

## Briefing for the Public Petitions Committee

**Petition Number:** [PE01743](#)

**Main Petitioner:** John Foster (on behalf of Govan Community Council)

**Subject:** Amend the Law to protect the rights of pre-1989 Scottish Secure Tenants

Calls on the Parliament to urge the Scottish Government to amend the Rent (Scotland) Act 1984 to prevent disproportionate rent increases being set for Scottish Secure Tenants.

### Background

Tenancies granted by housing associations were originally treated as regulated tenancies under the [Rent \(Scotland\) Act 1984](#) (the 1984 Act). The Housing (Scotland) Act 1988 (the 1988 Act) converted such tenancies into assured tenancies. With effect from 30 September 2002, all registered tenancies with social landlords, except for short assured tenancies, were automatically converted into Scottish secure tenancies by section 11 of the Housing (Scotland) Act 2001.

The determination of fair rent is governed by section 48 of the 1984 Act. This outlines how fair rent is calculated by those setting them.

The [Housing \(Scotland\) Act 1988](#) amended this act. Section 41 of this Act provided the Secretary of State with a power to repeal sections 33 and 58 of the 1984 Act and to reduce phasing progressively. These sections deal with the phasing of rent increases and the phasing of progression to registered rent.

The 1988 Act also clarified how a fair rent would be calculated. Section 48 (subsection 2) states:

For the purposes of determination, it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

Rents are deemed fair through comparison with rents from comparable properties in the area. However, this does not differentiate between private and social housing rents which can vary considerably.

For example, social housing rents are lower than those in the private sector. Glasgow Housing Association (GHA), in 2017/2018, were charging £73.40 per week for a 2 bedroom property. In the private sector, properties of this size are rented out for over double this amount, dependent on area. An average would be between £150-£180 per week.

### **Scottish Parliamentary Action**

There have been questions in the Parliament regarding the process used to set rents by the First Tier Tribunal. The most recent of these was on 02/08/18.

[Question S5W-17962: Pauline McNeill, Glasgow, Scottish Labour, Date Lodged: 02/08/2018](#)

To ask the Scottish Government whether it has examined the consistency of methodology used by the First Tier Tribunal for Scotland to determine its rulings on rent increases.

#### **Answered by Kevin Stewart (22/08/2018):**

The Scottish Government has not examined the consistency of methodology used by the First Tier Tribunal (FTT) for Scotland to determine its rulings on rent increases as it is an independent judicial body and it would not be appropriate to do so.

There have been no further questions raised in Parliament with respect to this subject.

### **The First Tier Tribunal**

The Housing and Property Chamber is the [First Tier Tribunal for Scotland](#). It makes the decisions with regard to fair rents for properties. Examples of recent decisions made on the determination of rents can be found on their website. They use the current wording of the legislation to make decisions and compare rents to properties in the local area, regardless of tenure.

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