

HOUSING (AMENDMENT) (SCOTLAND) ACT 2018

EXPLANATORY NOTES

BACKGROUND AND OVERVIEW

Classification of registered social landlords

3. The Office for National Statistics (ONS) is responsible for determining how individual sectors within the economy should be classified in the UK's national accounts. On 28 September 2016,¹ the ONS informed the Scottish Government that it had reviewed the classification of registered social landlords (RSLs) in Scotland and determined that they should be classified as public bodies for the purposes of the national accounts. (RSLs had previously been classified as private bodies.)
4. RSLs are, broadly put, not-for-profit landlords of social housing, are registered under Part 2 of the Housing (Scotland) Act 2010 ("the 2010 Act") and are regulated by the Scottish Housing Regulator (established by Part 1 of the 2010 Act – "the Regulator"). The Regulator also has functions that are exercisable in relation to "social landlords" – defined by section 165 of the 2010 Act as registered social landlords, local authority landlords and local authorities providing housing services (which includes providing accommodation).
5. The ONS explained that its decision was based on an analysis of the powers that the Regulator has under the 2010 Act in relation to RSLs. In terms of criteria that the ONS applies under the 2010 European System of Accounts, the ONS determined that the Regulator is classified as a public body. Consequently, the controls that the Regulator exercises under the 2010 Act are a form of public sector control, which requires RSLs to be classified to the public sector in the national accounts.
6. The particular controls that the ONS stated amounted to public sector control of RSLs include—
 - the Regulator's power to appoint a manager to an RSL,
 - the Regulator's power to appoint, suspend and remove officers of an RSL,
 - the exercise of control over the disposal of land and housing assets by an RSL (through a requirement to obtain the Regulator's consent to the disposal),
 - the exercise of control over certain changes to the constitution of an RSL (requiring the Regulator's consent to certain changes), and
 - the exercise of control over restructuring, voluntary winding-up and dissolution of an RSL (again, mainly by requiring the Regulator's consent to be obtained).

¹ See the [Statistical classification of registered providers of social housing in Scotland, Wales and Northern Ireland](#).

*These notes relate to the Housing (Amendment) (Scotland)
Act 2018 (asp 13) which received Royal Assent on 6 July 2018*

7. The Policy Memorandum sets out in more detail the consequences of the classification of RSLs as public sector bodies and why the Scottish Government would prefer them to be classified back to the private sector.²
8. The Act amends the 2010 Act to ensure that public sector influence over RSLs is compatible with RSLs being classified by the ONS as private sector bodies in the United Kingdom national accounts.
9. The ONS also noted that further public sector controls might exist through the relationships between some RSLs and local authorities. In particular, some local authorities may have the ability to exercise a degree of control over individual RSLs by having power to appoint officers of the RSL and through having voting rights.
10. The Act addresses this by providing a regulation-making power which would allow the Scottish Ministers to address this.