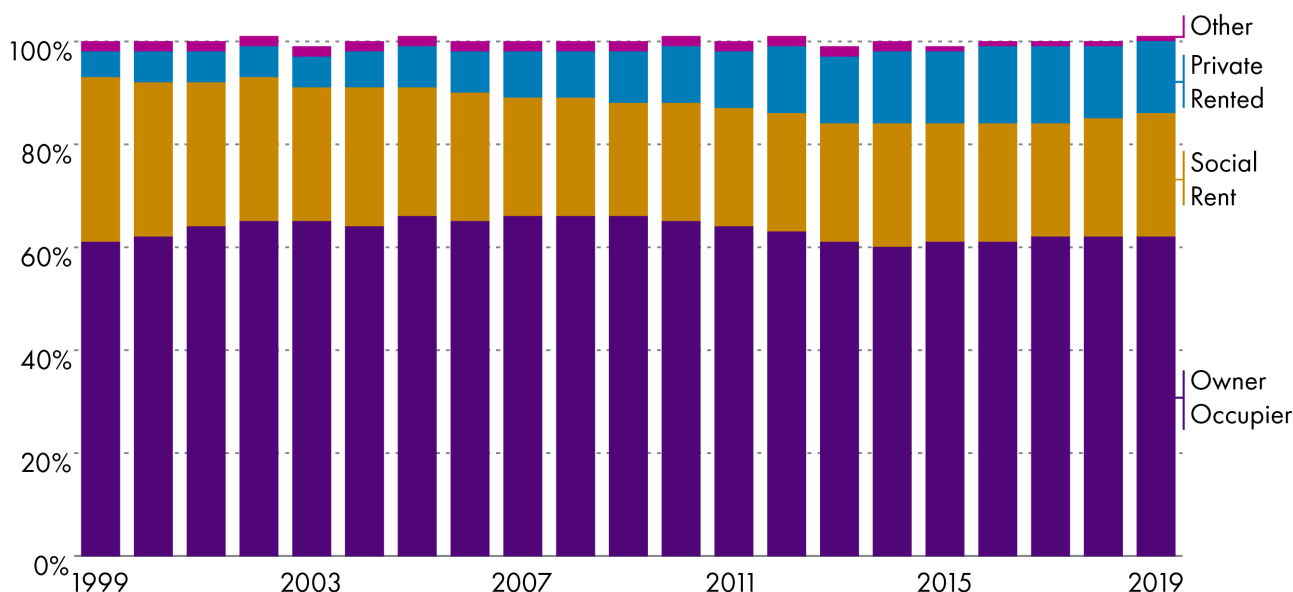
Housing tenure and tenure changes

Owner-occupation is the most common form of housing tenure in Scotland. In 2019, 62% of households lived in owner occupied housing, 24% lived in a social rented property (i.e. provided by councils or Registered Social Landlords) and 14% of households lived in privately rented accommodation.

The tenure profile across different local authorities in Scotland varies. Generally, cities have lower levels of owner-occupied housing and higher levels of privately rented housing. For example, in 2018, the proportion of dwellings rented privately ranged from 3% in East Renfrewshire to 25% in Edinburgh. Percentages of households that are social renting ranged from 11% in East Renfrewshire to 34% in Glasgow and 37% in the Orkney Islands and West Dunbartonshire.⁹

Figure 1 shows the changing tenure patterns of housing in Scotland since 1999. Tenure changes are interlinked as what happens in one tenure can affect another tenure. Changing tenure patterns also need to be considered within the context of increasing numbers of households as a specific tenure can have reduced in relative proportion but increased in absolute size.

Figure 1: Proportion of households by tenure in Scotland, 1999 to 2019



Source: Scottish Household Survey Scottish Government, 2020⁷

Levels of owner-occupation remain similar to those in 1999, although the growth in households means an absolute growth in numbers. Owner-occupation levels reached a high of around 66% in the late 2000s but following the Global Financial Crisis (GFC) when it became more difficult to access a mortgage, levels fell to around 60% in 2014.⁷

The proportion of households living in social rented housing gradually declined from around 32% in 1999 to stabilise at around the 22-23% level in the late 2000s, increasing to 24% in 2019. The decline in social rented housing has largely been fuelled by the right to buy. The recent increase is likely to have been driven by the end of the right to buy in 2016 and increasing investment in new social homes.

