

We know that good quality homes and services play a key role in building communities, improving health and wellbeing and supporting people to reach their full potential. In this new series of briefings linked to CIH Scotland's Housing Festival themes we will take a more in depth look at how good quality homes are at the heart of everything we are trying to achieve as a country from reducing inequalities to supporting our ageing population and tackling climate change.

This edition of Homes not Houses focuses on:

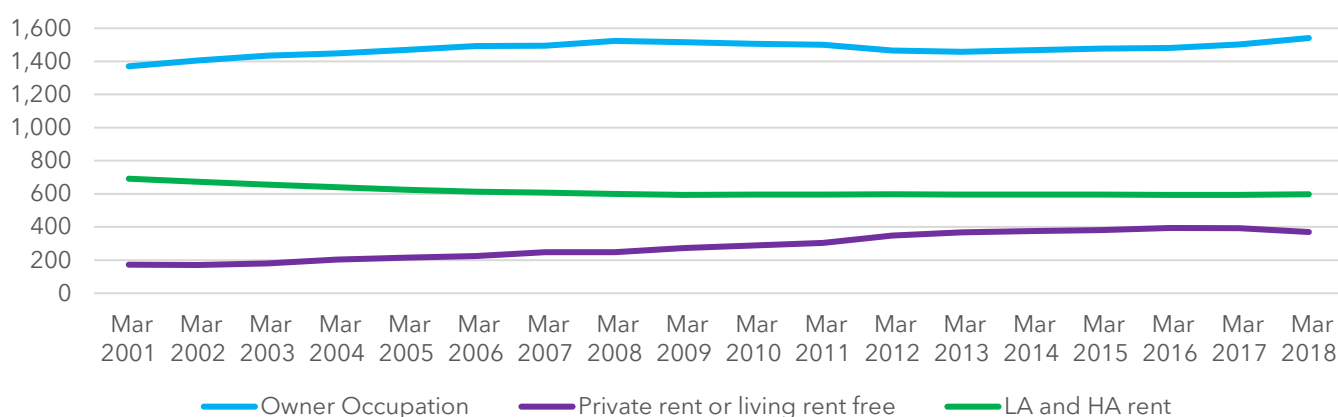
Housing and the PRS

Introduction

Within Scotland, the number of homes has increased from 1.97 million in 1981 to 2.39 million in 2018¹. Until recently, with the exception of owner occupiers, the private rented sector (PRS) was the fastest growing segment of the housing sector in Scotland. Between March 2001 and March 2017, the PRS doubled from approximately 173,000 to 393,000 homes. The increase between 2008-15 was particularly attributed to the economic downturn, as those looking to buy a home may have had difficulty securing a mortgage. However, the rate of dwellings within the PRS has declined since 2016, to approximately 371,000 homes in March 2018 (see Graph 1).

This briefing will give an overview of the PRS in Scotland and examine the recent changes that have occurred within the sector and the challenges it still faces.

Graph 1: Estimated stock of dwellings by tenure: 2001 to 2018 (thousands)



Source: Scottish Government: <https://www.gov.scot/publications/housing-statistics-scotland-2019-key-trends-summary/>

