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14 February 2007

HOUSING (SCOTLAND) ACT 2006

**THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)
REGULATIONS 2007**

REGULATORY IMPACT ASSESSMENT – February 2007

A response by Citizens Advice Scotland

Dear Mr Affleck,

Thank you for consulting Citizens Advice Scotland as part of the regulatory impact assessment on applications and determinations for the private rented housing panel.

We would very much support Option 2: *“Use the regulation-making power to make further provision about the making or determination of applications to the Private Rented Housing Panel”* on the basis that procedures being put into the regulations would provide a clearer and more equitable solution for tenants experiencing problems, especially where these are vulnerable such as migrant workers who face language barriers. We believe that good landlords will not be affected by this, and unscrupulous landlords will be called into line.

A South of Scotland CAB reports of a client who lives with her partner and her child. The client was unemployed and not on any benefits. She had been coming regularly to the bureau for help with ongoing debt and housing problems. Her debts had accrued as a result of problems with utilities companies, and she was, more recently, experiencing problems with her rented accommodation. The client had reported a leak to her neighbour downstairs. This was fixed, however, it re-appeared. The neighbour then cut off the water supply to the client, and apparently refused to speak to the landlord. The landlord in turn simply told the client to go and live somewhere else.

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A North of Scotland CAB reports of a client who experienced problems renting unfurnished accommodation. The main bedroom had dampness on one wall, and the client was worried about the health of his two week old daughter. The agreement was for annual let, with two month's notice to be given for renewal. The client has had other problems with his accommodation in the past which took a long time to resolve and he was anticipating more problems with his landlady.

A North of Scotland CAB reports of a client who lived with her partner and one year old child. They had rented a two-bed property from a local estate agents for over a year. They became increasingly concerned about the smell of damp and mould in flat. Their child is prone to more colds and they have now found that the floor under the carpet is wet and mouldy. They also had to replace mattress because of mould. The estate agents told the clients to purchase de-humidifier but they feel this will no solve the problem and would also be expensive to run. The damp in the cupboards is also affecting their clothing and bedding. The client did not bring her lease with her to the bureau, but she stated landlord was liable for maintenance. The bureau advised her to check tenancy agreement and also be aware that certain courses of action could lead to the threat of eviction by landlord.

We would want to reiterate at this stage the importance of making these regulations accessible to those groups who most need to know about them, for example foreign workers, students and those on low incomes. We would like to see a commitment from the Executive to ensure information on access to the Panel is published in variety of different formats, including different languages, and publicised widely in environments most appropriate to these groups.

Comments on the Regulations

In addition, we would have the following comments to make on the regulations themselves:

- There needs to be a clear empowering/inquisitorial role for the Panel when dealing with unrepresented tenants in order to provide assistance to tenants who are not confident in making their own case. This is not currently explicit in the regulations.

*Some specific changes in relation to this general point would be to S3 – *The committee needs to be able to offer any assistance necessary to applicants to ensure that they are able to state their case and meet any administrative requirements* and S20 – *The committee also needs to be able to call and question witnesses where necessary for the requirements of natural justice.**

- Applicants are likely to be represented by advisers from Citizens Advice Bureaux and other advice agencies. While the regulations as they stand allow for this, the responsibilities they put on the representative are in line with those in a lawyer-client relationship, which is not appropriate for lay representatives.

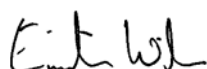
An example is S14 - this states that serving a communication on the applicant's representative is the same as serving it on the applicant. Most advice agencies do not have the resources to take on this level of responsibility. The relationship that most lay representatives have with their clients is that they will offer what assistance they can,

and in normal circumstances will be able to deal with all aspects of the case including representation. However, they do not agree to take over the responsibilities the client has in law. We would suggest that a more manageable solution is that notice is served on the applicant, with a copy to a lay representative where appropriate.

S15(6) makes specific reference to the tribunal having power to support an unrepresented applicant. We would want consideration to be given to the fact that a lay representative may also need assistance to ensure that an applicant has equality of arms.

We look forward to hearing about the results of your consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emilie Wilson', written over a thin red vertical line.

Emilie Wilson
Social Policy Co-ordinator