

This document relates to the Fair Rents (Scotland) Bill (SP Bill 76) as introduced in the Scottish Parliament on 1 June 2020.

Fair Rents (Scotland) Bill

Policy Memorandum

Introduction

1. As required under Rule 9.3.3A of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Fair Rents (Scotland) Bill (the "Bill") introduced in the Scottish Parliament on 1 June 2020. This Policy Memorandum has been prepared by Govan Law Centre on behalf of Pauline McNeill MSP, the member who introduced the Bill, to explain the policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The following other accompanying documents are published separately:

- statements on legislative competence by the Presiding Officer and Pauline McNeill MSP, the member who introduced the Bill (SP Bill 76–LC);
- a Financial Memorandum (SP Bill 76–FM);
- Explanatory Notes (SP Bill 76–EN).

3. The consultation exercise was launched by Pauline McNeill's parliamentary office and the Bill was formally launched at Govan Law Centre in Glasgow on 15 May 2019, with press in attendance.

4. The Bill was announced by Pauline McNeill MSP on 9 March 2019.¹ Pauline McNeill's draft proposal, lodged on 14 May 2019, was for a Bill to:

¹ <https://scottishlabour.org.uk/blog/pauline-mcneill-msp-shadow-cabinet-secretary-for-equalities-housing-and-social-security/>

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“protect private sector tenants by introducing measures to limit rent increases and to increase the availability of information about rent levels.”

5. The proposal was accompanied by a consultation which ran from 14 May to 8 August 2019.² The consultation document was sent to a wide range of relevant stakeholder groups, including local authorities, organisations and agencies with a housing interest (such as Shelter Scotland, Crisis, the Scottish Association of Landlords, Citylets, Scottish Land and Estates, the Scottish Property Federation, Scottish Federation of Housing Associations, and Citizens Advice Scotland), and a number of equalities organisations.

6. The member held pre-consultation meetings with academics who are specialists in housing, in particular the private rented sector. Meetings were also held with relevant third sector organisations, such as Shelter. The consultation was also promoted on various social media platforms by both the member and the Scottish Labour Party, and press releases were issued to highlight its existence. A summary of consultation responses were published.³ The Bill has taken on board consultation feedback by introducing delegated secondary legislative provisions to ensure flexibility and agility in relation to the primary rent cap control measure and by aligning the collection of additional rent data with the current system of private landlord registration.

History of rent regulation

7. When the First World War began landlords took advantage of the pressure on housing supply by profiteering with massive rent hikes. Women’s movements were formed across Glasgow with the first active resistance in Govan, led by Mary Barbour. They were successful. They secured the introduction of the 1915 Increase of Rent and Mortgage Interest (War Restrictions) Act. This ground-breaking legislation retrospectively capped and froze rents at August 1914 prices for the duration of the war and for a period thereafter.

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[https://www.parliament.scot/S5MembersBills/20190513_Final_Version_\(2\).pdf](https://www.parliament.scot/S5MembersBills/20190513_Final_Version_(2).pdf)

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https://www.parliament.scot/S5MembersBills/Final_summary_with_commentary.pdf

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8. The 1965 Rent Act introduced a comprehensive system of fair rents across the UK anchored in local market rents. This system was updated and repeated for Scotland in the 1984 Rent (Scotland) Act. The test of a fair rent in section 48 of the 1984 Act was determined in relation to the current rents of comparable property, having regard to the age, character and locality of the dwelling-house in question. This Act failed to keep rents affordable for low income tenants. It allowed free markets to determine private rents. There are real tensions between fairness and free market economics.

9. In 1988, the Conservative Government wanted to encourage an expansion of the private rented sector ("PRS") so rent control was deregulated even further, along with the removal of security of tenure for tenants. In Scotland, private sector tenants had no security of tenure with the advent of the "short assured tenancy" from 2 January 1989. This form of tenancy introduced a right of mandatory recovery of heritable possession for a landlord by bringing a contractual short assured tenancy to an end by serving a notice to quit and notification that vacant possession was required. In those circumstances, the sheriff had no discretion but to grant an eviction order for recovery of heritable possession.

Policy objectives of the bill

10. The primary purpose of the Bill is to improve the way rents are set in Scotland in the PRS, to bring fairness into the private rented sector, to reduce poverty and support low income tenants and their families. It will regulate rents to protect tenants in Scotland and help create a better balance of power between the landlord and tenant in Scotland.