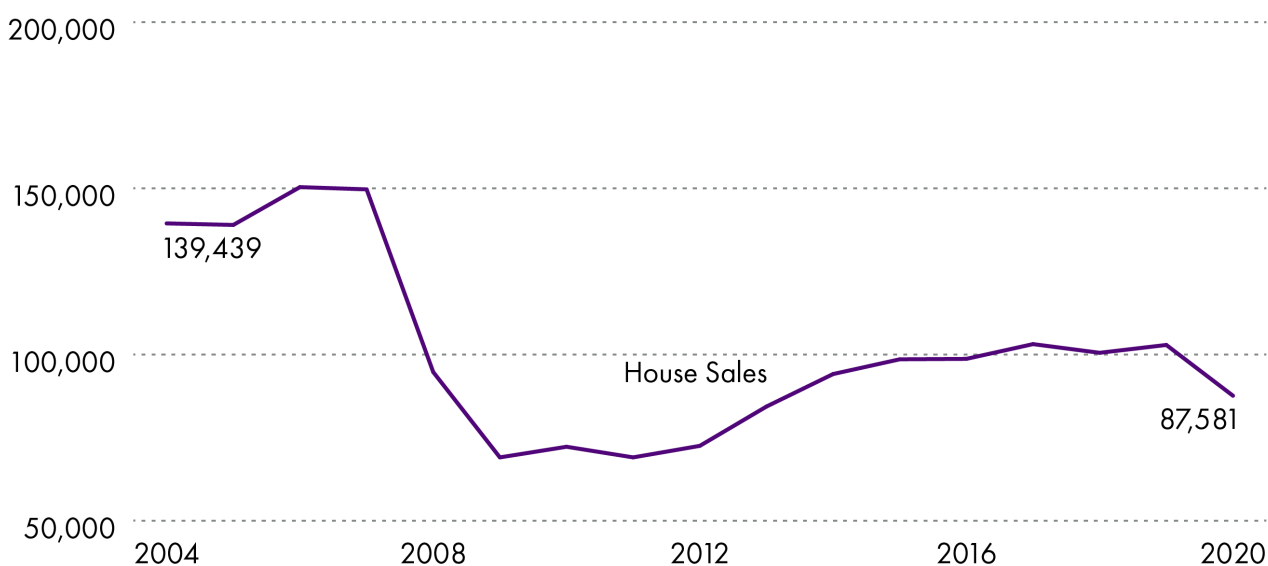
Since 1999, private renting has grown in Scotland, partly driven by a reducing social rented sector and difficulties of households accessing owner-occupation, along with other wider social and economic changes.¹⁰ In 1999, 5% of households lived in private rented homes, rising to 15% in 2018 then dropping slightly to 14% in 2019.⁷ An increasing number of families and low income families now also live in private rented housing.¹⁰

Tenure change has been particularly marked for younger households. Younger people are now less likely to own a home than they were in 1999. The percentage of households with a 16 to 34 year old highest income householder that live in owner-occupied housing has decreased from 53% in 1999 to 38% in 2019, although up from 30% in 2014).⁷ The term “Generation Rent” has been used to describe younger households who are likely to live in private rented accommodation for the long term.

Housing market

In 2019, there were just under 103,000 house sales recorded by Registers of Scotland. As Figure 2 shows, sales fell dramatically from 2007 following the GFC and subsequent restrictions on lending. Since 2013, the improvement in the economic situation, continuing low interest rates and Government initiatives to help people purchase a home may have accounted for a rise in sales volumes. However, sales volumes in 2019, were still around 31% lower than in 2006.¹¹

Figure 2: Number of house sales in Scotland



Registers of Scotland Registers of Scotland, 2021¹¹

A trend also reported by Registers of Scotland is the growth in the proportion of house sales that are paid for with cash rather than with a mortgage. In 2019-20, the volume of cash sales was 20 per cent higher than the pre-GFC peak in 2006-07.¹²

Various sources of house price data exist (including the [UK House Price Index](#) and [individual lenders](#)) that provide different figures for house prices depending on the methodology used. For example, data may be seasonally adjusted or mix-adjusted to account for the different types of housing sold over a particular period.

At a Scotland level, house prices show a long term rise, although the annual rate of growth has slowed since the early to mid 2000s. The UK House Price Index shows that in March 2021 the average house price in Scotland was £166,600, compared to £81,500 in March 2004.¹³

Impact of COVID-19 on the housing market

The COVID-19 pandemic curtailed housing market activity, with restrictions on house moves in place between April and June 2020. Following the easing of restrictions in the summer of 2020, and [temporary changes to Land and Buildings Transaction Tax](#), housing market activity increased during the remainder of 2020 resulting in, "a housing boom, with

high demand for houses and mortgages, which forced house prices to record levels." ¹⁴ Registers of Scotland reported that, over the year (January 2020 to January 2021), prices rose in all parts of Scotland and sales volumes were around 83% of levels in the previous year. ¹⁵ However, it is not clear whether this boom in activity will be sustained. ¹⁵

Registers of Scotland also note that prices for detached prices rose faster than flats in the year to January 2021. ¹² This may be part of the trend for the 'race for space' following the COVID-19 pandemic and changes to working patterns with more people working at home. Some households, typically the more affluent, are moving towards suburban and rural locations and detached homes with gardens. ¹⁶

Land and Buildings Transaction Tax

The Scotland Act 2012 devolved Stamp Duty Land Tax to the Scottish Parliament. This was replaced by the Land and Building Transaction Tax (LBTT) which came into force in April 2015 and is [administered by Revenues Scotland](#) with support from Registers of Scotland.

[LBTT is payable at different rates](#) on each portion of the purchase price within specified tax bands. There is a zero rate threshold for £175,000 for first-time buyers and £145,000 for other buyers (the zero rate threshold was temporarily increased between July 2020 to March 2021 in light of the COVID-19 pandemic).

From 1 April 2016, the Scottish Government also introduced a new LBTT supplement on the purchase of additional residential properties, such as buy-to-let properties and second homes, of £40,000 or more. The aim of this was to protect opportunities for first-time buyers and home movers in Scotland, and to help them compete with buy-to-let investors or those buying second homes.

In Housing to 2040, the Scottish Government commits to review the role of taxation (more widely than just LBTT) in supporting its visions for both new and existing homes.

Access to home ownership

Although house prices are at record levels, lower interest rates and the increased availability of higher loan to value mortgage products has meant that paying a mortgage has become more affordable than in the early 2000s. For example, the Nationwide's first-time buyer affordability measure shows that in Quarter 4 2020, first-time buyers in Scotland were paying 19% of their mean take-home pay on mortgage payments, compared to 33% in Quarter 4 2008. ¹⁷

Despite the relative affordability of paying a mortgage, accessing home ownership for many can be problematic because of the need for relatively large deposits. Data from the Bank of Scotland indicates that the average deposit put down by a first-time buyer in Scotland in 2020 was almost £36,000. ¹⁸

For many years, the Scottish Government has provided financial support for people to buy their own home through various shared equity schemes. Details of current Scottish

Government schemes to help people buy their own home, including the First Homes Fund and Open Market Shared Equity Scheme, is available on the [mygov.scot website](https://mygov.scot).

