



A RESPONSE FROM THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS

INTEREST (SCOTLAND) BILL

APRIL 2008

1.0 Introduction

- 1.1. As the representative body for the principle builders of new affordable housing for rent in Scotland, the Scottish Federation of Housing associations (SFHA) welcomes the opportunity to comment upon the Scottish Government's consultation on the draft Interest (Scotland) Bill, which was published in January 2008.
- 1.2. Housing associations in Scotland own and manage 40% of the country's affordable social housing stock. This represents 261,477 homes across Scotland.
- 1.3. The housing association sector has an asset value base of £7 billion in Scotland. This is concentrated in some of the poorest communities in our country.
- 1.4. This response has been developed following consultation with all of our members across Scotland.

2.0 General Comment

- 2.1. In general, the Scottish Federation of Housing Associations understands the motivating factors behind the Government's intention to provide consistency and clarity between claims arising from debt and claims arising from damages.
- 2.2. We are concerned that the tenants of our members are statistically among the poorest in Scotland, by any measure of poverty and disadvantage.
- 2.3. Of particular interest to the SFHA are the Scottish Government's own statistics in relation to the Scottish Index of Multiple Deprivation (SIMD). The 15% most deprived SIMD areas contain 36% (257,041) of Scotland's income deprived population, and 33% (134,347) of Scotland's employment deprived working age population. Without exception, every single one of these areas contains an extremely high proportion of tenants of affordable housing, and these are the people most likely to have multiple debts, and most likely to be adversely affected by these proposals. The SFHA cannot support any proposals which would exacerbate such financial exclusion.
- 2.4. The SFHA is pleased to note that the draft Bill plans to exclude utility payments from the accrual of interest.
- 2.5. The SFHA is pleased to note that the draft Bill plans to exempt rent arrears from the accrual of interest. We would welcome further clarification as to whether this exemption extends to commercial rent arrears, when owed to housing associations.
- 2.6. SFHA members would welcome the opportunity to be able to recover statutory interest from commercial tenants, and we look forward to further details on how this can be achieved.
- 2.7. The SFHA would welcome further exemptions, namely to debt in relation to repairs attributable to tenants, and to debt in relation to property management (aka Factoring) fees.

2.8. SFHA gives a cautious welcome to the news that the Government is considering applying statutory interest to the late payment of wages. We can see the positive aspect of this in terms of it being a preventative measure against employers' exploitation of their employees, but we also have concerns about the potential impact on redundancies and the 'laying off' of employees.

3.0 Detailed Comment

The Consultation Response Paper asks a series of specific questions. Not all of the questions are relevant to the Scottish Federation of Housing Associations, so we have restricted our responses to those in which we and our members have a particular interest.

3.1. Do you agree that utility debts should be exempt from the statutory interest regime?

Yes. The SFHA believes that applying statutory interest to utility debts would be of only minimal benefit to utility companies, but would exacerbate the financial exclusion of the most deprived members of our society, and put their health and wellbeing in jeopardy.

3.2. Do you agree that rent arrears due to public sector landlords should be exempt from the statutory interest regime?

Yes. The SFHA believes that those who find themselves in rent arrears are typically also carrying the burden of multiple-indebtedness. To compound this, areas with a high level of social housing are typically the poorest areas of Scotland, leaving the debtors in a very poor position to address their indebtedness. The SFHA firmly believes that to include rent arrears due to housing associations and local authorities in the statutory interest regime would put tenancies at risk and increase the chances of homelessness. This would be unacceptable to the SFHA, and would go against the principles of the Scottish Government's 2012 homelessness target.

The SFHA would welcome further clarification as to whether this exemption extends to commercial rent arrears, when owed to housing associations. Many of our members lease property as offices, workshops and shop premises, and we can see the potential for the lessees relying on the 'rent arrears exemption'. In the SFHA's view, the same arguments in respect of financial exclusion and poverty do not apply, and we would like the legislation to properly reflect the ability of a housing association to claim statutory interest on commercial rents.

3.3. Are there other categories of debt which should be excluded from the statutory interest regime?

Yes. The SFHA would welcome further exclusions, namely to debt in relation to repairs attributable to tenants, and to debt in relation to property management (aka Factoring) fees. Again, the SFHA believes that those who find themselves owing their landlord monies for rechargeable repair debts and factoring fees are typically also carrying the burden of multiple-indebtedness, with the same levels of financial exclusion as outlined in section 2.3.

4.0 Conclusion

- 4.1. Generally, we welcome the proposals contained within the draft Interest (Scotland) Bill. It acknowledges that there is a need for consistency and clarity between claims arising from debt and claims arising from damages.
- 4.2. There are some areas of the proposals where the SFHA has concerns, or would like to see more detailed proposals:
- We welcome the plans to exclude utility debts and public sector rent arrears from the statutory interest regime, but would like to see these exemptions rolled out to include sundry debts owed to housing associations by their residents. We specifically refer to tenant rechargeable repair debts, and monies outstanding in relation to property management (aka Factoring) accounts.
 - We would like any amended proposals to include clarification as to the status of commercial rents owed to housing associations, as we see there being the potential for confusion and legal speculation in respect of the phrase 'rent arrears due to public landlords' should this clarification not be made. We do not believe that commercial rents should be exempt from statutory interest.

This concludes the SFHA's comments on the Interest (Scotland) Bill.

SFHA

April 2008