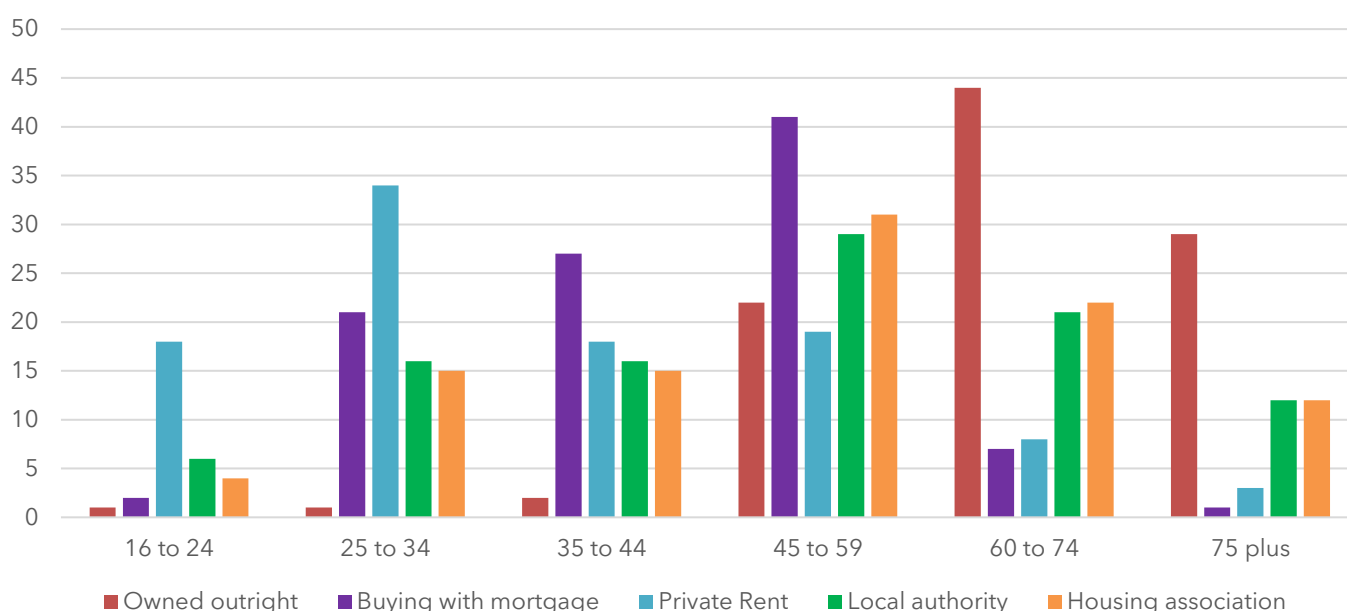
¹ <https://www.gov.scot/publications/housing-statistics-scotland-2019-key-trends-summary/>

Background

Demographics:

The Institute of Fiscal Studies (IFS) has stated that in Scotland the increase in private renting has been driven by decreases in the social rented sector². However, Graph 2 suggests that age is also a factor in whether someone lives in the PRS. For instance, in 2018 households where the highest income holder was aged 34 or below were more likely to be living in the PRS compared to other tenures and those aged over 35 were more likely to be either buying with a mortgage or own their property outright.

Graph 2: Percentage of tenure by age of highest income holder 2018.



Source: Scottish Household Survey 2018: <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

Graph 2 shows that younger people are far more likely to live in the PRS than in other tenures, a phenomenon which has recently coined the term 'generation rent'³. However, it has been indicated in this [report](#) by the UK Collaborative Centre for Housing Evidence that those aged between 35-54 also experience similar issues as younger private renters, such as unaffordable rents and insecure housing, along with age specific issues such as difficulties adapting properties as their needs change or being "aged [...] out of a mortgage"^{4,5}

² <https://www.ifs.org.uk/uploads/publications/comms/R132.pdf>

³ <https://www.tandfonline.com/doi/pdf/10.1080/02673037.2019.1676400?needAccess=true>

⁴ For more information on ageing and housing, please see CIH Scotland's [Housing and Ageing briefing](#).

⁵ https://housingevidence.ac.uk/wp-content/uploads/2019/08/190827-Beyond_Gen_Rent_FINAL2.pdf

Private Residential Tenancy:

On 1 December 2017, as part of the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) the private residential tenancy (PRT) was introduced. This replaced the assured and short assured tenancy agreements and meant that all new tenancy agreements after this date would be a PRT. The PRT sought to provide greater security and stability to tenants and appropriate safeguards to landlords, lenders and investors. The key changes with the PRT include:

- It is open-ended with no fixed term of residence.
- It only allows for one rent increase within a 12-month period.
- It removes the 'no fault' eviction clause which previously allowed landlords to ask a tenant to leave at the end of the tenancy without having to give any reason.
- Landlords seeking to evict a tenant with a PRT must now specify at least one of 18 grounds for eviction.⁶
- Tenants can challenge an eviction notice through the Housing and Property Chamber of the First Tier Tribunal.

