

October 2023

Tenant survey

Supporting document by Crisis and Living Rent

To help tenants understand the questions being asked in the Scottish Government's tenant and landlord survey



Introduction

As part of its commitments in A New Deal for Tenants, the Scottish Government proposes to make some changes to the law which would affect tenants in the private rented sector. Tenants are being asked for their views to help inform those changes, which the government plans to make next year.

The Scottish Government has launched an engagement questionnaire to gather views.

This document has been drafted by Crisis and Living Rent to help tenants understand the questions being asked. You might want to read through this document before opening the survey, so you know what to expect.

You can [complete the survey by following this link](#). It will be open until 27th October.

Scottish Government has also [published a supporting paper](#) to explain the proposals in more detail.

PLEASE NOTE: the questionnaire is anonymous, and you do not have to answer all of the questions. Only answer the ones you feel comfortable answering.

About you

Although the questionnaire is anonymous, the first section asks for a bit of information about you. For example, it asks whether you are a tenant or landlord, which local authority you live in, and what type of tenancy you have.

Most people using this document will be either a 'PRS tenant' meaning you rent from a private landlord or letting agent, or a 'SRS tenant' which means you rent from a housing association or local authority.

Question 4: type of tenancy

This question asks you what type of tenancy you have. This should be detailed in your tenancy agreement.

There are different types of tenancy which exist in the private rented sector in Scotland. Most private tenants will have a [private residential tenancy](#), (any tenancy signed after December 2017).

If you started renting your home before December 2017, you might have another type of tenancy, for example:

- A short assured tenancy;
- An assured tenancies; or,
- A regulated tenancy.

[More information about the different types of tenancies in the private rented sector in Scotland](#), and the differences between them, is available on the Scottish Government's website.

Rent controls

Rent levels can be unaffordable for some tenants in some areas, leading people to struggle to find suitable rented homes.

Currently, private rent cannot be increased more than once in a 12-month period, and landlords must give their tenants at least three months' notice of any proposed rent increase.

Until March 2024 – there are also extra protections in place to cap rent increases to 3%.

The Scottish Government is now exploring introducing restrictions on how much rents can increase, to make rents more affordable to tenants.

Question 6: local or national rent restrictions

The Scottish Government is asking whether you think rent controls should be introduced on a local basis, in response to affordability in those areas, or whether restrictions to rent increases should be introduced across the whole of Scotland.

Question 7: when rent restrictions should apply

It is possible to restrict rent increases during a tenancy. It is also possible to restrict rent increases between tenancies (i.e., when one tenant leaves and another moves in).

The Scottish Government is asking whether you think rent increases should be restricted for both current tenants and in-between tenancies, or just for current tenants.

Question 8: rent increases limited to once every 12 months

The proposal is that in a 'rent control area' rent increases would be limited to once per 12 months per property, whether or not the tenant changes. This would mean that some tenants who might have only just moved in, might experience a rent increase because it has been 12 months since the last rent increase for that property. The Scottish Government is asking whether you agree or disagree with this approach.

Question 9: tenancies new to the market

There are some new tenancies where it might be difficult to work out what the previous tenant's rent was, for example if it has been vacant for a long period. The Scottish Government is proposing that in these cases, the rent restrictions would not apply to these properties, and that they would be treated as "new to the market." The Scottish Government is asking in which circumstances properties should be exempt from rent controls.

Question 10: the time period rent controls should be in place

The Scottish Government is proposing that a 'rent control area' would be in place for a fixed time period and not continue forever. Question 10 has a series of questions about the duration of rent controls and how that should be assessed.

Question 11: Re-assessment of a rent control area

Question 11 asks whether you agree that if there are changes in local circumstances, there should be a reassessment to decide whether the rent controls should be ended earlier than the time they were supposed to end.

Question 12: how long rent controls should be in place

This question asks what time period would be most appropriate for rent controls to be in place for (1 year, 2 years, 3 years etc.)

Question 13: consultation with tenants

This question asks whether you agree there should be a duty to consult with tenants and landlords before introducing a rent control area in a local area.

Question 14: special circumstances

Question 14 asks about cases where a landlord may not have increased the rent for a property when they would have been allowed to. For example, if for whatever reason, a landlord has gone several years without increasing the rent, should they be allowed to increase it above the cap when they next get the opportunity, to bring the rent in line with other similar properties? The question asks whether you think there should be a mechanism to allow them to do that.

Question 15: special circumstances (2)

This is a follow up to the last question. It asks: if there is a mechanism which allows landlords to increase rents above a certain amount in a rent control area, should they only be allowed to do this once, or for several years in a row?

Question 16: special circumstances (3)

This question asks whether you think landlords should be able to increase the rent above the cap if the property has undergone improvements.

