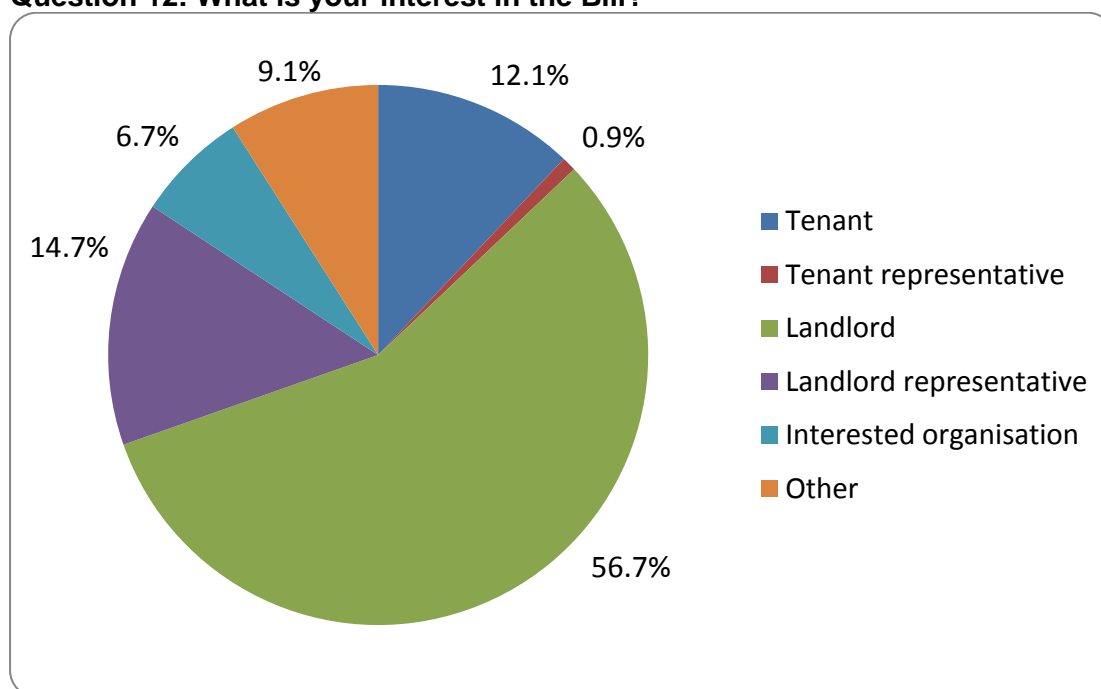


## Private Housing (Tenancies) (Scotland) Bill - Summary of Responses to the Online Survey

1. This paper summaries the responses to the online survey on the [Private Housing \(Tenancies\) \(Scotland\) Bill](#).
2. The Committee's call for views on the Private Housing (Tenancies) (Scotland) Bill opened on 9 October 2015 and closed 19 November 2015. Those wishing to respond to the call for views were also given the option of responding to an online survey.
3. The survey sought broad views on the Bill's main provisions. It contained fourteen questions, most of which were closed questions. Respondents were given the chance to make open ended comments relating to the proposed grounds for eviction and any other general comments on the Bill's provisions.
4. A total of 497 survey responses were completed. The survey asked what interest the respondents had in the Bill. The majority (71%) of respondents classed themselves as either landlords/ landlords' representatives. Sixty respondents, 13% of all respondents, classed themselves as either tenants/tenants' representatives.

