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Scotland in the Forefront of Property Law Reforms in the UK: Potential Implications for the Scottish People

Goodtime Okara *School of Society and Culture*

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SCOTLAND IN THE FOREFRONT OF PROPERTY LAW REFORMS IN THE UK: POTENTIAL IMPLICATIONS FOR THE SCOTTISH PEOPLE

Goodtime Okara

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AIMS TODAY

Trusts and Succession (Scotland) Act 2024 and Housing (Scotland) Bill 2024

- To understand the influence of the trust provision on beneficiaries' interests in Scotland.
- To reveal the implication of the rent control provision on Scotland's rental market.
- To understand the impact of the 'ask and act' approach on homelessness in Scotland.



TRUSTEES AND DISCLOSURE

- Duty to disclose to a beneficiary or potential beneficiary information requested by them regarding a trust unless the trustees consider it 'inappropriate' – S 30 Trustee and Succession Act.

Implications

- Prevent trustees from requesting a reasonable fee for the disclosure of information – SS 29 & 30 Trustee and Succession Act.
- Not automatic, limited to the discretion of the trustees.

RENT AND RENT CONTROL AREAS

- To mitigate rent increases in Scotland – RCA (S 1 Housing Bill 2024).
- Local Authority (LA) would assess the amount of **rent due** & the **rent increases** under 'relevant tenancies' and make a **report** to the Parliament.
- Consultation with the relevant parties (Reps of Landlord - LLs, Tenants, and LAs).
- Area tagged as a RCA for 5 years and rent pegged - S 9 Housing Bill 2024.
- Exempt properties - Landlords who only own one property and Full-time students' accommodation.
- LAs empowered to request registered LLs to state how much they are renting their property, how much the previous tenants were paying, and how many rooms are in the property – s 15 Housing Bill.
- Failure to disclose such information within 28 days of request attracts a **£1k fine**.

RCA IMPLICATIONS

- **Disincentivise** LLs and Property Developers and could scale up the housing crisis in Scotland (Ireland's rent control system).
- Proposed Bill/ Regulation should include 'newly built' properties as part of the 'exempt properties'.
- £1k fine is an **insufficient** sanction.
- S 15 Information disclosure does not cover the **habitability and fitness** of the property – Damp and mould.
- Shift from *caveat tenant* (tenant beware) to *caveat landlord* (landlord beware).

'ASK AND ACT' APPROACH TO HOMELESSNESS

- Ask and Act duty on relevant authorities – Councils, Police Scotland, health service providers, social landlords (SLL), and Scottish Ministers – (s 41 Housing Bill).
- High pre-action requirements for eviction of social tenants (STs) affected by domestic abuse. (SLL **supports the needs** of the ST if the SLL **considers reasonably** that the rent arrears were “fully” or “partly” because of domestic abuse) ss 43-44.
- SLL must provide a **domestic abuse** policy to the ST before commencing the action – s 45.

Implications

- Change the narrative from crisis intervention to prevention.
- Pre-action requirements are **not automatic**. Triggered based on the **ST's disclosure level** to the SLL.



CONCLUSION

- The Scottish government's property law reforms are heroic and laudable.
- The trust provisions will better the interests of the Scottish beneficiaries while the proposed 'ask and act' approach could assist in addressing homelessness in Scotland.
- However, the proposed RCA provisions may not be useful to Scotland's rental market.
- Hence, there is a need for more tinkering of the Housing Bill through an amendment or a regulation.