One of the reasons for increasing security of tenure for private tenants was to give them more confidence in challenging poor conditions or poor practice without fear of losing their tenancy.

However, while guides are available for [landlords](#) and [tenants](#) on PRTs, it is unclear to what extent there is awareness of this new tenancy and the rights and obligations that come with it. Subsequently, the Nationwide Foundation commissioned a [three-year research project](#) in summer 2019 where part of the remit is to evaluate the impact the PRT has had on the sector.

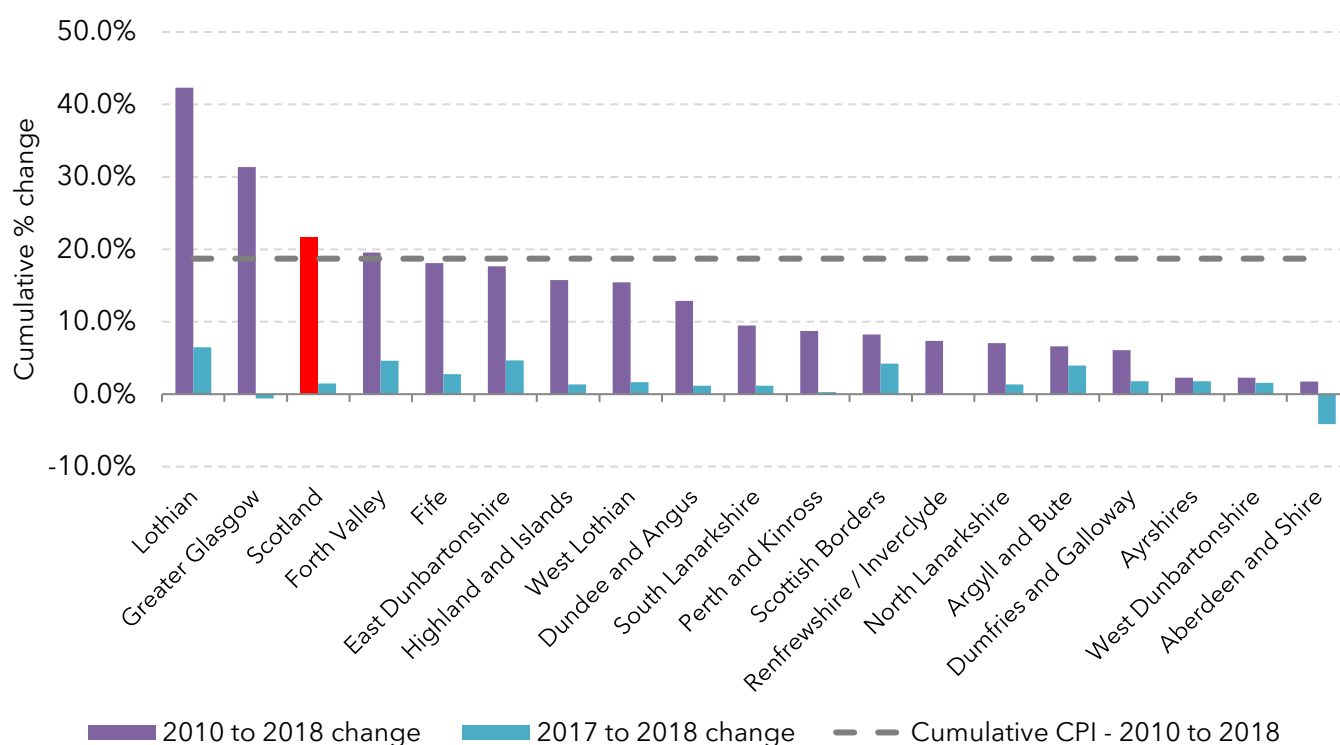
Affordability:

Within the PRS, average rents have been increasing steadily in Scotland. For instance, in 2010 a two-bedroom property was on average £536 per month, yet by 2018 this had increased by 21.60% to £652 per month⁷. Graph 3 highlights that rents across all of the broad rental market areas (BRMAs) for two-bedroom properties have increased between 2010-2018. However, there was a decrease between 2017 and 2018 in Aberdeen and Shire and Greater Glasgow.