The main Help to Buy shared equity scheme closed to new applicants in 20/21 (the Smaller Developers scheme is still open) with Housing to 2040 stating that "we will phase out the Help to Buy scheme completely and shift the focus of our support to helping people to renovate, adapt or improve the energy efficiency of their homes." ⁴

Housing to 2040 also outlines the Scottish Government's wider ambitions that homes should be prioritised for living in, not for accumulating wealth, and it commits to "take action so that the housing market operates fairly across Scotland, providing housing options that are affordable and choices in all communities." ⁴

Housing supply

The supply of new housing is influenced by a number of factors including:

- the availability of land
- finance
- the capacity of the construction sector
- enabling infrastructure such as sewerage and roads
- housing market conditions.

The Scottish Government has the ability to influence some of these factors more than others. For example, it directly invests in affordable housing. Other factors, such as housing market conditions, are subject to wider influences which the Scottish Government may find more difficult to influence.

New housing supply remains below GFC levels. In 2018-19, around 22,300 new houses were built, refurbished or converted, 19% below the 2007-08 figure. However, annual supply has increased by 49% since 2012-13.¹⁹

A main focus of the Scottish Government has been to increase the supply of housing in all tenures. Scottish Government action has included:

- investment in the [Affordable Housing Programme](#) and other housing supply funding streams
- [reforms to planning legislation](#): the National Planning Framework 4 will include housing land targets for areas across Scotland, while an infrastructure first approach will be taken to support house builders in delivering new homes
- giving councils powers to increase council tax for long term empty and second homes
- [forthcoming requirements for councils to establish a licensing scheme for short-term lets in their areas](#) and powers to implement short-term let control areas.

Affordable housing supply

The Scottish Government, and its partners, have invested substantial amounts in new affordable homes (this includes homes for social rent, mid-market rent and affordable home ownership). In the last parliamentary session, the Scottish Government planned to invest around £3.5bn in its Affordable Housing Supply Programme (AHSP) over five years with the aim of delivering 50,000 affordable homes, with at least 35,000 for social rent.

Councils have important roles in deciding how funding should be used in their area, in line with their local housing strategies.

Councils and RLS are the main providers of homes through the AHSP. They use Scottish Government grant funding (which accounts for just over half the cost of a new social rented home) in addition to their own money, largely funded through borrowing.²⁰ Other

funding mechanisms, including government guarantees and loans, are also used by the Scottish Government to fund new affordable homes.

Progress on delivering the 50,000 target was affected by the COVID-19 pandemic. In March 2020 the Scottish Government announced that the 50,000 target would be unlikely to be met within the five years (although Audit Scotland had identified a number of risks to the delivery of the target prior to the onset of the pandemic).²¹

Between 1 April 2016 and 31 March 2021, 41,353 homes were completed through the ASHP. Of these completions:

- 28,154 (68%) were social rented homes
- 8,230 (20%) were affordable home ownership homes
- 4,969 (12%) were mid-market rent homes.²²

Despite this investment and increasing numbers of social rented homes, there is still a general consensus that there are not enough affordable homes to meet Scotland's housing needs. The question of how many homes are needed is a difficult one and there is no definitive answer.

The 2019 Scottish Household Survey revealed that an estimated 130,000 (5%) of households were on a housing list in 2019, with a further 20,000 (0.7%) of households estimated to have applied for social housing using a choice based letting system or similar within the last year.⁷ These figures were similar to the previous two years. However, housing list data does not always reflect the scale of housing need, for example, at the point of applying for a home no assessment of need as been undertaken. On the other hand, some households may not apply for social housing in their area if they think there is limited supply available.

Research commissioned by Shelter Scotland, Chartered Institute of Housing (Scotland) and Scottish Federation of Housing Associations identified a need for around around 53,000 affordable homes of which 37,000 should be for social rent.²³ Just as important as the total number of new homes though is the type of new homes and where they are delivered.

In Housing to 2040, the Scottish Government sets out plans to improve data collection to understand housing need in the social rented sector particularly in relation to equality groups.⁴

Scottish Government housing investment plans

The Scottish Government plans to invest around £3.5bn in housing supply this parliamentary session, of which around £3.3 billion will be invested in affordable housing.²⁴

Housing to 2040 sets out the broad plans for how this will be invested. In the first instance, the Scottish Government will work with partners to deliver the remaining homes as part of the 50,000 affordable target. Once those homes are complete the aim is to deliver 50,000

affordable homes by 2026/27 and, following a mid-point review, deliver a further 50,000 homes by the end of 2031/32. Of the total planned 100,000 homes, the aim is that 70,000 of these will be for social rent. ⁴

Other relevant commitments set out in Housing to 2040 include:

- more funding for existing homes in the second phase of the programme
- an increased focus on the concept of 'place' and sustainable communities, so that new homes are provided in communities that are well designed and connected to services facilities and transport links
- accelerating private investment in housing programmes
- improving the quality of affordable homes.

Homelessness

Poverty is the main driver of homelessness, while childhood poverty is a key predictor of homelessness in later life.²⁵

In 2019-20, councils received a total of 36,855 homelessness applications. Over this same time period, 37,336 applications were assessed with 31,333 (84%) found to be homeless or threatened with homelessness.²⁶ However, not everyone who is homeless or at risk of homelessness will seek assistance from their local council.