### Question 12: What is your interest in the Bill?



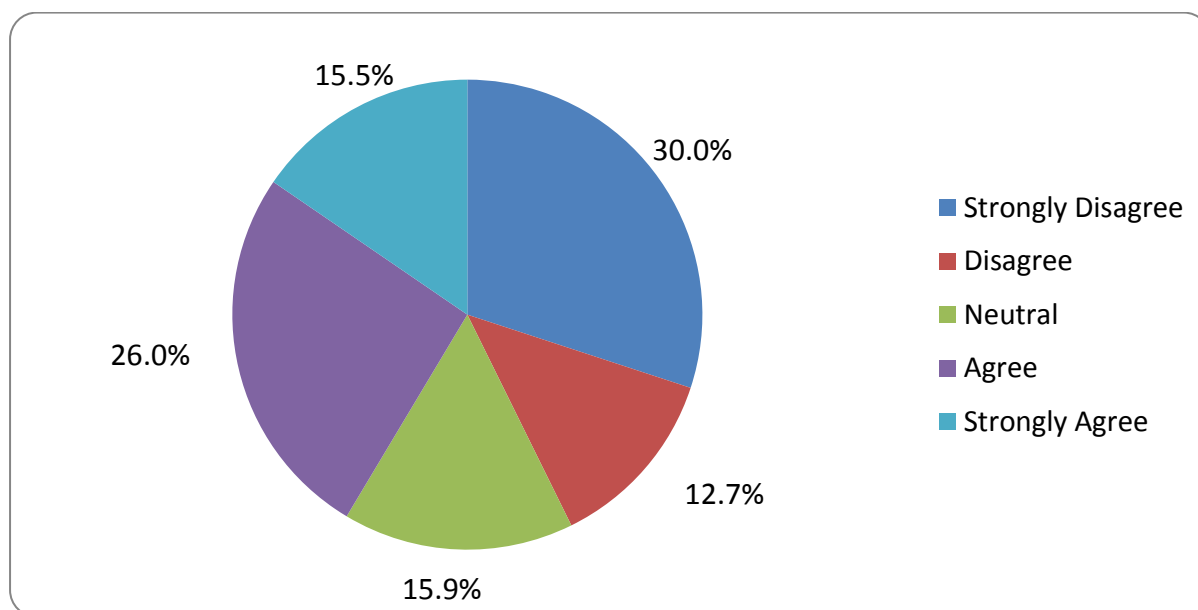
## Survey Responses

5. The following section provides an overview of the responses. The charts relate to the questions as answered by all respondents. Where appropriate, the text refers to responses broken down by tenant/tenants' representatives.

### *General*

6. Overall, respondents were evenly split when asked if they agreed with the Bill's proposal to remove the short assured tenancy and assured tenancy and replace them with a single private residential tenancy – 45.5% of respondents either disagreed or disagreed strongly with the proposal while 41.5% of respondents either agreed or agreed strongly with the proposal.
7. Tenants/tenants Representatives were more likely to agree to this question; 75% of tenants/tenant's representatives were in agreement compared to 32.4% of landlords/landlords' representatives.

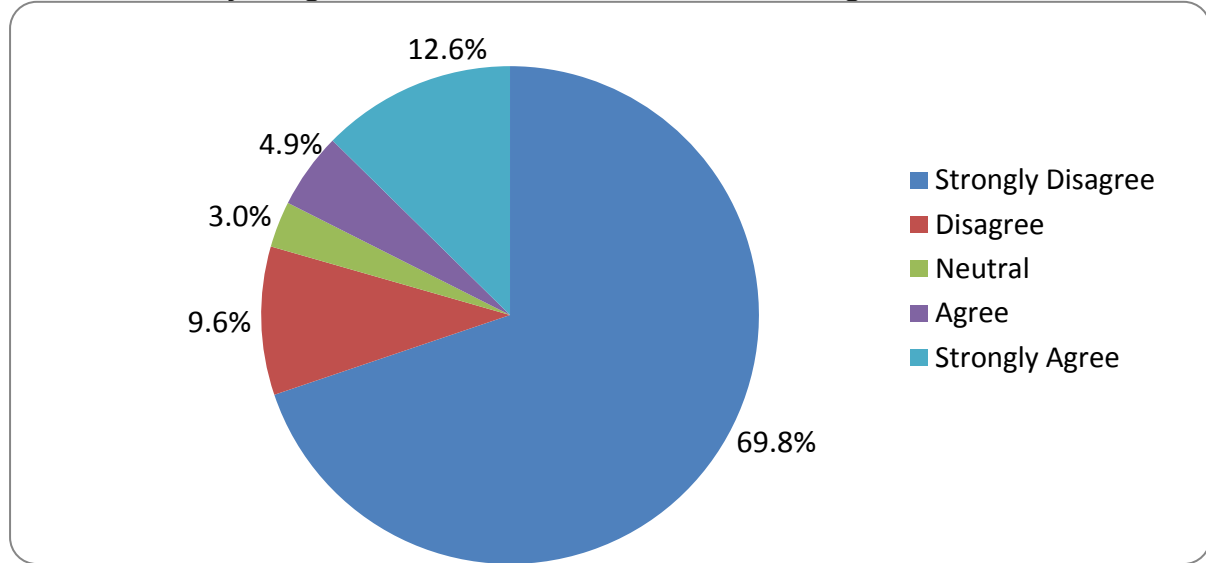
**Question 1: Do you agree with the Bill's proposal to remove the short assured tenancy and assured tenancy, as outlined in the Housing (Scotland) Act 1988, and replace them with a single private residential tenancy?**



### *The 'No-Fault Ground'*

8. The Bill proposes the removal of the "no-fault" ground for possession (i.e. removing the ability of a landlord to ask a tenant to leave a property because their tenancy agreement has come to an end). Respondents were asked if they agreed with this. Overall, the majority of respondents were not supportive of the no-fault ground being removed. Eighty percent of respondents disagreed with the proposals (70% "strongly" disagreed).
9. Once again there was a clear difference of opinion between landlords and tenants and their representatives. Ninety five percent of landlords/landlord representatives either strongly disagreed/disagreed. On the other hand, 71.6% of tenants/tenant representatives agreed that the 'no-fault ground' should be removed.