⁶ <https://www.gov.scot/policies/private-renting/private-tenancy-reform/>

⁷ <https://www.gov.scot/publications/private-sector-rent-statistics-2010-2018/>

Graph 3: Cumulative % Change in Average (mean) Rents from 2010 to 2018 (years to end-Sept), by Broad Rental Market Area - 2-Bedroom Properties



Source: Scottish Government: <https://www.gov.scot/publications/private-sector-rent-statistics-2010-2018/>

In Graph 3, three areas that have had private rents for two-bedroom properties rise above the UK Consumer Price Index (CPI) are Lothian, Great Glasgow and Forth Valley. However, while this is only for two-bedroom properties, Lothian and Greater Glasgow have also had rent costs rise above the rate of inflation across all property sizes between 2010 and 2018⁸.

These 'hot spots' where rents are becoming increasingly unaffordable led to the Scottish Government introducing legislation with the aim of stabilising rents. The [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) limits landlords to one rent increase within a 12 month period and includes a discretionary power for local authorities to make an application to Ministers to approve a Rent Pressure Zone (RPZ) to limit the amount that rent can be increased by if there is evidence that rents are increasingly too rapidly in a specific area.

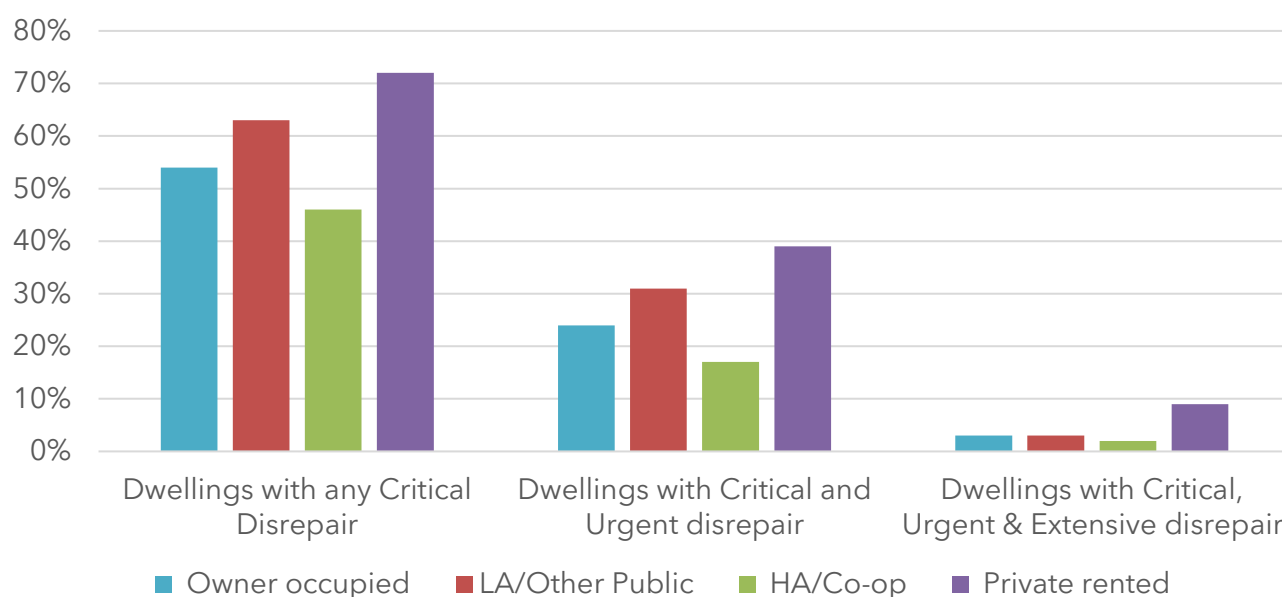
If an RPZ was granted, rent increases would be limited to CPI plus a percentage to be agreed by Ministers. To date, no local authority has been able to make use of rent capping powers due to the strict criteria and lack of data available to support an application.