Council homelessness duties

Councils have legal obligations to people who are threatened with, or experiencing, homelessness. These are set out in Housing (Scotland) Act 2001 (as amended). Homelessness legislation is supplemented by a Code of Guidance which councils must have regard to²⁷ (further information on council duties and homelessness policy is available in the SPICe Briefing [Homelessness in Scotland](#)).²⁸

Council obligations owed to homeless persons differ depending on the outcome of the assessment of the homelessness application. If an applicant is unintentionally (where that is assessed) homeless then the council must secure 'settled' accommodation. Normally this is a permanent social housing let.

The applicant may have to spend some time in temporary accommodation before a suitable home becomes available. As at 31 March 2020, 11,665 households were in temporary accommodation.²⁶ Some households may have to spend a longer time in temporary accommodation depending on their circumstances and accommodation available in their area.

Homelessness policy development

Much of the focus on homelessness policy has centred around the prevention of homelessness with the implementation of the 'Housing Options' approach to homelessness from 2010 onwards. Housing Options focuses on people's personal circumstances, helping them explore all housing possibilities. It can also provide support for underlying issues that can underpin housing problems such as debt, family breakup and mental health problems. However, Housing Options does not mean that households should be denied a homelessness assessment under the homelessness legislation.

Homelessness received more political attention last parliamentary session, partly driven by concerns about an increase in visible rough sleeping. The [Local Government and Communities Inquiry into Homelessness in 2018](#) identified that not all homeless people were getting the services they were entitled to under legislation and highlighted concerns about the standards of temporary accommodation in some areas. The Committee's report focused on homelessness prevention, improving temporary accommodation and scaling up of the Housing First model. A key focus of the Scottish Housing Regulator has also been on local authority homelessness services with it identifying that [improvements are needed in some areas](#).

In its 2017-18 Programme for Government, the Scottish Government set out its objective to eradicate rough sleeping in Scotland. Plans were also announced to establish a Homelessness and Rough Sleeping Action Group (HARSAG) "to identify the actions, services and legislative changes required to end rough sleeping and transform the use of temporary accommodation." A five year programme of funding for homelessness services and additional investment in alcohol and drug services was also announced.²⁹

The Scottish Government agreed in principle to the HARSAG recommendations which formed the basis of the joint COSLA and Scottish Government Ending Homelessness Together Action Plan published in 2018.³⁰

Key actions in the plan included:

- the introduction of local authority five-year 'Rapid Rehousing Transition Plans' to reduce the use of temporary accommodation
- a national [Housing First Scotland pathfinder programme](#), to rehouse rough sleepers and other homeless people with complex needs.

The Housing First National Framework describes Housing First as follows:

" Housing First should be the first response for people whose homelessness is made harder by experiences with trauma, addictions and mental health. Housing First provides ordinary housing in an ordinary community because this, for most of us, is the best base to build and live our lives the way we want to. Housing First combines settled housing with person-centred, strengths-based and flexible support – as much and for as long as someone wants it. Housing First actively rejects the idea that many people are not 'ready' for housing and aims to prevent rough sleeping and divert people away from temporary homeless accommodation."

SFHA, Wheatley Group, COSLA and Scottish Government, 2021²⁵

HARSAG was reformed in June 2020 in light of the COVID-19 pandemic and made an additional 105 recommendations, all of which were accepted by the Scottish Government³¹ An updated Ending Homelessness Together Action Plan was published in October 2020 with an increased emphasis on the prevention of homelessness.³²

In response to the COVID-19 pandemic, local authorities, along with their partners, made substantial efforts to house all of those in need (including those who would not otherwise be eligible for homelessness support) and rough sleeping reduced dramatically. This involved increased collaboration between organisations, more rapid decision-making and more joined-up responses to meeting clinical and emotional needs.³² The crisis response to homelessness during the pandemic (across all UK nations) has been described as 'swift and effective.'³³ A key challenge is to continue the good practice and partnership working arrangements developed over this time.

There have also been attempts to improve the quality of temporary accommodation provided to homeless households. Legislation (The Homeless Persons (Unsuitable Accommodation)(Scotland) Order 2014 as amended) provides that certain types of 'unsuitable accommodation' such as B&B's cannot be used for temporary accommodation for families containing children and households with pregnant women for more than seven days unless in exceptional circumstances. [In May 2020, the legislation was extended to all homeless households](#). However, at the same time temporary exemptions were made as a

response to COVID-19 effectively delaying full implementation of the legislation.

Housing to 2040 states that the Scottish Government will deliver the actions set out in the Ending Homelessness Together action plan. One of the other commitments made is to develop homelessness prevention legislation to ensure that public bodies across Scotland have responsibilities for preventing homelessness.

Housing condition and standards

The main source of information on the physical condition of housing in Scotland is the [Scottish House Condition Survey](#) (SHCS), part of the Scottish Government's Scottish Household Survey.

Key points from the 2019 SHCS include:

- There have been long term improvements in energy efficiency. Over half (51%) of the housing stock in 2019 had an Energy Performance Certificate rating of C or better, up 27 percentage points since 2010.
- In 2019, an estimated 24.6% (around 613,000 households) of all households were in fuel poverty. This is similar to the 2018 fuel poverty rate of 25.0% (around 619,000 households) but lower than that recorded in the survey between 2012 and 2015.
- 52% of homes had disrepair to critical elements, that is those elements that are central to weather-tightness, structural stability and preventing deterioration of the property (such as roofs and external wall coverings). Less than half of these (19% of all dwellings) had instances of urgent disrepair to the critical elements and just 1% had extensive disrepair to one or more elements.
- Older homes are more likely to be in poorer condition. Homes built in the period pre-1919 have a rate of disrepair to critical elements of 71%.
- Around 91% of all homes in 2019 were free from any form of condensation or damp. This rate has been stable in recent years but represents an overall improvement from 86% in 2012.
- 2% (or 40,000) of all homes fell below the Tolerable Standard (a basic minimum standard set in legislation) in 2019, similar to 2018. Longer term, this represents an improvement of 2 percentage points since 2012.