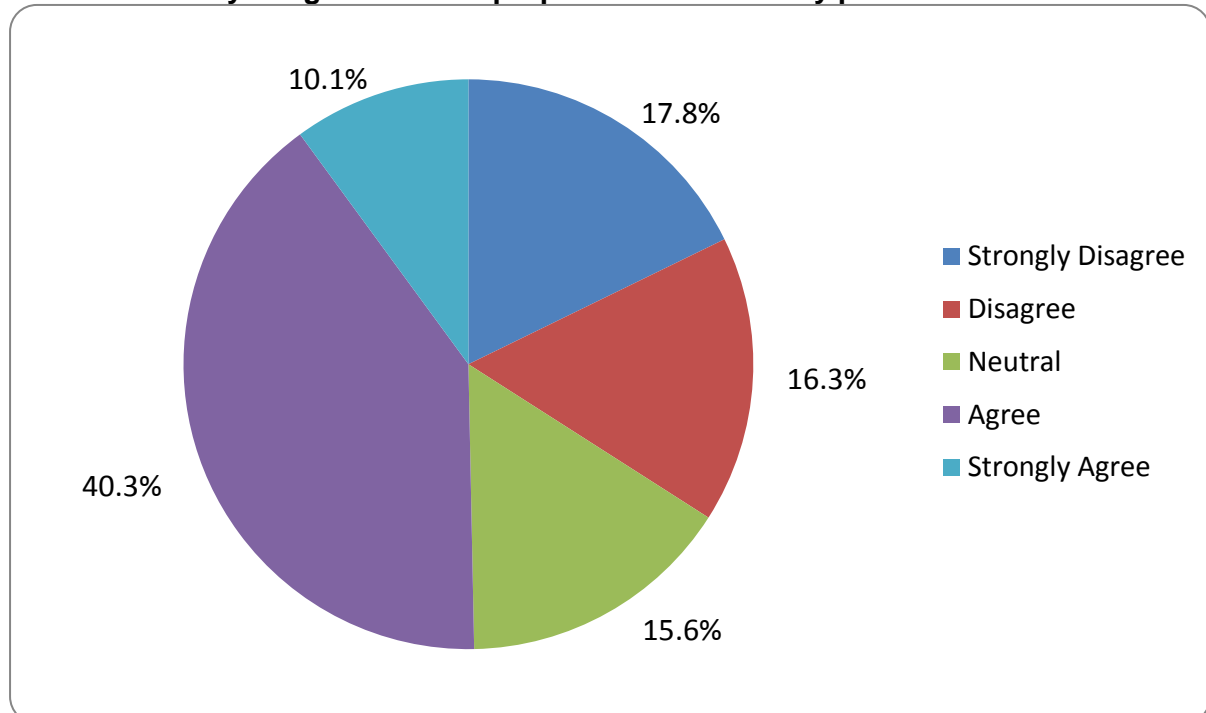
**Question 2: Do you agree with the removal of the "no fault" ground?**



