



# Response to the Housing (Scotland) Bill consultation

July 2025

## Key points

- > CAS supports reform in the private rented sector, and the introduction of a fair and equitable rent control system that is co-designed by and works for both tenants and landlords. It is imperative that the system is accessible and easy to understand, with clear routes to redress and signposting to advice and support.
- > Extensive exemptions to rent controls and allowing rent increases over a stated cap in some circumstances will create a confusing system for both tenants and landlords, and risks severe disadvantage particularly to tenants. We do not support exemptions unless they are for very well-evidenced reasons and must be monitored closely to understand their impact.
- > We are keen to see a fairer system for ending joint tenancies, without the risk of hardship or homelessness for any party involved.

## Chapter 1: Properties exempt from rent control area restrictions

### Properties let below market rent - mid-market rent properties

1. Should mid-market rent properties be exempted from the application of rent controls under the Bill? Yes/No Please explain your answer.

No.

Mid-market rent properties should not be exempted from the application of rent controls. Although the Citizens Advice network in Scotland does not collect statistics specifically about mid-market rent advice, it is part of the private rented sector (PRS) advice we give out. PRS advice is our largest area of housing advice (we gave out just under 12,000 individual pieces of advice last year) and rents is the most common type of PRS advice, with just under 1,700 queries about this area dealt with in 2024/25. MMR plays an important role that in providing affordable housing, many are run by subsidiaries of housing associations and align with their social ethos and that MMR provides much needed income for housing association services.

However, we also note the criteria that these homes are primarily for households who cannot access the mainstream private rented sector or social rented sector, are on a low to medium income and often require that the tenant is in employment or has an offer of employment in the local area. This indicates that many of these tenants' rents will not be covered by Housing Benefit or Universal Credit housing and the tenants will therefore be responsible for paying rent themselves and would be expected to manage rent increases as well. It is likely that MMR tenants have lower incomes and are less likely to have the extra income to cover high rent rises.

Additionally, tenants in mid-market rent homes usually have a Private Residential Tenancy (PRT) arrangement. Other private rented tenants who have a PRT and who aren't in MMR homes would benefit from rent controls and it would therefore be inconsistent and incongruent that tenants on the same tenancy type would be excluded from the same protections. In a continuing period of worsening affordability, exempting mid-market rent tenants from rent control protection would be to place tenants under undue financial stress, which may lead to homelessness. Rent control are a critical tool to ensure everyone has access to a safe, sustainable home.

2. **We have set out some possible criteria<sup>1</sup> which could be incorporated into a definition of MMR for the purpose of a possible exemption. Do you agree with these criteria? Yes/No Please explain your answer.**

We recognise that the criteria broadly reflects our understanding of the MMR sector, however as outlined in our response to Question 1, MMR should not be exempted from the application of rent controls.

3. **If there is an exemption for mid-market rent properties, should this include specific requirements on the level of rent charged, such as a link to Local Housing Allowance rates or to a specified percentile of market rates? Yes/No Please explain your answer.**

Following our response to Question 1, MMR homes should not be exempted from rent controls. Additionally, it is our position that there should be a continued link to Local Housing Allowance rates, rather than open market rates.

4. **Should MMR properties only be exempted from rent control areas for the duration of time that they meet the specified criteria? Yes/No Please explain your answer.**

No answer.

5. **Are there any other types of housing provision which should also be considered as part of an exemption for MMR property? In this question we ask you to consider only housing provision let below market rents, with binding restrictions on the level of rent that can be charged, or with restrictions on the types of tenants than can be granted a tenancy.**

No answer.

## **Purpose-built rental housing - build to rent**

6. **Should build to rent properties be exempted from the application of rent controls under the Bill? Yes/No Please explain your answer.**

We do not have sufficient evidence on build to rent properties to provide a full answer, but we emphasise that a rent control system must be as accessible and easy to understand as possible. Extensive exemptions without good cause may lead to a confusing system where it is difficult for tenants and landlords to be fully aware of and exercise their rights and responsibilities.