The condition of flats

The condition of flats, particularly older traditional tenement flats, has attracted growing attention over the last few years. A programme of law reform in the 2000s, including the Tenement (Scotland) Act 2004, aimed to facilitate the upkeep of flats. Despite legislative reforms, the repair and maintenance of flats remains challenging, for example, there can be a reluctance by owners, including private landlords, to take a long term view and invest in their properties.

In 2019, a Scottish Parliamentary Working Group on Tenement Maintenance published a report recommending a Bill be introduced by 2025 to provide for: ³⁴

- mandatory owners' associations, to try and involve all owners in decision-making
- building reserve funds, to enable long-term saving for repairs
- building surveys every five years, for regular identification of repair issues.

In late 2019, the Scottish Government responded to the Group's report, agreeing, with

some caveats, that action was needed.³⁵ As part of the work on house conditions outlined in Housing to 2040, the Scottish Government states that it, "will act on the recommendations of the Parliamentary Working Group on Tenement Maintenance, and we will investigate ways to encourage behaviour change which is most cost-effective for owners in the longer term." It is not clear if this will involve legislative reform as suggested by the working group.⁴

Further details on the existing legislation on tenements and property factors will be available in a forthcoming SPICe briefing Flats - management, maintenance and repairs.

Housing standards

All new buildings, and substantially refurbished ones, must meet the relevant building standards regulations in force at the time the building warrant was approved.

There are several other standards which apply to properties in different tenures (see Figure 3). In general, while there are some similarities between the standards, the highest requirements are placed on social landlords. Recent legislative changes sought to bring the standards for social and private rented housing closer together, and introduced a common fire and carbon monoxide safety standard across all tenures ([further information on energy efficiency standards](#) is provided elsewhere in this briefing).

Social landlords are also subject to the greatest degree of regulation compared to owner-occupiers or private landlords. In contrast, owner-occupiers are not subject to any house condition requirements, unless they are directed to improve the condition of their homes by a local authority or under a common obligation in a tenement.

Figure 3: Different house condition standards in Scotland

Which standard?	Tolerable Standard Housing (Scotland) Act 1987 (ss 85-87)	Repairing Standard Housing (Scotland) Act 2006 (s13)	Scottish Housing Quality Standard/ Energy Efficiency Standard for Social Housing Scottish Government Policy Target
Who does it apply to?	All households which are part of a permanent structure	Private Landlords	Social Landlords
What does it involve?	<p>Minimum basic standard.</p> <p>Councils have duties to address Below Tolerable Standard (BTS) housing in their area.</p> <p>Councils have statutory enforcement powers to deal with BTS housing.</p>	<p>Landlord must ensure their property meets the Repairing Standard.</p> <p>Private tenants and councils can report potential breaches of the standard to the First-Tier Tribunal for Scotland (Housing and Property Chamber).</p>	<p>Social landlords must ensure their stock meets the SHQS.</p> <p>Social landlords must ensure that their stock meets the second EESH milestone by end December 2032.</p>

Source: SPICe

Council powers to address poor quality housing

Councils have various statutory powers to address poor quality housing in their area. For example, the Housing (Scotland) Act 2006 gives councils powers to serve owners of properties in serious disrepair with a 'work notice' requiring the owner to carry out necessary work. Further details are contained in the forthcoming SPICe briefing Housing Conditions and Standards.³⁶

Under the 2006 Act, councils must also have a 'scheme of assistance' detailing the support that will be offered in its area. The assistance can take various forms, including loans, practical assistance and grants. Grant assistance must be provided for most essential work to adapt homes to meet the needs of disabled people (other than for home extensions). All other grant assistance is discretionary. In general, councils tend not to offer grant support for owners to repair their homes.

Cladding in flats post-Grenfell

As part of its response to the Grenfell Tower fire, the UK Government published advice for the owners of multi-storey, multi-occupied residential buildings in December 2018. The requirements of this advice resulted in some mortgage lenders refusing to provide loans for the purchase of flats in high rise buildings unless there was proof that they met the requirements. Where such proof was not available, surveyors could value such properties at £0. This obviously has implications for home owners wanting to sell, those wishing to buy and the operation of the wider housing market.

The Royal Incorporation of Chartered Surveyors (RICS), working with the Building Societies Association (BSA) and UK Finance, developed a new industry-wide valuation process aimed at resolving this issue (known as EWS1). However, the operation of the EWS1 system itself has been dogged by poor "as built" plans for buildings, a lack of qualified surveyors to undertake the work and the difficulty that such professionals have in obtaining professional indemnity insurance.³⁷

In light of concerns about the EWS1 system and the likely substantial costs to home owners of remedial action, the Scottish Government launched a [single building assessment programme](#) in March 2021. This aims to further simplify the process of surveying affected buildings and identifying and supporting necessary remedial work. The UK Government had already established cladding remediation support schemes for certain affected properties in England.

Scottish Government plans for a new housing standard

The Scottish Government plans to legislate for a new housing standard that covers all existing and new homes in all tenures, including agricultural properties, mobile homes and tied accommodation.

A consultation on the new standard is planned for 2021. Digital connectivity will be

included within the scope of the consultation and it will also be aligned to the proposed [regulatory standards for energy efficiency and heating](#).

Following consultation, the Scottish Government aims to publish a draft standard in 2023 and progress legislation in 2024/25, for phased introduction from 2025 to 2030. The new standard will be backed by an enforcement framework. In addition, the Scottish Government aims to develop targeted support packages for owners who need help improving their homes.