Question 17: special circumstances (4)

This question asks under which circumstances landlords should be allowed to raise the rent above the cap. For example, making improvements to the quality of fixtures and fittings; making improvements to energy efficiency and/or when the costs involved in letting the property have increased.

Question 18: a way for tenants to check if the rent increase is within the limit

The Scottish Government is proposing that there will be a way for tenants to check whether a rent increase was in line with a rent cap/rent regulation locally. This question asks whether you agree with this.

Question 19: types of housing that may be exempt from rent controls

This question asks about whether certain types of housing should be exempt from rent controls. It asks about property types such as 'Build to Rent.'

Tenancy types

Question 20: Phasing out of certain tenancy types

Whilst most tenancies are Private Residential Tenancies, there are a reducing number of older tenancies that have been in place since before 2017, such as 'Short Assured Tenancies' and 'Assured Tenancies.' The Scottish Government is considering phasing out the use of these older tenancy types. This question asks what you think about that.

Ending Joint tenancies in the Private Rented Sector

Question 21: Ending Joint tenancies

Sometimes, tenancies in the private rented sector are held in more than one person's name. Tenants who share a tenancy are called 'joint tenants.' Currently, a joint tenant can be held in a tenancy against their wish if the other tenants do not agree to end the tenancy.

The Scottish Government is proposing that joint tenants should be able to leave a joint tenancy without the consent of the remaining tenants. They are proposing that the person who wants to leave should have to give the other tenants 2 months' notice (56 days) that they want to leave. At the end of 2 month period, the tenant wishing to leave would need to issue the landlord with their final 1 month (28 days) notice to leave, ending the tenancy for all the joint tenants. This would be a total of 3 months from deciding if they wanted to leave, to leaving the tenancy.

This question asks whether 2 months is a good notice period to give the other tenants time to consider their housing options, or whether the notice period should be longer or shorter.

Personalising homes and keeping pets

The Scottish Government is looking at changing the law to give private tenants greater rights to personalise their home. They are considering changing the law so that tenants could make small changes without needing to ask the landlord's consent (for example, putting up pictures), and the right to ask for bigger changes (such as painting walls).

The law would set out a) the types of changes that would not need the landlord's consent, and b) the types of changes that the landlord could only refuse with good reason.

Question 22: personalising homes – small changes

The question asks whether you agree that some small changes such as putting up pictures, should not need the landlord's consent.

Question 23: personalising homes – requests for bigger changes

This question asks whether you agree that certain bigger changes (such as painting walls or putting up shelves) should be able to be requested and not refused without good reason.

Question 24: personalising homes – timescale for responding to requests

When a tenant makes a request for a larger change (such as painting walls), the landlord would need to respond to the request within a set amount of time. This question asks how long landlords should be given to respond to a request: 20 working days; 30 working days; 40 working days; more than 40 working days.

Question 25: personalising homes – length of time in the property

This question asks how long a tenant should have lived in the let property before they are allowed to request bigger changes to the property which the landlord cannot refuse without good reason (no minimum time; 3 months; 6 months; 9 months' 12 months).

Question 26: keeping pets

The Scottish Government is proposing that tenants in private and social tenancies should be able to request to keep a pet in their property.

The landlord could not unreasonably refuse a request for a pet. This would mean that no landlord could have a blanket ban on pets. However, the proposal is that in the private sector, the landlord could ask for an additional deposit as a condition on agreeing for the tenant to keep a pet.

The question asks whether you agree that private tenants should have a right to request to keep a pet, and not be refused without good reason.

Question 27: keeping pets – length of time for landlord to respond

The Scottish Government is proposing that, when a tenant in the private sector requests to keep a pet, the request would need to be made in writing and the landlord would have to respond within a set period of time. Under the proposals, if the landlord does not respond, this would be considered as them denying permission for the tenant to keep a pet. **This question asks: how long should private landlords have to respond to a request to keep a pet?** (20 working days, 30 working days, 40 working days, more than 40 working days).

Unclaimed Tenancy Deposits

Question 28: uses of unclaimed deposits

A deposit is a sum of money that must be paid at the start of the tenancy, which should be returned to the tenant at the end of the tenancy, minus any reductions for repairs. Most private landlords are required by law to pay tenancy deposits into a tenancy deposit schemes.

Some private tenants do not reclaim their rental deposit at the end of the tenancy from tenancy deposit schemes. The Scottish Government is looking to make changes to help return deposits to former tenants.

The Scottish Government is also considering how unclaimed tenancy deposit money could be put to good use for the benefit of private tenants. The Scottish Government is considering restricting the use of tenancy deposit funds to ensure any unclaimed deposit money is used to benefit tenants.