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<sup>1</sup> A definition for MMR could incorporate some or all of the following criteria: o properties provided at mid-market levels, which have binding restrictions on rent levels, o including those provided by: • subsidiaries of registered social landlords • local authority arms-length external organisations • other organisations in receipt of Scottish Government financial support to deliver MMR

7. We have set out some criteria which could be incorporated into a definition of BtR for the purpose of a possible exemption. Do you agree with these criteria? Yes/No Please explain your answer.

No answer.

8. Are there any other criteria that should be considered as part of a definition of BtR for the purpose of a possible exemption?

No answer.

9. Should BtR properties only be exempted from rent controls for the timeframe that they meet the specified criteria? Yes/No Please explain your answer.

No answer.

10. Are there any other types of new rental housing provision which should be considered as part of this category of exemption?

No answer.

### **Other circumstances where exemptions would be appropriate**

11. Excluding mid-market rent and build to rent/purpose built private rented accommodation, are there other categories of housing provision that should be exempted from rent controls? Yes/No Please explain your answer.

Following our response to Question 6, it is imperative that a rent control system is as simple and accessible as possible and only allows for exemptions with good cause.

### **Demonstrating eligibility for an exemption**

12. What information would you consider would be acceptable to demonstrate that a property is eligible for the types of exemptions referred to in the previous sections in this chapter? (Properties let below market rent, Purpose-built rental housing, other circumstances where exemptions would be appropriate).

No answer.

13. What steps should a landlord need to take to confirm that their property is eligible for such an exemption?

No answer.

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<sup>2</sup> Build to Rent (BtR) could be defined to incorporate some of the following criteria: o new homes built at scale and offered exclusively for rent (apartments and/or houses) o new homes provided at scale through conversion of non-residential properties o on a single site or related sites o in single ownership o with management services provided by a single legal entity via a management regime and a single site wide building insurance structure • exemptions for BtR properties could end when the properties no longer meet these specified criteria

14. Should a landlord of an exempt property be required to communicate to tenants and prospective tenants about the exemption? Yes/No Please explain your answer.

Yes.

If exemptions are in place, it should be the responsibility of the landlord to proactively communicate to current and prospective tenants in a clear, accessible and timely manner. There should also be further information made available by the Scottish Government, as well as signposting to advice and support. It is imperative that both tenants and landlords have information about and access to free, independent advice and support so that they can properly understand and exercise their rights and responsibilities.

15. What could the process be for tenants to verify that a property is exempt?

No answer.

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## Chapter 2: properties subject to modified rent control area restrictions

### Landlords who charge rent significantly below advertised rates

16. Should landlords be able to increase their rent by more than the level of the rent cap at the beginning of a new tenancy, where the previous tenancy was let significantly below market rates? Yes/No Please explain your answer.

No.

Under the proposed rent cap, landlords will still be able to increase rents by CPI +1% up to a maximum of 6% every year. This may lead to landlords seeking to evict tenants in favour of starting a new tenancy a higher rate. Our network has collected evidence of this harmful practice. An East of Scotland CAB recently worked with John\* (\*name has been changed for privacy reasons), a private tenant who was notified by his landlord that they wished to increase the rent of between 40-50%, meaning an increase of £200 per month. John received this notification during the emergency Cost of Living rent cap and his landlord stated that they wanted to find a way around the government's restrictions on rent increases. They then subsequently sent John a text to say that if he was willing to pay the proposed increase, they would offer the flat to him under a new agreement at that rate, if not they would be asking him to vacate the property with a view to re-advertising the property at a higher rent rate. John was very worried because such a high rent increase will put him into financial hardship.

17. Should the rent be a certain amount below advertised rents for similar properties for this allowance to apply? Yes/No If no, please explain your answer. If yes, what amount or percentage below the advertised rent for similar properties should a rent be before this should be allowed, and why?

No.

## Landlords who make improvements to their property

18. Should landlords be able to increase rents by more than the level of the rent cap to recover costs, where they have undertaken certain improvements which may enhance the rental value or bring additional benefit to the tenant? Yes/No Please explain your answer.

No.

Under the proposed rent cap, landlords will still be able to increase rents by CPI +1% up to a maximum of 6% every year. This should allow them to make necessary upgrades. Upgrades will also increase the value of their asset overall. If a property is in a rent control area, it is likely that tenants are paying a significant amount of rent already.