**Initial Tenancy Period**

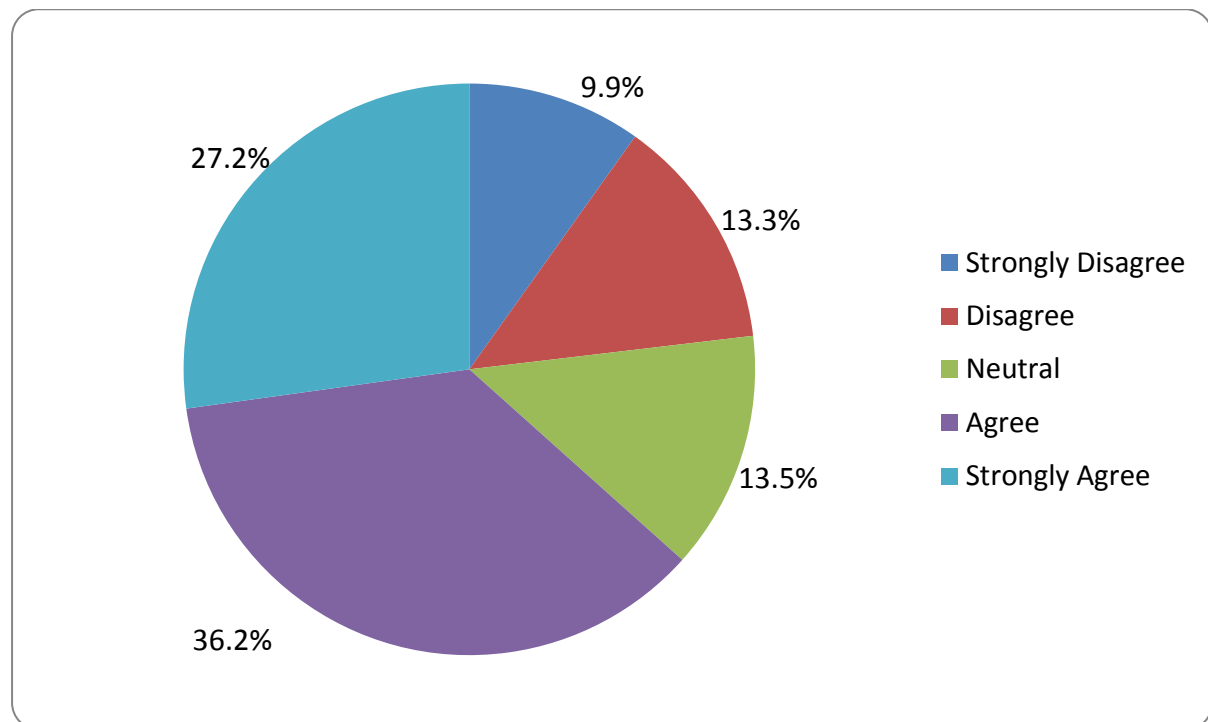
10. Unless otherwise agreed between the tenant and the landlord the Bill proposes that there will be an initial tenancy period of six months. The survey asked respondents if they agreed with this. Half of respondents (50.4%) strongly agreed/agreed with this while 34% disagreed. Just under three quarters (74%) of tenants/tenants' representatives agreed/strongly agreed compared to 40% of landlords/landlords' representatives.

**Question 3: Do you agree with the proposed initial tenancy period of six months?**



11. Unless a landlord agreed, a tenant would not be able to serve a notice to end the tenancy during the initial period. The majority of respondents (63.4%) strongly agreed/agreed with this proposal while just under a quarter of respondents (23.1%) strongly disagreed/ disagreed with this proposal.

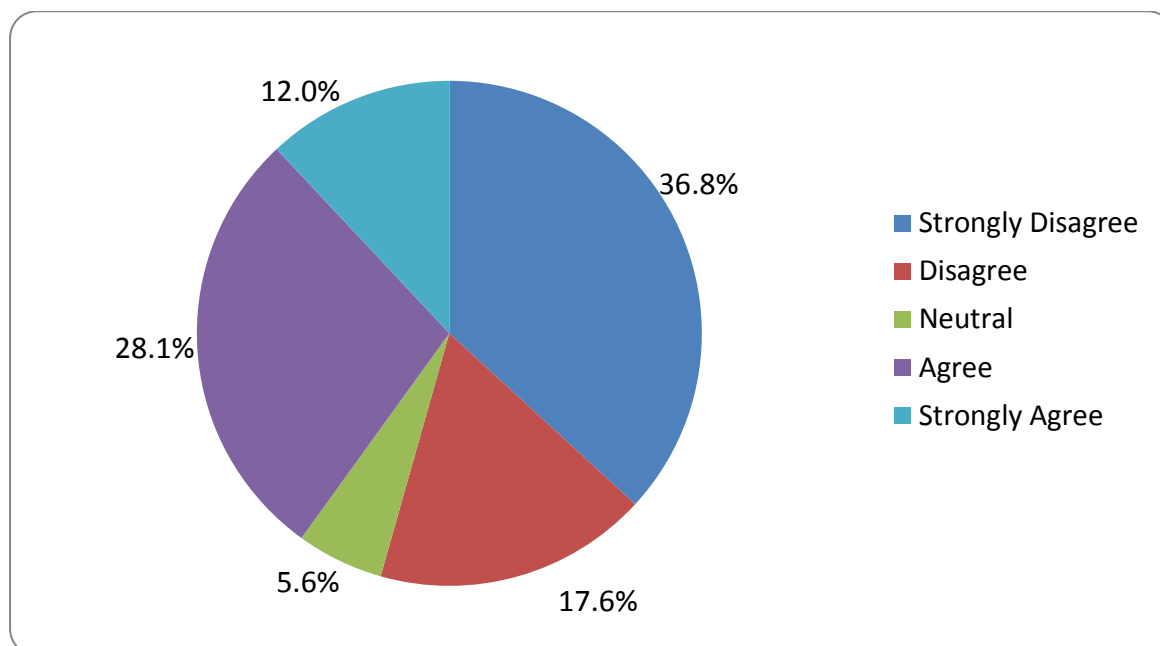
**Question 4: Do you agree that a tenant would be unable to serve notice at any time during their initial tenancy period?**



12. During the initial tenancy period the landlord would be unable to regain possession of the property unless one of 5 specified circumstances arose (rent arrears, anti-social behaviour, breach of tenancy agreement, relevant criminal conviction or the lender intends to sell).