The question gives some examples of how unclaimed deposits might be used, and asks to what extent you agree with those uses of the funds.

Question 29: greater protections during the eviction process

Under the current law landlords can apply to a Housing Tribunal to evict private tenants. Eviction can happen for a number of reasons, for example a change of use of the property, change in status of the landlord or tenant or due to tenant conduct.

Where an eviction order is granted by the Housing Tribunal, the Scottish Government is proposing that the Tribunal must consider whether there should be a delay to the actual eviction. This decision would be made taking account of things like seasonal pressures and the circumstances of both the tenant and the landlord. A delay would not be possible in cases of anti-social or criminal behaviour.

Housing Tribunals are already allowed to delay an eviction, if it thinks there's good reason to do so. The change that is being proposed is to *require* the Tribunal to consider whether a delay should be granted.

The question asks whether you agree that the Tribunal should be *required* to consider whether it is reasonable to delay the enforcement of an eviction.

Social Rented Sector

Question 30: pets in the social rented sector

The Scottish Government proposes to give all tenants in the private and social rented sectors the right to request and keep a pet in their property.

In social rented tenancies, a tenant would be able to request to keep a pet. The landlord would have a given timeframe to object to the tenant keeping a pet for a given set of reasons. However, if the landlord did not object, or if the tenant did not hear from the landlord, the tenant could take this as consent and proceed with getting a pet.

The law would set out a list of reasons why the landlord could be allowed to object to a tenant keeping a pet, for example: the property being unsuitable for the number and type of animal and/or the wellbeing of other tenants.

The question asks whether you agree that social tenants should have the right to request to keep a pet, and not be refused without good reason.

Question 31: Protections during the eviction process for social tenants

For social tenants, under the current law, social landlords can apply to a Sheriff Court to evict a tenant under certain circumstances (called 'grounds').

Where an eviction order is granted by the Sheriff Court, the Scottish Government is proposing that the Court must consider whether there should be a delay to the enforcement of that eviction. This decision would be based on the circumstances of the case, for example, taking account of seasonal pressures and the circumstances of both the tenant and the landlord. A delay would not be possible in cases of anti-social, criminal behaviour or domestic abuse.

Housing Tribunals are already allowed to delay an eviction, if it thinks there's good reason to do so. The change that is being proposed is to require the Tribunal to consider whether a delay should be granted.

The Scottish Government is looking at setting out the factors should take into account when deciding whether to grant a delay, such as seasonal pressures, risk of financial hardship, etc.

The question asks whether you agree that the Sheriff Court should be required to consider whether it is reasonable to delay the enforcement of an eviction.

Question 32: Domestic abuse

Currently, there are certain things a social landlord must consider, and actions they must take, before taking action to evict a tenant in the social sector. These are called 'pre-action requirements.' They are aimed at providing extra protection for tenants facing eviction for rent arrears.

The Scottish Government is considering changing the pre-action requirements so that they must specifically consider the effect of domestic abuse on the build-up of rent arrears. Financial abuse is where a perpetrator is using or misusing money to limit and control their partner. It can leave someone with personal debt including rent arrears, which they may not know about.

The proposal is that, where financial control is a factor in the build up of arrears, social landlords would need to fully consider further actions that could assist the victim-survivor before eviction action for rent arrears could be taken in court. This might include, for example, any further specialist services that the individual could be referred on to for support.

The question asks whether you agree that social landlords should be required to consider what further actions could assist the victim-survivor before eviction action is taken.

The costs and benefits of rented sector reform

Question 33: ranking the proposals in terms of benefits to landlords

This question asks you to consider the changes that have been asked about in this survey. It asks you to rank the proposals in terms of the benefits they will bring to **landlords**, from most beneficial (1) to least beneficial (7).

Please note that if you are not a landlord, or a landlord representative, you may choose not to respond to this question.

Question 34: ranking the proposals in terms of benefits to tenants

Again, this question asks you to consider the changes that have been asked about in this survey. It asks you to rank the proposals in terms of the benefits they will bring to **tenants**, from most beneficial (1) to least beneficial (7).

Question 35: financial benefits and impacts for landlords

This question asks you to rank the proposals in terms of the financial impacts on **landlords**, from the most financially beneficial proposals to the least financially beneficial proposals.

Please note that if you are not a landlord, or a landlord representative, you may choose not to respond to this question.

Question 35: financial benefits and impacts for tenants

This question asks you to rank the proposals in terms of the financial impacts on **tenants**, from the most financially beneficial proposals to the least financially beneficial proposals.

Publishing and future contact

The survey ends by clarifying that the Scottish Government will not be publishing responses from individual tenants/landlords on its website. There is an opportunity to say if you consent to the Scottish Government contacting you again in relation to this survey.