19. Should landlords who make improvements to a property which improve energy efficiency (for example by making specific improvements which improve the Energy Performance Certificate (EPC) rating of the property, or by installing an upgraded heating system) be allowed to raise the rent above the level of the rent cap? Please explain your answer.

No.

Under the proposed rent cap, landlords will still be able to increase rents by CPI +1% up to a maximum of 6% every year. This should allow them to make necessary upgrades. Further financial support is available to landlords through schemes such as Home Energy Scotland and these should be reviewed to ensure that they meet the needs of landlords seeking to upgrade energy efficiency. Tenants should not face undue costs to cover the expense of an energy efficiency improvement. We know that many tenants are struggling to pay energy bills already, with around 4,000 people visiting a local Citizens Advice Bureau in the first three months of 2025 for advice on fuel vouchers and energy trust funding.

20. Are there any other types of improvements that should potentially qualify for this kind of increase above the level of the cap? Yes/No Please explain your answer.

No.

21. How do you think improvements that might qualify for this increase above the level of the cap should be distinguished from work that would be expected as part of routine property maintenance?

No answer.

22. Do you think that a rent increase above the cap should be calculated by: a) improved rental value basis b) cost recovery basis c) other

No answer.

23. If a cost-recovery basis was used, what kind of factors should be taken into consideration when deciding how it should be applied?

No answer.

## Other costs a landlord may face

24. Are there any other cost increases for rental properties that would justify raising the rent above the level of the cap? Yes/No Please explain your answer.

No. See response to Question 18.

25. Are there any other circumstances under which landlords should be allowed to raise rents above the level of the rent cap? Yes/No Please explain your answer.

No. See response to Question 18.

## Demonstrating eligibility for an increase above the level of the cap

26. What should the process be if a landlord seeks to make a rent increase above the level of the rent cap for any of the reasons referred to in the previous sections in this chapter? (Landlords who charge rent significantly below advertised rates, landlords who make improvements to their property, other costs a landlord may face). Please choose your preferred option:

- a. landlords should be required to seek approval before raising the rent above the rent cap
- b. landlords should be allowed to raise rents above the cap without a requirement to apply to an external decision maker

Please explain your answer.

### Option a. landlords should be required to seek approval before raising the rent above the rent cap.

If a landlord seeks to make a rent increase above the level of the cap, it is imperative that they seek approval first. This is not only to ensure the proposed rent increase is fair but also so that data can be captured to understand why this is necessary as well as the volume of such applications each year. This will help policymakers to understand the circumstances of landlords as well as the impact on tenants. If this oversight does not happen, tenants could face very high rent increases, which may lead to financial hardship and even homelessness.

27. If landlords were required to seek approval before raising the rent above the rent cap, what kind of information should landlords have to provide to tenants after the rent increase has been approved, and when?

Clear, accessible and timely information is essential. Tenants must be informed as soon as possible about the rent increase, at a minimum they should receive three months' notice, as required by the law in Scotland. Tenants should be provided with the level of rent increase, the reason why it is being applied, confirmation of approval from the relevant designated body, and information on where they can seek independent advice and support. This information should be in a written form similar to Rent Increase Notices and sent by recorded post or email with a "read receipt" function.

The importance of having sufficient time to seek independent advice and support cannot be understated. Services such as the Citizens Advice network can support people to understand and exercise their rights and responsibilities, but demand for appointments is extremely high. It is therefore critical that people have enough time to access advice and understand their rights otherwise may find themselves facing financial hardship or even homelessness.

“ **Mark’s\* experience:** Mark approached his local Citizens Advice Bureau for advice as he received a notice from his letting agent that the rent would increase from £813 to £1050 - a 29% increase. Mark has lived in the property since April 2018 and has a Private Residential Tenancy. He believes he had another rent increase within the last 12 months. Mark wasn’t aware of his right to have the rent increase checked so did not challenge it within 21 days. However, he sent an email to his local bureau for advice but due to demand for the service he received a response after the 21 day timeframe had passed.

