

## Housing (Wales) Bill

### Summary of Changes at Stage 2

#### Introduction

This document sets out the main changes made to the **Housing (Wales) Bill** (“the Bill”) during Stage 2 proceedings.

#### Background

The Bill was introduced by the Minister for Housing and Regeneration (“the Minister”) on **18 November 2013** and the subject of an **oral statement** in Plenary the following day. The Bill was subsequently remitted to the **Communities, Equality and Local Government Committee** (hereafter ‘the Committee’) for Stage 1 scrutiny.

The Committee published its **Stage 1 report** in **March 2014**. The Constitutional and Legislative Affairs Committee also scrutinised the Bill, publishing a **report** the same month. The general principles of the Bill were debated in Plenary on **1 April 2014**.

Stage 2 commenced on 2 April 2014. The Committee met to consider and dispose of the amendments on 15 and 21 May 2014.

#### Private rented sector

##### Designation of licensing authority

Amendment 164 amends the Bill to ensure that an authority or public body can be designated to operate on an all-Wales basis, while retaining the option to designate on an **area basis**, should it be required in the future.

##### Requirement to be registered

The Bill has been amended to remove the existing section 3 and replace it with a new section, which makes clear when a landlord is required to register, so it is clear that a landlord is someone who markets or offers a dwelling for let. The amendment preserves current provision in section 3 that allows the defence of a reasonable excuse where a landlord fails to be registered.

##### Requirement to be licensed

The previous definition of ‘managing’ property was too wide and did not make the important distinction between those activities carried out on property and those carried out as part of an on-going management process around that. Amendments rectify this. While agents are no longer required to be registered, they must be licensed.

##### Information

The Bill has been amended to insert powers for licensing authorities to request and use the information from a local housing authority that it has obtained through the administration of council tax and housing benefit.

This will assist a licensing authority in ascertaining whether the property is being used within the private rented sector.

##### Duty to update information

A landlord is required to provide certain information to the licensing authority, which is then held by that authority. It is important to ensure that that information is kept up to date and remains accurate.

The Bill has been amended to set out the circumstances when the landlord will be required to notify the licensing authority of any changes in circumstances of his or her registration, including in relation to the details surrounding who is managing the property within 28 days of that change.

## Rent Stopping Orders and Rent Repayment Orders

The Bill has been amended to ensure that in addition to rent stopping orders, the Residential Property Tribunal will be able to make rent repayment orders upon an application from the licensing authority, the local authority or the tenant. The Minister was of the view that this will help ensure that enforcement of the legislation is effective.

### Prosecution and fixed-penalty notices

The Bill has been amended to provide the licensing authority or, where it is more appropriate the local housing authority, with powers to prosecute where an offence has occurred under this part of the Bill.

The Bill was also amended to allow the licensing authority to authorise a person to issue fixed-penalty notices where it is considered that an offence has been committed by a person under this part of the Bill.

### Code of Practice

The Welsh Government supported amendments proposed by Peter Black AM and Jocelyn Davies AM regarding the Code of Practice. Welsh Ministers must now make a Code and it must be subject to Assembly approval.

### Effect on tenancy agreements

Part 1 of the Bill will not affect the validity of a tenancy agreement or any obligations under such an agreement, save where a rent stopping order or a rent repayment order could be or is made in that process.

### Eviction of tenants

The Bill has been amended to insert a new section into the Bill to restrict non-compliant landlords from being able to issue notices to evict tenants under section 21 of the Housing Act 1988.

## Homelessness

### The Vulnerability Test

The Bill has been amended to clarify the vulnerability test following a recommendation from the Communities, Equality and Local Government committee. The test in the amended Bill has been formulated using existing case law principles.

### Duty to provide information

The Bill has been amended to insert a reference to the area and local connection with regard regarding the duty to provide information, advice and assistance in assessing help. This, the Welsh Government believes, ensures that local housing authorities will not be subject to the burden of advising people who have no local connection with their area.

### Assessment of Intentionality

The Bill was amended so that the default position is that local authorities do not assess intentionality for any homeless applicant. Welsh Ministers must publish a category or categories of applicant for the purposes of the intentionality test. Should an authority wish to apply the intentionality test to a particular category of applicant, the Bill will require the local authority to publish its decision and reasons for doing so.

### Priority need for accommodation

The Bill has been amended to provide further examples of why an applicant may be vulnerable 'as a result of some special reason'. The examples now include specific references to 'physical or mental illness' and 'physical or mental disability'. This followed concerns raised by the Communities, Equality and Local Government Committee.

## Council Tax

The Bill was amended to increase the amount of council tax premium chargeable for long-term empty dwellings, giving local authorities the discretion to charge any level of premium up to a maximum of 100 per cent. As introduced, the Bill provided for a flat rate of 50 per cent.

The Bill was also amended to allow local authorities to adopt a stepping approach for council tax premiums with incremental increases applying over time.

The Bill also allows for local authorities to charge council tax premiums on second homes occupied periodically within their area.

## Leasehold Reform

Peter Black AM brought forward this amendment because of a private Member's Bill going through the House of Lords, which has UK Government support but which only applies in England. The Bill provides an appropriate way to apply it in Wales as well.

The effect of the legislation is that notices served can be signed on the leaseholder's behalf by a person such as a solicitor or relative. This amendment will assist, among others, those who are physically disabled, seriously ill or mentally incapacitated, who are currently unable to exercise their rights.

## Undertakings given by the Minister

The Minister gave the committee an assurance that he would bring forward amendments at Stage 3 relating to local housing authority duties to have a homelessness strategy and access to information, advice and assistance on homelessness.

## Further information

For further information on please contact Alys Thomas ([alys.thomas@gov.uk](mailto:alys.thomas@gov.uk)), Members' Research Service or the Committee Clerk Sarah Beasley ([sarah.beasley@wales.gov.uk](mailto:sarah.beasley@wales.gov.uk))

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