⁸ <https://www.gov.scot/publications/private-sector-rent-statistics-2010-2018/>

Repairs and maintenance:

The 2018 Scottish House Condition survey shows that disrepair has largely been on the rise in the PRS⁹. Additionally, Graph 4 indicates that the PRS has the highest rate of disrepair across all categories.

Graph 4: Disrepair to Critical Elements, Urgent and Extensive Disrepair by Tenure Group 2018



Data: Scottish House Condition Survey 2018: <https://www.gov.scot/publications/scottish-house-condition-survey-2018-key-findings/>

All private rented properties must meet the [repairing standard](#) which sets out minimum physical and safety standards. This includes provisions for detecting and warning of fires and carbon monoxide, gas and electrical safety checks and the structure and exterior being in a reasonable state of repair. The property must also meet the [tolerable standard](#). This is the basic minimum standard for habitation for any type of home. Holiday homes and short term lets such as those rented through Airbnb are not subject to the same standards.

If a tenant thinks their home is not up to standard and the landlord is not carrying out repairs, they can take their case to the Housing and Property Chamber of the Third Tier Tribunal (the Tribunal). The [Housing \(Scotland\) Act 2014](#) (the 2014 Act) introduced Third Party Representation which allows a local authority to take a case to the Tribunal if a tenant is unable or unwilling to take the case to the Tribunal.

⁹ <https://www.gov.scot/publications/scottish-house-condition-survey-2018-key-findings/>

The 2014 Act also gave local authorities the power to pay a share of the cost for a common repair if one or more of the owners cannot be located or are unable to pay. The local authority can then recuperate the repair and administrative costs incurred in their arrangement, via repayment charges to the owner.

Enhanced Enforcement Areas (EEAs) were also introduced by the 2014 Act with [Regulations introduced in 2015](#). The regulations allow local authorities to apply to Scottish Ministers for additional discretionary powers in order to target enforcement action at an area which is characterised by poor quality PRS accommodation. The 2014 Act stipulates that there must be evidence that the area in questions suffers from the following:

- A concentration or overprovision of properties let by private landlords in a geographic area; and
- Properties are characterised as being of a poor environmental standard; and
- Overcrowding; and
- A prevalence of anti-social behaviour.

The cases in which these powers are to be used are the “*most exceptional cases of poor standards in the PRS*”¹⁰. See Figure 1 for an example of these powers being used.

Figure 1: Case study – Glasgow

In spring 2019, Glasgow City Council issued a [compulsory purchase order \(CPO\)](#) to force the sale of a tenement block in Govanhill and transfer it to Govanhill Housing Association.

The property was in an [Enhanced Enforcement Area \(EEA\)](#) meaning that the council had enhanced powers in relation to the private accommodation offered in the area. Using these powers, the Licensing and Regulatory Committee approved the removal of some of the private landlords from the landlord register. Glasgow City Council had previously issued actions to try and get the landlords to improve the conditions of the properties, however, this was unsuccessful¹¹.

Subsequently, the CPO [was approved](#), with the purchase funded through the Scottish Government’s [Affordable Housing Supply Programme \(AHSP\)](#) and the stock was transferred to Govanhill Housing Association to be repaired and let at social rent.