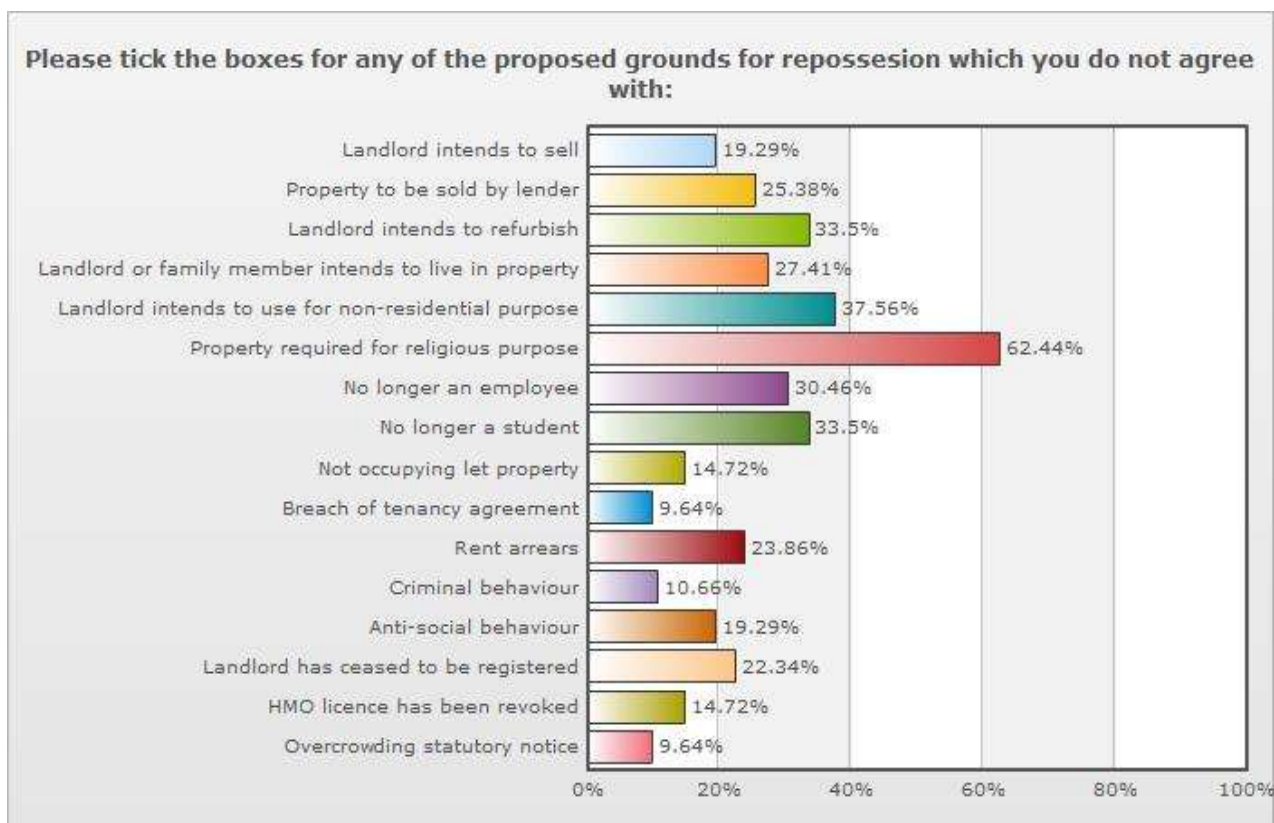
13. Just over half of respondents, 54.4%, strongly disagreed or disagreed with the proposal while 40% strongly agreed or agreed with the proposal. More tenants/tenants' representatives were supportive of this (71.7%) compared to landlords/landlords' representatives (32.4%).

**Question 5: Do you agree that a landlord should be unable to gain possession of their property unless one of the 5 specified circumstances listed above arose?**



### Grounds for Possession

14. The Bill proposes 16 grounds for eviction. Respondents were provided a list of the proposed grounds and asked to tick any grounds they did *not* agree with. One hundred ninety seven respondents responded to the question, ticking one or more of the grounds; 109 responses were made by landlords/landlord representatives while 56 tenants/tenant representatives made comments.
15. As the chart below shows, the most commonly grounds disagreed with were “property required for religious purposes” (62.4%), “landlord intends to use for non-residential purposes” (37.6%), “no longer a student” (33.5%) and “landlord intends to refurbish” (33.5%).
16. There were some differences in opinion between tenants and landlords. In general, more tenants/tenant’s representatives were more likely to disagree with the proposed grounds. For example, 2.7% of the landlords responding to this question disagreed with the eviction ground “landlord intends to sell.” However, almost 40% (39.3%) of tenants/tenants representatives disagreed with this ground.
17. The grounds “rent arrears” and “antisocial behaviour” showed a higher level of disagreement amongst landlords/landlord representative groups – on rent arrears 28.44% of landlords/landlord groups disagreed compared to 19.6% of tenants/tenants representatives. For the ‘antisocial behaviour’ ground 26.6% of landlords/landlord representatives disagreed with this compared to 8.9% of tenants/tenants representatives.
18. The ground “criminal behaviour” was the ground where there was least difference of opinion.