Housing's contribution to net-zero emissions

A key priority for the Scottish Government is to meet its climate change target of net-zero emissions by 2045.³⁸

Emissions from buildings (including non-residential buildings) amounted to just over one-fifth of total emissions in 2018.³⁹ Most emissions from buildings are generated from space and water heating – in 2018, around 80% of Scottish households still used mains gas for heating and cooking.⁴⁰

There has already been substantial investment in schemes to improve energy efficiency and reduce fuel poverty and policy development to support low carbon heating systems. For example, the Heat Networks (Scotland) Act 2021 aims to support the growth of heat networks. Social landlords are also required to make sure their homes meet certain standards of energy efficiency, and regulations (whose implementation was delayed because of the COVID-19 pandemic) will require private landlords to ensure their properties meet defined energy efficiency standards.⁴¹

The Climate Change Committee's 2020 Progress Report to the Scottish Parliament acknowledged that some progress with emissions from buildings has been made. Total emissions from buildings have fallen by 16% from 2008 to 2018, with progress mainly in residential buildings. The Committee identified three main areas where more progress must be made.³⁹

- Low-carbon heating in existing homes. The major challenge is to shift from fossil gas to low-carbon heating. There has been only limited progress in Scotland in the last decade and we are not currently on track to meet the 2020 target of 11% of non-electric heat from renewable sources.
- Energy efficiency in existing homes. There has been progress in moving homes out of Energy Performance Certificate (EPC) bands D and E, but not the major progress needed to retrofit existing homes for greater heat retention.
- New homes. There is a need for robust standards to ensure all new homes use low-carbon heat, are ultra-energy efficient, and are ready for a changing climate.

The Scottish Government's Climate Change Action Plan update highlighted the scale of the challenge involved:

“ The zero emissions heat transition will involve changing the type of heating used in over 2 million homes and 100,000 non-domestic buildings by 2045, moving from high emissions heating systems, reliant on fossil fuels, to low and zero emissions systems such as heat pumps, heat networks and potentially hydrogen [...] We estimate that around 50% of homes, or over 1 million households, will need to convert to a low carbon heating system by 2030 to ensure our interim statutory targets are met [...]”

Scottish Government , 2020⁴²

The Climate Change Plan update sets out four policy outcomes for the Buildings chapter,

supported by 47 policies. Further detail on proposed policies was provided in the draft heat in buildings strategy consultation published in February 2021.⁴²

In broad terms, the Scottish Government aims to introduce standards and regulations requiring buildings to be more energy efficient and progress towards a substantial decarbonisation of heat, backed by significant investment and supply chain support. It aims to design its policies in a fair way so as not to increase fuel poverty and to stimulate employment opportunities. Changes in consumer behaviour will be key to the heat transition to net zero.⁴³

The Scottish Government has a wide range of more specific plans as set out in Housing to 2040 and the draft heat in buildings strategy.^{43 4} These plans include :

- investing £1.6bn over the parliamentary term to decarbonise the way homes and other buildings are heated
- establishing a Zero Emissions Social Housing Task Force to advise on requirements in social housing to meet net zero targets and longer term what is required in the private rented and owner occupier sectors
- developing new standards to require new buildings consented from 2024 to use zero direct emissions heating
- all new homes delivered by RSLs and local authorities will be zero emission by 2026
- bringing forward proposals for regulating, to the extent that devolved powers allow, to require the installation of zero or very near zero emissions heat in existing buildings from 2025, with a backstop of 2045.

Management of social housing

RSLs and councils, which own their own stock, perform a variety of different social landlord management roles including:

- **allocations:** Provisions in the Housing (Scotland) Act 1987 (as amended) govern social housing allocations. Social landlords must have an allocation policy that sets out how their housing stock will be allocated, taking into account the legislative requirements and Scottish Government guidance. ⁴⁴ Housing to 2040 states the the Scottish Government will work with social landlords and tenants to review the approach to identifying housing need and to determining housing allocations in the social rented sector.
- **repairs and maintenance:** Generally, social landlords are responsible for ensuring their properties are in wind and watertight condition and for major repairs to the structure and installations of the house. Under the 'Right to Repair' scheme tenants have the right to have small urgent repairs carried out within a given timescale.
- **tenant participation:** The Housing (Scotland) Act 2001 Act places a duty on social landlords to have tenant participation strategies in place and to maintain a register of tenants' groups meeting certain criteria. Individual tenants and registered tenants' groups should be consulted by the landlord on issues affecting them.

Social landlords must also work towards meeting the standards and outcomes set by the Scottish Government in the [Scottish Social Housing Charter](#) ('the Charter'). The Charter aims to help improve the quality and value of the services that social landlords provide. Social landlords' adherence to the Charter is monitored by the [Scottish Housing Regulator](#).

Scottish Housing Regulator

The Scottish Housing Regulator (SHR) is the independent regulator of social landlords in Scotland. The Housing (Scotland) Act 2010 (the 2010 Act) sets out SHR's statutory objective to safeguard and promote the interests of current and future tenants, and others who use local authority and RSL housing services (people who are homeless, factored owners and Gypsy/Travellers).