11. The Bill proposes to protect private sector tenants by introducing measures to limit rent increases, to enable tenants to apply for a fair rent to be determined in relation to past rent increases, and to increase the availability of information about rent levels.

The fair rent consumer prices index cap

12. The Bill would cap annual private sector rent increases across Scotland at one per cent point above inflation as measured by the consumer prices index ("CPI"). This would apply to both new tenants (if the property has been let previously) and existing tenants. However, the Scottish Ministers could apply a different percentage figure to the CPI - including a negative percentage figure. Regulations to vary the percentage figure would be subject

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to affirmative procedure and as such would require the consent of the Scottish Parliament. This approach was adopted as it seemed the most practical and equitable, particularly so as historically many pay awards schemes and the uprating of social security benefits have been "index-linked" to the measure of inflation.⁴ Some of the commercial respondents to the consultation were critical to an index linked rent cap, giving reasons as follows:

- Inflation was not an appropriate benchmark;
- Previous experience of rent control had not been a success;
- Such an approach could result in a lack of investment by landlords and a shortage of supply of tenancies;
- A national approach was not appropriate, as local areas had different rent pressures;
- There was already legislation in place to limit rent increases.

The Bill takes on board concerns about a blanket or rigid approach by making provision in section 1 of the Bill for delegated legislation to modify or remove its application; to make different provision for different circumstances; and for the percentage figure to be added to the annual rate of CPI to be varied upwards or downwards.

13. The initial price of new properties entering the market will not be subject to a cap. This is because the scope of the Bill is focused on existing PRS tenancies. Market forces should prevent a landlord from setting an initial rent unreasonably high. The Bill makes provision for regulations to be introduced that could make different provisions for the application of the cap to different circumstances. For example, it would be possible by way of regulations to disapply the cap for particular landlord to reflect substantial improvements made to a property (as is the case with rent pressure zones).⁵

⁴ Previously the Retail Price Index (RPI) was the main UK measure of inflation since 1956 but was superseded by CPI in 2003. See for example: <https://www.insightinvestment.com/globalassets/documents/regulatory-updates/uk-proposed-changes-to-rpi.pdf>

⁵ Private Renting, Rent Pressure Zones, <https://www.gov.scot/policies/private-renting/rent-pressure-zones/>

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Appeals

14. When a tenant appeals their rent, rent officers and the First-tier Tribunal will be able to either lower or maintain the rent, depending on their assessment, but will not be able to raise the rent. This will re-balance the power of the appeals process which currently acts a barrier to a tenant taking a case to appeal. Under the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) a tenant can only react to a proposed increase of rent initiated by his or her landlord. In practice, rents are generally increased on appeal. Of those responding to the consultation on the right of a tenant to seek a lower rent, 39% supported the measure while 52% were opposed. Arguments in favour included that this would provide more equality between landlord and tenant and reduce levels of concern about the possible consequences of appealing. Opponents argued that the FTT should be fair to all parties, and that the proposal might encourage speculative claims or have a negative impact on landlord and tenant relationships. It seems inequitable that one party to a tenancy can seek an increase, while the other party can only react to that, and in practice, argue at best for the status quo. Section 2 of the Bill seeks to strike a fair balance between the rights of both landlord and tenant.

Data

15. The Bill will ensure better data on rents is obtained. It will expand the landlord registration scheme so that landlords must input the rent that they charge when they register or renew registration every three years.

16. From the consultation there were similar levels of support and opposition (44% and 49% respectively) for the proposed extension of the landlord registration scheme so that landlords must include the rent that they charge when they register, and update the system when the rent changes. Arguments for the measure included that improved data would allow more effective analysis of rent levels and solutions, improve recording of rental values of equivalent tenancies and increase transparency. Those opposed felt that the funding of such a scheme could have cost implications, data protection issues might arise, it would be difficult to enforce, and market data already existed. Section 3 of the Bill is now less onerous administratively, as additional information is only required to be provided at the point of registration or re-registration.

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17. Improved data will improve decision making on the fairness of rents by Rent Officers and First-tier Tribunals. A tenant would be better informed as to whether the rent they are being charged is unfair if they were able to compare it to rents charged for similar properties in the area. This would allow them to make a better judgement as to whether they might want to appeal their rent.

18. Currently, official statistics about private rents are drawn from Rent Service Scotland's Rental Market Database.⁶ The sample size is too small to permit private rental statistics to be produced at local authority level or, in the case of Scotland's four main cities, below local authority level.