19. The above question was followed by an open ended question asking for any general views on the proposed grounds for eviction. Two hundred and twenty two respondents provided comments to this question. The following provides an overview of the key issues raised. It does not include an exhaustive list of every issue raised by every respondent. It simply highlights key issues raised by multiple respondents and issues that may be of particular interest to Committee members. Nineteen respondents from landlords/landlord representatives provided the same, or substantially similar, responses to the question. This is replicated in Annex 1.

### **Recurring themes:**

#### *No fault ground*

Some comments from landlords/landlord representatives raised their objections to the removal of the no-fault ground. It was suggested by some that this was inherently unfair to the landlord who owned the property. Other comments highlighted a negative impact on supply. As one respondent commented, "...There is no reason why the landlord should not be able to repossess the property for any reason, given appropriate notice. After all it is his property!. The new legislation will kill the private rented sector".

#### *Student Accommodation*

The removal of the no-fault ground was thought, particularly by landlord/landlord representatives, to negatively impact on the supply of student accommodation. Respondents highlighted the general pattern of student letting. Students start to look for accommodation in February, and they can only do this if landlord knows it will be

available in September which they can only do if they when the current lease will end. One respondent argued, "...the proposed changes risk destroying any forward planning ability and damaging a perfectly functioning student market that has worked very well for all the parties involved in it."

#### *Additional Ground – Landlord Needs the Property for an Employee*

Many comments were made suggesting the need for an additional ground where the landlord requires the property for an employee. This was highlighted as being particularly important for rural based business such as farms. It was argued by one respondent that without this ground the economic development of rural businesses is restricted.

"In the rural context it is common for rural workers to be provided with a house in order to carry out the duties of their employment. When commencing a new enterprise or expanding an existing activity additional staff may be required and it is not unusual to have to terminate the tenancy of a let property in order to house the new staff member. This is currently possible using the "no fault" ground."

#### *Rent Arrears*

It was argued by some respondents that the wording of the ground does not allow a landlord to evict a tenant who is persistently late in paying the rent. An amendment was suggested to allow it to be used if the tenant pays the rent more than 7 days late for three or more consecutive months. Concerns were also raised about the length of time it may take for a landlord to get their property back from a tenant in rent arrears. It was suggested that landlords should be allowed to serve a notice to leave as soon as the second consecutive month of rent is due.

On the other hand a few comments were made suggesting that the ground was "too harsh"

#### *Abandonment*

Some comments were made suggesting that use of abandonment ground in the initial tenancy period should be allowed.

#### *Evidence Requirements / Definition of Grounds*

Some respondents argued that how the grounds operate in practice will be critical and so the legislation, regulations and guidance need to be clear about the requirements and evidence need to support an eviction. In particular, some comments were made suggesting that the proposed grounds of landlord intends to sell, intends to refurbish, intends family member to live in the property needed strong evidence requirements. One respondent was concerned that these grounds might become a replacement for the "no fault" ground.

Other comments were made about the definition of the proposed grounds. In particular, comments were made suggesting the refurbishment ground is too wide and needs qualified, for example, is it essential or whether or not it can be done while the tenant remains in the property.

#### *Mandatory/Discretionary Balance*

Some comments were made about the mandatory or discretionary nature of the proposed grounds for eviction.

A few tenants/tenants representatives suggested that many of the grounds should only apply with discretion. For example, breach of tenancy agreement must not automatically lead to eviction for “minor” breaches. One respondent suggested, for example, it would be “nonsense if it for something like having a cat”.

#### *Grounds Reflecting Landlord’s “Failure”*

The Bill proposes that a landlord can serve a notice to leave because they have ceased to be registered as a private landlord or they have had their HMO licence revoked. A further ground relates to the lender wishes to sell the house because the landlord has broken a loan condition. There were some comments to the effect that this “rewards” failure by landlords with vacant possession. It was also suggested that these grounds could be open to abuse.

#### *General ‘Other’ Ground*

A few comments were made arguing that there will always be some other circumstances that are not covered by the proposed grounds and that an additional ground that deals with all “other reasonable circumstances” should be added.