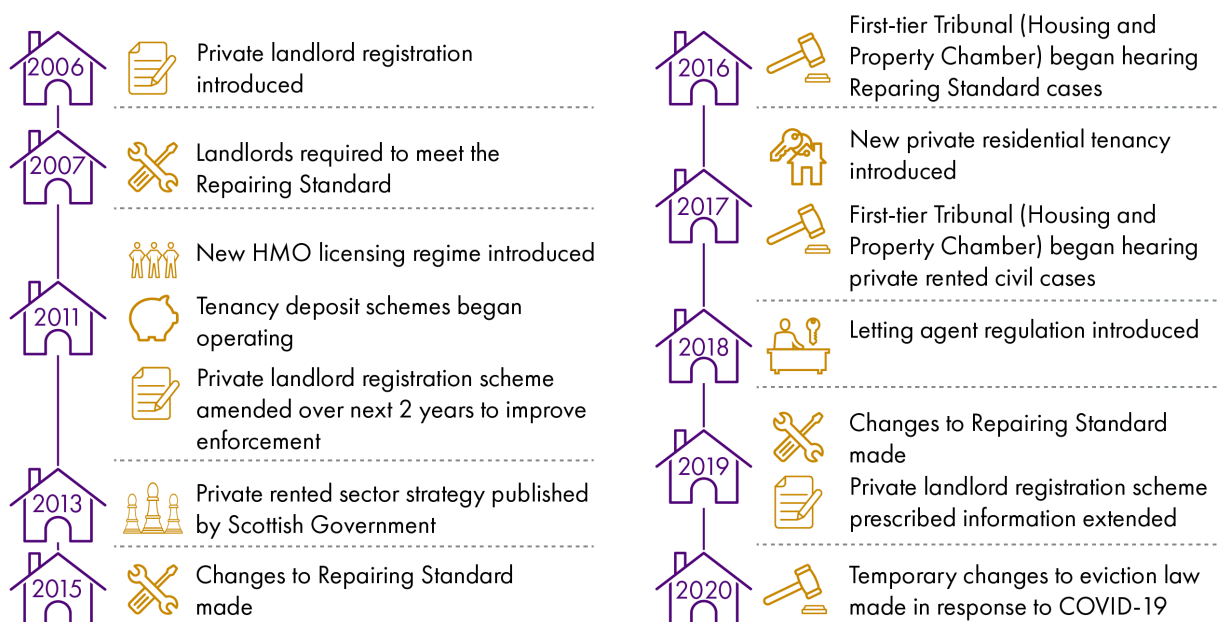
The SHR monitors, assesses and reports regularly on social landlords' performance of housing activities and RSLs' financial well-being and standards of governance, and intervenes where appropriate. The SHR's approach to regulation is set out in its Regulatory Framework for social housing in Scotland (some temporary changes have been made in response to the COVID-19 pandemic).⁴⁵ The vast majority of RSLs, over 90%, are compliant with regulatory requirements.⁴⁶

Private rented housing

With the increase in private renting over the last 20 years, improving the management and condition of privately rented properties has been a key policy theme. In 2013, the Scottish Government published its private rented housing strategy, *A Place to Stay, A Place to Call Home*, with the aim of improving management standards and quality of service for tenants and prospective tenants, as well as enabling growth and investment in the sector.⁴⁷

The Scottish Government has introduced legislation tightening regulation over the past 15 years or so (see Figure 4). For example, private landlords must be registered with their local council and all tenancy deposits must now be placed in a government-backed tenancy deposit scheme.

Figure 4: Timeline of private rented sector developments



Source: SPICe

Private rented tenancy reform

Major reform to the private tenancy regime was introduced by the Private Housing (Tenancies) (Scotland) Act 2016 ('the 2016 Act'). From 1 December 2017, the 2016 Act introduced the new 'private residential tenancy' (PRT), to supersede existing tenancy arrangements (most commonly, a short assured tenancy).

The policy objective behind the introduction of the new tenancy was to "improve security of tenure for tenants and provide appropriate safeguards for landlords, lenders and investors."⁴⁸ To end a tenancy, landlords must use one or more of the eviction grounds specified in Schedule 3 of the 2016 Act. The 'no-fault' ground for eviction, a feature of the short assured tenancy, has been removed.

Other changes introduced by the 2016 Act included measures to provide rent predictability, including giving tenants protection against excessive rent increases via rent pressure zones. The rent pressure zone provisions in the 2016 Act have been criticised for several

reasons, in particular that the application process for is onerous and there is a lack of existing data that could support an application.⁴⁹

There has been debate about whether further measures are needed to control rents and improve the affordability of private rented housing. In Session 5, Pauline McNeill MSP introduced a Member's Bill, the [Fair Rents \(Scotland\) Bill](#), which sought to introduce a form of rent control by limiting rent increases for PRTs and improving data collection on private rents. She argued that the measures would reduce poverty and support low income tenants and their families.⁵⁰

The responses to the call for evidence on the Bill and the Stage 1 proceedings highlighted some common themes that have been the source of debate over the years. For example, whether the balance between the rights of tenants and landlords is correct, the extent to which existing private landlords regulatory requirements are effectively enforced, and the relatively low awareness of tenants' rights and responsibilities.⁵¹ The lead committee on the Bill did not report on Stage 1 due to the parliamentary session ending, but commented on the issues raised in its legacy report.⁵²

Private rented housing disputes

The [First-tier Tribunal Housing and Property Chamber](#) ('the Tribunal') hears disputes about civil private rented matters. The Tribunal was established by the Tribunals (Scotland) Act 2014 which transferred responsibility for such cases from the sheriff courts. The aim of the move was to provide more efficient, accessible and specialist access to justice for landlords and tenants.

The range of cases the Tribunal can hear is wide, although the majority of private rented sector applications involve evictions and applications for a payment order (for example, for rent arrears).⁵³

Private rented housing: Scottish Government plans

Within the context of the development of a new rented sector strategy (covering both private rented and social rented housing), Housing to 2040 sets out plans relevant to private rented housing.

An overarching objective is to provide tenants with greater protections from unreasonable rent increases. To achieve this, plans include reforming existing Rent Pressure Zone legislation and improving the data collection to help identify areas suffering from unreasonable rents.