19. It was noted by the Urban Big Data Centre, "the PRS is widely acknowledged to be a part of the housing system for which the quality and quantity of data is unsatisfactory."⁷ In their report for Shelter on rent regulation measures in Scotland, Professor Douglas Robertson and Gillian Young note that: "The single biggest barrier to the effective operation of both 'rent regulation' provisions is the lack of robust data on the stock of private rented dwellings and the rents being charged. In particular, the ability of existing tenants to challenge a rent rise is compromised by a lack of robust evidence on actual rental market rates."

Amendments to the 2016 act

20. This Bill introduces a new section into the 2016 Act which would cap all future private rented sector rent increases in Scotland at no more than the Consumer Price Index (CPI) plus 1%. It would apply to all private residential tenancies (PRT) under the 2016 Act.

21. It also provides for a delegated power (affirmative procedure in the Scottish Parliament) to enable the Scottish Ministers to vary or create special exceptions to this cap. This approach is necessary to create sufficient flexibility to respond to the PRS market in real-time, and to react swiftly to emerging economic trends from the impact of the COVID-19 pandemic. The

⁶ "Private sector rents in UK cities: analysis of Zoopla rental listings data", Mark Livingston, Nick Bailey and Christina Boididou, Urban Big Data Centre, April 2018, p1. <https://www.ubdc.ac.uk/media/1709/data-note-260418-analysis-of-zoopla-rental-listings-data.pdf>

⁷ Ibid.

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Bill also includes a review clause of the CPI + 1% cap after three years from Royal Assent to monitor market impact on the Scottish PRS.

22. The Bill creates a freestanding statutory right in the 2016 Act for any PRT tenant in Scotland to apply to a rent officer to request that their rent be lowered where it appears reasonable to do so. In determining a fair open market rent, the rent officer must have regard to:

- (a) the general poor condition of the property,
- (b) any failure to meet the repairing standard,
- (c) the poor energy efficiency of the property or its appliances for space heating and hot water,
- (d) the inadequate standard of internal decor and furniture provided,
and
- (e) the overall amenity of the property.

These criteria were not specifically detailed in the consultation exercise in relation to tenants wishing to appeal to lower or maintain their existing rent level. These factors seek to encapsulate the objective criteria that would lead a tenant to consider their rent was unfair in relation to the standard and quality of their subjects of let.

23. A tenant or landlord would have a right to appeal a decision of the rent officer to the First-tier Tribunal for Scotland (Housing and Property Chamber) (the "FTT"). In an application under this new statutory provision rent could not be increased by a rent officer of FTT. The right would arise in any PRT once *per annum* (which accords with the landlord's right to increase rent once *per annum* under the 2016 Act).

24. The rent officer or FTT would be required to consider open market rents in the locality of the property - in accordance with section 32 of the 2016 Act (the existing open market test) - but would have an overriding and mandatory direction notwithstanding the section 32 test to lower rents where it was reasonable to do so having regard to the factors in section 22B(3) of the Bill (set out in paragraph 18 above).

25. The Bill will amend the Antisocial Behaviour etc., (Scotland) Act 2004 to require all PRS landlords to disclose all of their rents for each property let at

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the point of landlord registration or at the point of renewal of registration (every three years in terms of the 2004 Act) in the Scottish Landlord Register; and for this information to be publicly available. The main alternative approaches would be to require real-time updates for all properties, which was identified in the consultation responses as administratively onerous; or not collecting any information at all. Given the paucity of data to enable rent pressure zone applications by local authorities under the 2016 Act, it is self-evident there is a need for PRS rent level data collection in Scotland.

26. The Bill will cap PRS rents at no more than CPI plus 1 per cent per annum. It would introduce an objective legal mechanism for rent to be lowered where it was unfair and unjust. It would require private landlords to disclose all of their rent charges at the point of re-registration as a landlord, in order for a full dataset of the sector to become available. It would empower tenants to challenge unfair rents. The Fair Rents (Scotland) Bill will address the power imbalance in our society tackle poverty and social injustice.