More recently, the Working Group on Maintenance of Tenement Scheme Property made recommendations on common repairs for tenements in their [report](#). These included the establishment of Building Reserve Funds (BRF) at national or regional level to contribute to building maintenance, along with mandatory inspections every five years with the report from the inspection made public.

¹⁰ <https://www.gov.scot/publications/enhanced-enforcement-areas-scheme-scotland-regulations-2015-local-authority-guidance/>

¹¹ <https://www.glasgow.gov.uk/councillorsandcommittees/viewSelectedDocument.asp?c=P62AFQDN0GDNZ3DN81>

Formal disputes:

On 1 December 2016, [The First-tier Tribunal for Scotland \(Housing and Property Chamber\)](#) replaced the Private Rented Housing Panel and Home Owner Housing Panel which dealt primarily with disputes relating to repair. On 1 December 2017 the jurisdiction of the Tribunal was expanded to include PRS eviction cases and Private Residential Tenancies¹². The Tribunal's jurisdiction was further expanded on 31 January 2018 to include cases around registration of letting agents and their compliance with the Letting Agent Code of Practice. The latter two expansions related to Parts 3 and 4 of the Housing (Scotland) Act 2014¹³. Details of the jurisdiction of the Housing and Property Chamber can be found in Appendix C of the following [report](#), however, most types of legal applications about PRS tenancies are handled by the Housing and Property Chamber.

Challenges

Support with housing costs:

As noted previously, private rents have been rising in Scotland. Within the PRS, private tenants can get support to cover the costs of their housing via local housing allowance (LHA) – or the housing element of universal credit. The amount received varies depending on the size of home the household requires and the cost of renting in the local area referred to as the Broad Rental Market Area (BRMA). LHA rates were previously set at the 50th percentile of the BRMA and uprated every year meaning that roughly half of the rented properties in each area should be affordable to a person claiming benefits. However, welfare reform measures reduced the amount to the 30th percentile of the local market and froze rates for four years from April 2016.

The freeze on LHA rates has meant that as rents have increased, less homes in the PRS are available for rent at the LHA rate and many people are having to top up their rent payments from other sources of income. The freeze on LHA is due to end in April 2020, and it was announced on 13 January 2020 that LHA rates would be increased in line with the UK Consumer Price Index – on average an increase of £10 per month¹⁴. However, given the disparity between LHA rates and actual rents, this does not go far enough in addressing the imbalance.

A recent [report](#) from the Scottish Government highlights the gap in affordability created by the LHA freeze. When comparing the LHA rate and the 30th percentile, households living in three-bedroom properties in Lothian have a shortfall of approximately £89.69 per week, rising to £114.31 for four-bedroom properties. In this comparison, the only BRMA with no monetary shortfall across all property sizes is Aberdeen and the Shire. Furthermore, families are increasingly renting via the PRS and, due to

¹² <https://www.housingandpropertychamber.scot/who-we-are>

¹³ <http://www.scotland-judiciary.org.uk/Upload/Documents/ScottishTribunalsAnnualReport2018.pdf>

¹⁴ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-01-13/HCWS29>

difficulties securing accommodation below the 30th percentile for this group, the report indicates that it is possible that for families the shortfalls between LHA rate and actual rent is larger¹⁵.

Short-term lets:

Short-term lets (STLs) have been increasing in Scotland due to the rise of online platforms such as Airbnb. While other online platforms operate in Scotland, the volume of data that is available on Airbnb lets means that this is the organisation most commonly reported on. According to this Scottish Government [report](#) in May 2019 there were 31,884 active listings on Airbnb compared with approximately 10,500 in April 2016.

Across Scotland 69 percent of listings on Airbnb were for entire homes/apartments. The report also highlights that while STLs bring benefits to local economies, they constrict the housing that private renters can access and decrease affordability. They can also have a negative impact on life quality and well-being for neighbouring residents. For instance, where properties were rented in full and had common stairs subject to constant “visitor use” with residents reported stress caused by noise, buzzers, knocking and littering.

