Housing (Scotland) Bill

- Introduced 21 November 2013
- 8 parts
- 86 sections
The Parts

1...Right to Buy
2...Social Housing
3...Private rented housing
4...Letting Agents
5...Mobile homes with permanent residents
6...Private Housing conditions
7...Miscellaneous
8...General
Right to Buy

• RTB to be abolished entirely

• Date for abolition to be appointed by Scottish Ministers

• Has to be at least three years from date Act gets Royal Assent ..section 85(4)
Right to Buy

- Other changes
- Clarification of limitations affecting “new tenants”
- Clarification of exemptions on RTB for new supply social houses
- These amendments relate to changes introduced in 2011
Social Housing

- Allocations
- Creation and term of Short Scottish Secure tenancies
- Assignation/sublets/joint tenancies of SSTs
- Succession to SSTs
- Change to eviction grounds when crime committed in tenancy
- Changes to eviction grounds of properties designed for special needs
Allocations

- Reasonable preference
- Consultation about rules
- Age of applicant
- Ownership of property by applicant
- Minimum length of time for application to remain in force
Reasonable Preference

New list of categories who must be given reasonable preference

• homeless persons who have “unmet housing needs”

• persons living in “unsatisfactory housing conditions” who also have “unmet housing needs”

• tenants who are under occupying
Rules on Priority of Allocation

Before making/altering rules on allocations
RSL must consult with

• Applicants on housing list
• Tenants
• Other specified bodies

Must publish a report on this consultation
AGE OF APPLICANTS

Will be allowed to take age of applicant into account when allocating housing
Subject to “unlawful discrimination “ under Equality Act 2010 on ground of “protected characteristic of age”

“A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim”
Ownership of Property by Applicants

Will change current rules to allow you not to allocate to property owners except where

• Property not let and owner cannot secure entry to it
• Occupation would lead to abuse
• Occupation would endanger health of occupants and no reasonable step can be taken by applicant to prevent that danger
Waiting Period Before Allocation

• Requirement can be imposed that applicant must have been on list for a minimum period in various circumstances

• Can’t double penalise applicant/ member or proposed household

• Not apply to homeless applicants where LA duty exists

• Guidance will be issued on maximum period

• Right of appeal to sheriff for applicant
Who Can Be Subject To Minimum Period

• Persons who have acted antisocially
• Persons who have been convicted of using house illegally/convicted of offence committed in house or its locality
• Persons previously evicted by court order
• Persons who lost a tenancy via abandonment
• Persons evicted on grounds 3/4 of 2001 Act
• Persons with rent arrears which are not being paid/were not paid
• Person who lied to get a tenancy
• Persons who have unreasonably refused one or more offers of housing
Short SSTs

- New grounds for creating short SSTs
- New rules on initial length of certain short SSTs
- New rules on extending the initial period
- New rules about eviction from certain short SSTs
Creating/Granting Short SSTs

- New ground for creating initial short SST where tenant had previously behaved in an antisocial manner
- New ground where SST can be converted to short SST for pervious antisocial behaviour
- Neither of these need previous eviction based on ASB or current or former ASBO
- Clarification of short SST where housing support in place
- New ground for granting short SST to homeowner to allow works to existing home
Term of short SSTs

- In cases involving ASB, new initial term will be 12 months not 6 months
- Will apply whether newly granted SSST or a conversion from existing SST
- Other short SSTs retain initial minimum 6 month period
Extension of term of short SSTs

- Applies only to short SSTs created because of ASB
- Will be possible to extend initial 12 month period for further 6 months
- Tenant needs to be in receipt of housing support services
- Notice must be served two months before expiry date
Recovery of possession of short SST

- Changes to eviction in short SSTs based on previous ASB
- will only be possible where there has been a breach of tenancy
- Landlords will require to specify the alleged breach in the NOP
- Tenant can ask landlord to review decision to serve NOP
- guidance will be issued by Ministers
Assignation/Subletting/Joint/Tenancies

- Assignation/sublets will require tenant to have been tenant for at least 12 months
- Proposed assignee/subtenant will need to have lived in house as their only or principal home for previous 12 months
- Proposed joint tenant must have lived in house for last 12 months
- In all cases proposed assignee/subtenant/joint tenant must have notified landlord when the house became their only or principal home
- Any period before that notification doesn’t count towards the 12 months required
Succession

- Extension of 6 month period for non spouse/civil partner to 12 months
- Reintroduction of requirement for 12 months occupancy prior to tenant's death for family members/carers claiming succession
- Person claiming succession must have previously notified landlord when the house became their only or principal home
- Any period before that notification doesn’t count towards the 12 months required
Eviction – Criminal Convictions

- In eviction actions based on ground 2
- Conviction for using house illegally/ offence committed in or in locality of house
- Reasonableness test removed where ground proved and landlord served NOP within 12 months of the date of conviction (or date of disposal of appeal if appeal made against conviction)
- Tenant retains right to challenge court action
Eviction-Other Grounds

• Change made to grounds 11 and 12
• Relate to recovery of possession of “special needs” houses
• Recovery will now be allowed even if house originally let to person/family who did not have the “special needs” which required that accommodation
• Will still need to provide alternative accommodation
Private Rented Housing

- Introduction of a First Tier “Housing” Tribunal
- All private sector disputes to transfer from sheriff court to tribunal
- Evictions
- Repairs
- Landlord registration disputes
- HMOs appeals
- Tribunal will be current PRHOP/HOHP extended
- Full time tribunal judges?
“Repairing Standard” in Private Sector

- PRHP currently deals with applications by tenants complaining of breaches of repairing standard
- Bill proposes to allow “third party” applications
- Local authorities (and other bodies authorised by Scottish Ministers) will be able to make applications to PRHP
- PRHP procedures will be adapted
Letting Agents

- Creation of mandatory register of letting agents
- "fit and proper" person test
- Statutory Code of Practice
- Enforcement via First Tier Tribunal
“Letting Agency Work”

Will be an offence to carry out “letting agency work” if unregistered

“Letting agency work” means

• done in course of a business
• in response to instructions
• for a private landlord
• entering into lease/occupancy agreement to enable unconnected person to use landlord’s house as dwelling
• repairs/maintain/improve/insure house subject to lease/occupancy
Registration

- Application to Scottish Ministers
- Initial 3 years registration
- Powers to refuse application
- Powers to revoke registration
- Each agent will get a letting agent registration number
- Must include that number in all documents and adverts
- Tribunal can issue Letting Agent Enforcement Orders
Parts 5-8

- Licensing of mobile homes sites
- Local authority duties in relation to private housing conditions
- Miscellaneous matters
- Interpretation/general provisions
Timetable

• Introduced November 2013
• Parliamentary debates/Committee scrutiny will continue through early 2014
• Changes may be made
• Do not assume all said today will come to pass!!!
• Bill becomes Act…?????
• Provisions come into force?????