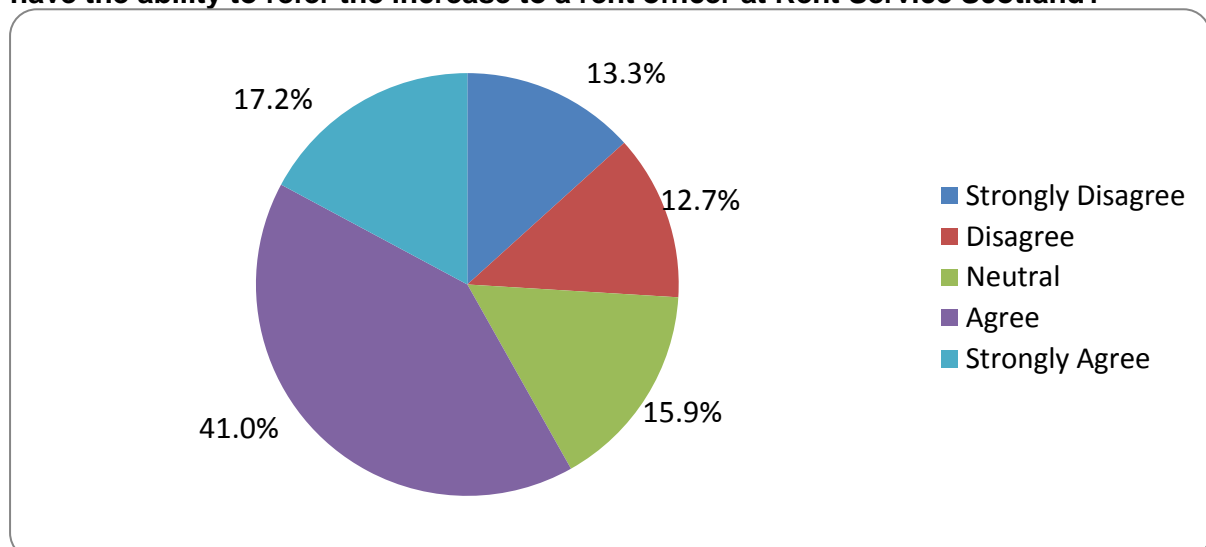
### **Rent Levels**

#### *Rent Increases*

20. The Bill proposes that rent increases can take place no more than once in any 12-month period with at least 12 weeks’ notice. Respondents were asked if they agreed with this. The majority, 74.2% strongly agreed/agreed, 12.9% strongly disagreed/disagreed while 12.9% were neutral.

21. If a tenant thinks that any proposed rent increase would go beyond that charged for similar properties in their area, the Bill proposes that they should have the ability to refer the increase to a rent officer at Rent Service Scotland. Respondents were asked if they agreed with this – 58.2% did while 26% did not. Levels of agreement were higher amongst tenant/tenant representatives compared to landlords/landlord representatives: 96% compared to 50% respectively.

**Question 9: Do you agree that tenants, if they consider that any proposed rent increase would go beyond that charged for similar properties in their area, should have the ability to refer the increase to a rent officer at Rent Service Scotland?**