Another aim is to strengthen the rights of tenants and give greater protection from unfair evictions. In this respect, the Scottish Government proposes to:

- introduce pre-action protocols on a permanent basis in the private rented sector, making duties on landlords to work with tenants prior to evictions in the private sector a legal requirement (this is currently a temporary requirement for eviction actions for rent arrears during the pandemic)

- ensure that joint tenants experiencing domestic abuse can end a joint tenancy in the private rented sector and, where appropriate, can remain in the family home as a sole tenant
- review and consider potential reforms to the current grounds for repossession under the private residential tenancy.

Independent living

The Scottish Government aims to support people to live at home for as long as possible, rather than in care homes or hospital settings. With an increasingly elderly population this is likely to grow in significance.

However, in some cases, the available housing might not be suitable to meet the needs of the elderly or those with disabilities. There is a relatively limited amount of specialist supported housing, such as extra care housing or sheltered housing (around 1% of total stock). The majority of this is in the social rented sector which limits choice. Some disabled people live in care homes or other settings because there is a lack of suitable housing to allow them to live independently within their community.⁴

Recent reports have highlighted that there are considerable numbers of people, including those with disabilities, whose housing needs for adaptations, wheelchair accessible housing or other specialist housing is not being met.^{54 55}

Councils already have strategic roles in assessing housing requirements in their areas and to consider how to support people to live independently as part of their local housing strategies.

Councils also have key roles in integration of health and social care services. Integration authorities are responsible for the provision of aids and adaptations (in council and owner-occupied homes) as a minimum, but they may also choose to take responsibility for housing support and homelessness services themselves.⁵⁶ In general, adaptations for RSL homes are funded differently, with the Scottish Government funding RSLs directly. However, there has been some concern from RSL representative groups that the adaptation budget is not sufficient to meet needs.⁵⁷

Following a commitment made in A Fairer Scotland for Disabled People Delivery Plan, the Scottish Government now requires councils to set a realistic target within its Local Housing Strategy for the delivery of wheelchair accessible housing across all tenures and report annually on progress.⁵⁸ [Regulations have also been made](#) with the intention of making it easier for disabled people to make adaptations to common areas of a property.⁵⁹

Housing to 2040 sets out existing Scottish Government commitments such as reviewing the design guide for new social homes which covers how to meet the needs of older people, disabled people, wheelchair users and people with other specific needs. Reference is also made to the new approach to planning set out in the National Planning Framework position statement, which aims to support the development of quality homes by private developers that meet people's needs.

Other plans are set out including:

- introducing a new focus on increasing the supply of accessible and adapted homes and improving choice, particularly for younger disabled people
- introducing new building standards to underpin a Scottish Accessible Homes Standard which all new homes must achieve.

Annex 1: Summary of main Scottish housing legislation

Act	Description
Housing (Scotland) Act 1987	<p>Provides the framework for the management and allocation of social rented housing</p> <p>Gives local authorities duties with respect to homelessness</p> <p>Provides local authorities with powers to tackle sub-standard housing in their areas</p> <p>Provides that local authorities must maintain a housing revenue account</p>
Housing (Scotland) Act 1988	This Act deregulated the private rental market in Scotland. It introduced two new forms of tenancy in the private sector from 2 January 1989 – the assured tenancy and the short assured tenancy, with less security of tenure.
Housing (Scotland) Act 2001	The focus of this Act is on the social rented sector. It introduced the Scottish Secure Tenancy (SST) for tenants of RSLs and local authorities and made reforms to the right to buy and homelessness legislation. It also enhanced the strategic role of local authorities in assessing and tackling local housing needs.
Homelessness etc. (Scotland) Act 2003	The policy intention of this Act was to improve the rights of homeless people, largely through amending the 1987 Act. The Act provided the framework for the eventual abolition of the priority need test by 31 December 2012.
Antisocial Behaviour etc. (Scotland) Act 2004	This Act established the framework for the private landlord registration scheme and the system for serving anti-social behaviour notices on private landlords.
Tenements Act (Scotland) 2004	This Act provided a structure for the maintenance and management of tenements if this is not provided for in the owner's title deeds. A key innovation is that it provides for decision making by majority.
Housing (Scotland) Act 2006	The main purpose of this Act was to address problems of condition and quality in private sector housing. It reformed local authority powers to deal with disrepair in their areas and the system of supporting owners to undertake repairs. It also contained provisions governing the "Home Report" (the set of documents that sellers must provide to potential buyers) and re-enacted, with changes, the system of licensing of houses in multiple occupation (HMOs) which is now contained in secondary legislation.
Housing (Scotland) Act 2010	This Act modernised the system of regulation of social housing and provided for the end of the right to buy for new tenants and new supply social housing.
Property Factors (Scotland) Act 2011	This Act provides that Scottish Ministers must prepare and maintain a register of property factors and makes it an offence to act as a property factor without being on the register. The Act also makes provision in relation to the resolution of disputes between homeowners and property factors.
Private Rented Housing (Scotland) Act 2011	This Act amended the private landlord registration system provisions in the 2004 Act with the aim of improving enforcement of the scheme. It introduced a power for local authorities to serve a statutory overcrowding notice that local authorities can use to address overcrowding in the private rented sector. It also made relatively minor changes to the system of HMO licensing in the 2006 Act and other miscellaneous provisions.
Housing (Scotland) Act 2014	This was a wide ranging Act which included provisions to end the right to buy, reforms to the mobile home site licensing system and the introduction of a letting agent regulation system and the transfer of private rented housing civil cases from the sheriff court to a new Tribunal.
Private Housing (Tenancies) (Scotland) Act 2016	This Act introduced a new private residential tenancy to supersede existing assured and short assured tenancies.

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