Scottish government record

27. In 1999, the Scottish private rented sector represented 5% of all households. In the last 15 years it has trebled in size and now accounts for over 15% of all Scottish homes.⁸

28. The SNP Scottish Government introduced its 2016 Private Tenancies (Housing) (Scotland) Act to provide more security of tenure for tenants but it fell into an old trap on fair rents. Section 32 of 2016 Act is essentially a revamp of the open market fairness test of 1965.⁹

29. The Scottish Government's action on fair rents has not worked.¹⁰ Last year the average rent increase across Greater Glasgow was 5.8%, while CPI

⁸ See Annex A: <https://www.gov.scot/publications/private-sector-rent-statistics-2010-2019/pages/11/>

⁹ See page 9:

<http://researchbriefings.files.parliament.uk/documents/SN06747/SN06747.pdf>

¹⁰ "An Evaluation of Rent Regulation Measures within Scotland's Private Rented Sector", a report to Shelter Scotland by Dr Douglas Robertson and Dr Gillian Young, March 2018, p20.

https://scotland.shelter.org.uk/__data/assets/pdf_file/0011/1527590/Shelter_RentReport_May18_screen3_1.pdf / _nocache; see also "More Clarity

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was 1.3%. Rent in Lothians and Greater Glasgow in the last nine years PRS rents have double the rate of inflation.¹¹

30. Scottish Government statistics show that average private sector rents for all property sizes in the most densely populated areas of Scotland – Lothian and Greater Glasgow (combined population of over 2 million) – rose significantly faster than inflation between 2010 and 2018: 42.3% in Lothian and 31.3% in Greater Glasgow.¹² These increases compare to the cumulative increase in the UK Consumer Price Index (CPI) from September 2010 to September 2018 of 18.7%.¹³

31. At a Scotland-wide level, there were also increases in rents above inflation for three-bedroom (8.7%), four-bedroom (11.8%) and one-bedroom shared properties (4.7%) between 2017 and 2018.¹⁴ These increases compare to UK CPI inflation of 2.4% in the year to September 2018.¹⁵

Rent pressure zones

32. The Scottish Government introduced the ability of local authorities to apply for a rent pressure zone (RPZ). Rent Pressure Zones (RPZs) were introduced as part of The Private Tenancies (Housing) (Scotland) Act 2016.¹⁶ If the Scottish Ministers designate an area as an RPZ (after an application from a local authority) they can place a cap on how much the rent for tenants with a PRT can increase each year. A cap can last for up to five years and will be at least the consumer price index + 1%.¹⁷

Required into Introduction of Rent Pressure Zones”, Scottish Housing News, 6th November 2018. <https://www.scottishhousingnews.com/article/more-clarity-required-into-introduction-of-rent-pressure-zones>

¹¹ Private Sector Rent Statistics, Scotland, 2010-2018, p1.

file:///C:/Users/R804564/Desktop/private%20rent%20stats%202010-2018.pdf

¹² Ibid, p1.

¹³ Ibid, p1.

¹⁴ Ibid, p1.

¹⁵ Ibid, p1.

¹⁶ Rent Pressure Zone Checker, Scottish Government, <https://www.mygov.scot/rent-pressure-zone-checker/>

¹⁷ Private Renting, Rent Pressure Zones, <https://www.gov.scot/policies/private-renting/rent-pressure-zones/>

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33. Not one council has ever applied for RPZ. It could be suggested they never will as no-one collects the PRS data required to do so. In November 2018, a report by the City of Edinburgh Council concluded that RPZs are not fit for purpose and called for a review of the policy. Council officers suggested that to gather enough evidence to justify an RPZ being introduced could take between three and five years.¹⁸

34. Similarly, recent academic research found that, “there are currently no private rents data sources that would provide the evidence needed to support a RPZ application.”¹⁹ The study, conducted for Shelter Scotland on rent regulation in the private rented sector, concluded that the Scottish Government’s approach to rent regulation is “tentative” and the measures it currently employs to tackle the problem are “inadequate for the task”.²⁰

Economic and regulatory price caps

35. Economic and regulatory price caps are not unusual. The energy regulator, Ofgem, has the power to cap energy prices. The UK minimum wage is a wage floor cap. In 2015, HM Treasury allowed the Financial Conduct Authority to introduce a price cap for short-term-credit to tackle the excessive profits being made on pay-day loans, and the over indebtedness of consumers with repeated roll-overs of loans.

¹⁸ “More Clarity Required into Introduction of Rent Pressure Zones”, Scottish Housing News, 6th November 2018.