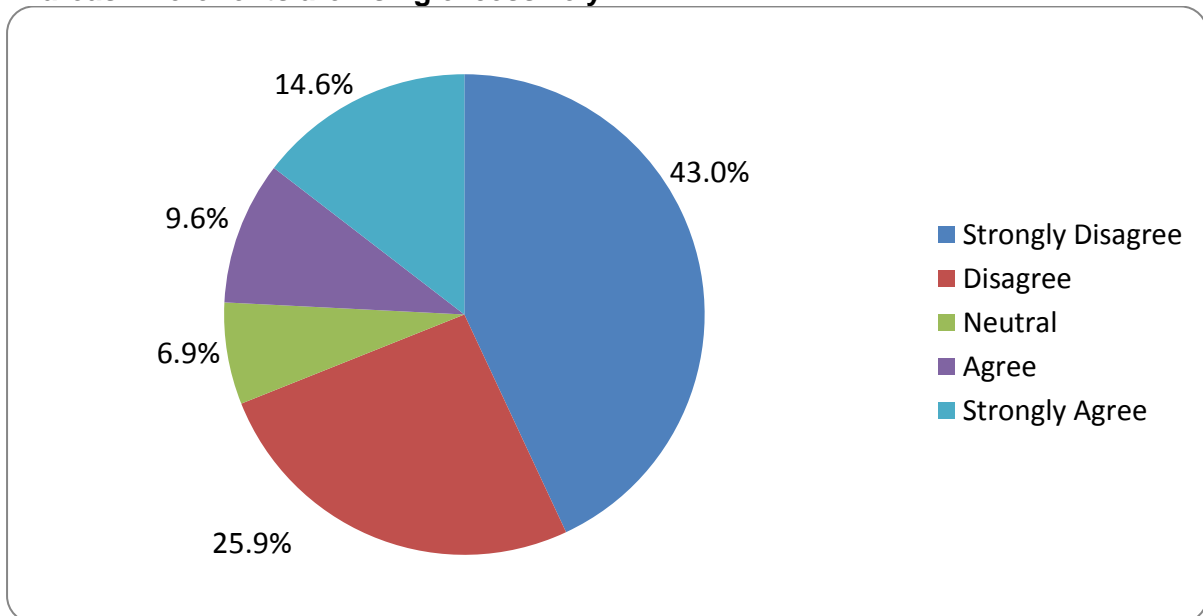




22. The Bill proposes that, following an application by a local authority, Scottish Ministers would have the power to cap levels of rent increase for sitting tenants in areas where rents were rising excessively.

23. Over two thirds of respondents, 69%, strongly disagreed/disagreed with this proposal while just under a quarter 24.2% of respondents strongly agreed/agreed with it. More tenants agreed with the proposal - 77% of tenants /tenants' representatives compared to 9% of landlords/landlords representatives.

**Question 10: Do you agree that, following an application by a local authority, Scottish Ministers should have the power to cap the levels of rent increases for sitting tenants in areas where rents are rising excessively?**



### Location of Respondents

24. Respondents were asked which postcode area they lived, or were based in. Most respondents lived or were based in the Edinburgh area (30%), the Aberdeen area (12%) or the Glasgow area (11%).

### Other Comments

25. Finally, respondents were asked if they had any comments they would like to make on any of the proposals contained within the Bill. A total of 218 comments were made: 157 from landlords, 28 from tenants/tenants' representatives and 31 from other interested organisation/other respondents.

26. Landlords/Landlord representatives made comments suggesting that the Bill's proposals penalised all landlords rather than just the "rogue" landlords. A respondent said, "...it is grossly unfair that reputable landlords will be restricted because of a minority of disreputable greedy landlords."

27. Many of the comments made repeated points made in the open question regarding views on the proposed eviction grounds covered above. In particular:

- **Removal of the no fault ground:** Again many comments were made suggesting that the current system worked well and that its removal would impact on housing supply. A fewer number of comments welcomed the removal of the no-fault ground. One respondent suggested it would “begin to take steps towards a fairer relationship between landlords and tenants”.

- **Impact on student accommodation:** concerns about not being able to let on a fixed term were raised. The differential way that purpose built student accommodation and university provided accommodation was also questioned. One respondents said it was:

“...not clear how lease or nomination agreements held by universities (where the PBSA is privately-owned) will be dealt with. If a university leases 100 beds from a 200 bed scheme, and sub-leases, to students (thus 100 beds being university-provided), you could end up having students living in the same block with different rights. If the other 100 beds are nominated by the university, does the lease come from the university or the private provider?”

It was suggested that,

“...student lets from an educational establishment should be included in the same category as students renting from the private sector (including private PBSA providers). Alternatively, exclude all student lets from being a private tenancy. Student accommodation is a market in its own right.”

- **Rent Controls**

Many landlords/landlord representatives argued that the government should not interfere with the market. If a landlord was charging above market rents then their property would remain empty. Comment was made that proposing caps on rent increases will only remove landlords from the sector and that this was already happening. It was argued that lack of supply was an underlying reason for rent increases. A respondent argued:

“simply you have to increase the supply within the housing market. This is to give more people the chance of finding a suitable property to rent rather than currently, where as soon as quality property is listed we are inundated with enquiries. There is simply not enough property within Glasgow to cope with demand. Build more or allow investors to build more to help with the issue”

Other responses from tenants/tenants’ representatives argued that rents are already too expensive in many parts of the country. One respondent suggested that “rents should be set against an affordability index. There should be a hardship defence against eviction so if being evicted would cause you a high level of hardship you can appeal to prevent it. Any cap on rent increases should also apply between tenancies, not just during a tenancy”.

- ***Antisocial Behaviour:*** Some landlords/landlord representatives argued that it takes the court system too long to deal with antisocial behaviour cases. One landlord was concerned that, without any training, landlords are required to gather evidence on antisocial behaviour.

- ***Current problems:*** a few responses from tenants/tenants' representative groups highlighted specific problems they have experienced with their properties, for example not having tenancy deposits returned. It was also suggested that repairs should be done within a timescale and the fit and proper person test should be applied to all landlords.

- ***Implementation/Enforcement***

It was also suggested that the new tribunal system should be properly resourced to deal with the cases redirected from the Sheriff Court. Another respondent argued that the success of the Bill hinged on enforcement and that Scottish Government existing regulation on the private rented sector is “woefully enforced”.

**Kate Berry**

**SPICe**

**November 2015**