Properties that are let out through platforms such as Airbnb are not subject to the same repair and safety standards as private lets and ‘hosts’ do not have to join a register or go through the same checks as private landlords. Some STL owners can also avoid paying Council Tax by switching to non-domestic rates meaning that they are not contributing to services in the local area. There are also a variety of tax incentives that can be made available if the STLs meet certain conditions e.g. the Small Business Bonus Scheme (SBBS)¹⁶.

Subsequently the housing sector needs increased regulation for STLs in recognition of their growing prevalence in the Scottish housing market. It was suggested in an analysis of the responses received in the Scottish Government’s consultation around STLs that this could take the form of the regulations applied to longer-term rentals or Houses in Multiple Occupancy (HMO)¹⁷ e.g. the property must be ‘fit and proper’ to let out¹⁸.

Looking to the future

The Scottish Government has announced that using section 17 of the [Planning \(Scotland\) Act 2019](#) local authorities are going to be given new powers through which they can regulate STLs where it is determined this is in the interest of the local communities¹⁹. Properties in which it is one room which is being let out or the owner is letting others stay whilst they are on holiday will not be affected. However, there has been no information as to how these regulations will be enforced.

¹⁵ <https://www.gov.scot/publications/housing-social-security-second-follow-up-paper-welfare-reform/pages/6/>

¹⁶ <https://www.gov.scot/publications/research-impact-short-term-lets-communities-scotland/>

¹⁷ <https://www.gov.scot/publications/short-term-lets-consultation-regulatory-framework-scotland-analysis-consultation-responses/>

¹⁸ <https://www.gov.scot/policies/private-renting/regulation/#houses-in-multiple-occupation-licensing>

¹⁹ <https://www.gov.scot/news/regulating-short-term-lets/>

Regarding affordability, the draft proposal for the [Fair Rents \(Scotland\) Bill](#) was lodged by the Scottish Labour Party on 14 May 2019, with the final proposal lodged 14 November 2019. The proposal has been devised to:

“protect private sector tenants by introducing measures to limit rent increases and to increase the availability of information about rent levels”²⁰

The right to introduce a Member’s Bill was secured, and so it is expected that this will go before MSPs by summer 2020.

Additionally, in 2018, the Scottish Government published the [Energy Efficient Scotland: route map](#). It planned a series of milestones for the landlords in the PRS to achieve to make their properties more energy efficient. Initially, as part of this, from 1 April 2020 if there were any changes in a PRS tenancy, the Energy Performance Certificate (EPC) would need to be at least EPC E in order to be let. However, in January 2020 the Scottish Government confirmed it was seeking to lay the final regulations before parliament by April to extend this deadline to 1 October 2020²¹. This does not affect the rest of the timetable laid out in the route map, and by 31 March 2022 this requirement is planned to extend to all PRS properties. From 1 April 2022, if there is a change in the PRS tenancy they will need to be at least EPC D, and by 31 March 2025 this will extend to all PRS properties.²² It is expected that these changes will reduce fuel poverty, improve the conditions of properties and tenants’ health and wellbeing, lower the demand for energy, and decrease greenhouse gas emissions.

While these are important developments and have the potential to alleviate some of the challenges identified by STLs and unaffordability in the PRS, there is more that the sector needs to do to address issues in the PRS. For instance, the PRS is a large area with many disparate parts, but on the whole tenants and landlords need more accessible information around their rights and obligations. Even though there have been developments with changes in regulations and the jurisdiction of the Tribunal, these measures are only effective and can be acted upon to the benefit of the sector if they are known about and understood.

²⁰ https://www.parliament.scot/S5MembersBills/Final_summary_with_commentary.pdf

²¹ <https://scottishlandlords.com/news-and-campaigns/news/the-scottish-government-has-published-minimum-epc-draft-regulations-guidance-and-consultation/>

²² <https://www.gov.scot/publications/energy-efficiency-private-rented-property-scotland-regulations-2019-guidance/>