<https://www.scottishhousingnews.com/article/more-clarity-required-into-introduction-of-rent-pressure-zones>

¹⁹ “An Evaluation of Rent Regulation Measures within Scotland’s Private Rented Sector”, a report to Shelter Scotland by Dr Douglas Robertson and Dr Gillian Young, March 2018, p20.

https://scotland.shelter.org.uk/__data/assets/pdf_file/0011/1527590/Shelter_RentReport_May18_screen3_1.pdf/_nocache

²⁰ Ibid, p6.

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The scale of the problem in the private rented sector

36. The PRS has grown dramatically in the last 15 years. In 2017, 15% of Scottish householders were renting privately, up from 5% in 1999.²¹ In Edinburgh and Dundee as many as 26% of households rent privately.²²

37. The private rented sector is also becoming home to more families.²³ There is now a slightly higher percentage of households with children renting in the private sector (27%) than renting in the social sector (25%).²⁴ The number of children in private rented housing living in severe poverty has more than doubled in a decade.

38. Scottish Labour analysis of Scottish Government data reveals that 20,000 children in the private rented sector were living in severe poverty during the three-year period between 2005/06 - 2007/08. However, the latest three-year period, covering 2015/16 to 2017/18, reveals that figure has more than doubled to 50,000.²⁵ Severe poverty is defined as being below 50% of UK median income after housing costs.²⁶

²¹ Scotland's People Annual Report 2017, A National Statistics Publication for Scotland,

<https://www.gov.scot/publications/scotlands-people-annual-report-results-2017-scottish-household-survey/>

²² Ibid.

²³ Ibid, p73.

²⁴ Scottish House Condition Survey: 2017 key findings, p4.

<https://www.gov.scot/publications/scottish-house-condition-survey-2017-key-findings/pages/4/>

²⁵ "Poverty and Income Inequality in Scotland: 2015-2018", Supplementary Child Poverty Tables, Scottish Government statistics, 28th March 2019, <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/03/poverty-income-inequality-scotland-2015-18/documents/copy-supplementary-child-poverty-tables/copy-supplementary-child-poverty-tables/govscot%3Adocument>

²⁶ "Severe Poverty in Scotland", Communities Analytical Services, Scottish Government, 16th March 2015, p14,

<https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2015/03/severe-poverty-scotland/documents/severe-poverty-scotland->

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39. In Scotland, those in the lowest income decile²⁷ living in the private rented sector spend 57% of their income on housing costs. In contrast, those in the highest income decile spend 15%.²⁸ In recent research by YouGov on behalf of Shelter Scotland, 36% of respondents said they would struggle to pay their rent or mortgage if it rose by £50 a month during 2019.²⁹

40. The fastest growth in severe poverty in Scotland has been in the PRS. 50,000 children are in severe poverty in the Scottish PRS. The recent report on UK poverty by the Joseph Rowntree Foundation (JRF) confirms that Scotland has a lower overall poverty rate than England or Wales. The JRF note that "the difference in rates between Scotland and the rest of the UK is mainly due to lower rents in the social housing sector as well as Scotland having a higher proportion of social rented properties". Affordable rents are essential to reducing poverty in our society.

41. The cost of their accommodation in the private sector was a key reason tenants gave for adding themselves to a housing list. For just over a quarter (27%) of private rented households on a housing list, the main reason stated for being on a housing list was that they couldn't afford current housing or would like cheaper housing. This was a much larger percentage than the equivalent figure for social rented households (3%).³⁰

42. Since 1980, half a million council and housing association homes in Scotland were lost through the right to buy scheme. Many of these homes are now in the PRS. Scotland's PRS isn't building new homes, it is - for a large

communities-analytical-services/severe-poverty-scotland-communities-analytical-services/govscot%3Adocument

²⁷ The 10% of the population whose income is lowest.

²⁸ ONS, "UK Private Rented Sector: 2018,"

<https://www.ons.gov.uk/economy/inflationandpriceindices/articles/ukprivaterentedsector/2018>

²⁹ "More Scots Struggling to Pay Rent or Mortgage", Shelter Scotland, 4th January 2019,

https://scotland.shelter.org.uk/news/january_2019/more_scots_struggling_to_pay_rent_or_mortgage

³⁰ Ibid, p66.

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part - recycling former council and housing association stock for the pursuit of profiteering at the expense of those least able to afford it.

Equalities

43. There are more older people, young people, and families with children renting in the private sector than previously and this Bill would give them more protection. Further to this, as a 2017 Scottish Government report notes, “low income households may be especially vulnerable in the private rental sector”, and again, this Bill will give this group more protection.³¹

44. Rates of fuel poverty are above the national average in the private rented sector at 27%. Tenants will be better able to afford to heat their homes if they are paying more stable and affordable rents.