28. **If landlords were required to seek approval before raising the rent above the rent cap, what should be considered when designing a process for landlords to apply?**

We do not have a firm view or evidence in terms of what the process should look like, but as in our response to Questions 26 and 31, landlords should not be able to raise rents above the cap without seeking approval.

29. **If landlords were allowed to raise rents above the rent cap without seeking approval, should they still need to produce evidence to prove that they qualify? Yes/No Please explain your answer.**

Yes.

Landlords should not be allowed to raise rents above the rent cap without seeking approval and must always produce evidence to prove that they qualify. Please see our responses to Questions 26 and 31 for more detail.

30. **If landlords were allowed to raise rents above the rent cap without seeking approval, who should they need to provide evidence/information to and when?**

No answer.

31. **If landlords were allowed to raise rents above the rent cap without seeking approval, what should be considered when designing a process for tenants to verify or challenge the increase?**

Landlords should not be able to raise rents above the cap without seeking approval, as allowing this will inevitably lead to some tenants receiving very high rent increases with no oversight. This is likely to lead to financial hardship and homelessness for tenants. All processes for tenants to verify or challenge a rent increase should be free, easy to access and administered by an existing body that tenants are familiar with. It is critical that both tenants and landlords understand and are able to exercise their rights and responsibilities.

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\* Names have been changed to maintain confidentiality.

## Chapter 3: ending joint tenancies in the private rented sector

### Requirement for a pre-notice

32. What additional information do you think should be included in a 2-month prenotice (for example information on the process, signposting to advice and support available)?

The Scottish Government should develop a template pre-notice containing information including date of notice, date when the joint tenant intends to leave, as well as information on where the tenant can access advice and support. This should be a similar process to the model Private Residential Tenancy. The joint tenant seeking to leave should be able to use this template or create their own document which provides the same information.

33. Do you think a legal form (sometimes known as a prescribed form) should be created that a joint tenant must use for issuing the pre-notice? Yes/No Please explain your answer.

Yes. See response to Question 32.

34. Do you think that the pre-notice should be sent by the tenant initiating the end of the tenancy in a specific way to the other joint tenants, for example recorded delivery or by sheriff officer? Yes/No Please explain your answer. If yes, what method do you think should be required?

Yes.

At a minimum, the pre-notice should be sent by email if that is acceptable to other tenants. The “read receipts” feature should be used to confirm that the email has been received and opened. If requested by the other joint tenants due to digital exclusion issues or accessibility needs, recorded delivery would be an acceptable alternative, however delivery by sheriff officer is likely to incur significant cost on the joint tenant who is leaving and as such we would not support the requirement to use a sheriff officer.

### Requirements for serving the final notice to leave on the landlord

35. Do you think the tenant initiating the ending of the tenancy should be required to provide evidence that the pre-notice has been sent alongside the notice to landlord? For example, proof of email, postage, or information that shows it has been served by a sheriff officer. Yes/No Please explain your answer.

No.

However, if the other joint tenants or landlord request proof that the pre-notice has been sent, proof of email receipt through use of the “read receipts” function or proof of postage should be acceptable.

36. Do you think that the copy of the 28 day notice to the landlord should be sent by the initiating the ending of the tenancy in a specific way to the other joint tenants, for example recorded delivery or by sheriff officer? Yes/No Please explain your answer. If yes, what method(s) should be required?

Yes.

As in our responses to Questions 34 and 35, sending a copy of the 28 day notice to other tenants via email using the “read receipts” feature, or by recorded delivery should be accepted methods of informing other joint tenants.

37. Do you think the tenant ending the tenancy should be required to give evidence to the landlord that a copy of the 28 day notice has been sent to all other joint tenants? For example, proof of email, postage or by served by sheriff officer. Yes/No Please explain your answer. If yes, what method(s) should be required?

No.

As in our response to Question 35, this should not be required, however proof of email or postage should be sufficient. Use of a sheriff officer is likely to incur significant cost, and we would not support a requirement to use this method.

## Summary of process

38. We will be developing guidance to accompany these measures that would support both landlords and tenants understand and make use of the new process. We want to provide information and support in certain circumstances such as domestic abuse where further guidance would be helpful, for example where a non-contact order is in place. What particular information or advice should the guidance cover?

No answer.

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For more information please contact:

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