45. The level of older people now living in the private rented sector has doubled over the past 18 years. Specifically, the number of permanently-retired adults renting privately, housing as a proportion of income for those who own with a mortgage is substantially has risen from an estimated 20,000 adults in 1999 to 40,000 adults in 2017.

46. A 2017 Scottish Widows report indicated that in 15 years’ time, those retirees who are renting in the UK will be spending 42% of their retirement income on rent. This suggests that if getting on to the property ladder is unaffordable, money for rent or retirement will need to be found. This will clearly have a major impact on the number of pensioners living in poverty. This Bill should benefit those older people renting in the private sector and protect them from dramatic increases in their rent.

47. Young people have experienced a similar shift. Since the millennium, there has been an increase in younger households living in the private rented sector or with their parents rather than becoming owner occupiers. The proportion of younger households (with an age 16 to 34 highest income

³¹ Scottish House Condition Survey: 2017 Key Findings, the Scottish Government, p10,
<https://www.gov.scot/publications/scottish-house-condition-survey-2017-key-findings/>

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householder) that live in the private rented sector has increased substantially since 1999, and this is now the most common tenure for these households.

Human rights

48. Article 25 of the Universal Declaration of Human Rights provides that: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services". The Fair Rents (Scotland) Bill would positively contribute to the aims of article 25 in Scotland.

49. Article 1 of the First Protocol ("Article 1") of the European Convention on Human Rights ("ECHR")³² protects individuals and businesses from being deprived of their possessions except in certain circumstances. The full text of Article 1 of the ECHR is as follows:

"Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties".

50. Article 1 does not create a right to acquire property. Future income constitutes a "possession" only if the income has been earned or where an enforceable claim to it exists.³³ Accordingly, PRS landlords do not have an ECHR right to unspecified future rent increases.

51. The European Court of Human Rights has considered the issue of tenancies and rent control. In *James and others v. the United Kingdom*³⁴ The

³² Incorporated into UK law by the Human Rights Act 1998; see schedule 1 of the 1998 Act - <http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

³³ See para 40, page 12:

https://www.echr.coe.int/Documents/Guide_Art_1_Protocol_1_ENG.pdf

³⁴ [https://hudoc.echr.coe.int/eng#{"itemid":\["001-57507"\]}](https://hudoc.echr.coe.int/eng#{)

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Court found it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one, and that it would respect the legislature's judgment as to what is "in the public interest" unless that judgment be manifestly without reasonable foundation.³⁵ Accordingly, legislative measures for social and economic policies that cap the level of PRS rent increases, or enable a tenant to seek a lower rent on objective criteria, subject to rights of appeal before an independent and impartial tribunal, is compliant with Article 1 of the ECHR.

Local government

52. The Bill would provide local authorities with increased data on the levels of private rents within their localities. This would enhance their ability to discharge their public sector equality duty in terms of section 149 of the Equality Act 2010 and improve their strategic planning and interventions to alleviate poverty and discrimination in local communities. The measures to limit rent increases in the Bill would assist local authorities by contributing to the alleviation of poverty caused by unaffordable and excessive rents in private residential tenancies.

Sustainable development

53. Introducing a cap would help prevent tenants facing unmanageable rent increases and could prevent people being priced out of their own neighbourhoods. The ability of private tenants to afford homes near their workplaces might be improved, and this, in turn might reduce the environmental impact and stress of commuting.

54. The proposal will also improve the wellbeing of private tenants through a greater sense of security in their living situation. It should allow private tenants' households to be more resilient to other financial shocks or stresses, as they may be able to budget more effectively in the knowledge that the rent could only increase in line with CPI+1%.

55. Some landlords may view the proposal as having a negative impact on their income and, depending on the nature of the rent controls, may sell their rental properties. However, a cap on annual rent increases at one per cent

³⁵ See page 47 et seq., of https://www.echr.coe.int/Documents/Guide_Art_1_Protocol_1_ENG.pdf

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point above inflation would not remove the current financial benefits of renting out a property.

56. The Bill will ensure that improved data is available on the level of rent for different property types in a given area. This should allow tenants to be better informed regarding their level of rent and to lodge an appeal with a rent officer if necessary, which could lead to greater fairness in the levels of rent across the private rented sector in Scotland.

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Policy Memorandum

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