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Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon George Younger MP
Secretary of State for Scotland
New St Andrew's House
St James Centre
EDINBURGH
EH1 3SX

21 March 1984

Dear George

SUPPLY SIDE MEASURES: HOUSING
HOUSING AND BUILDING CONTROL BILL
TENANTS' RIGHTS ETC (SCOTLAND) AMENDMENT BILL

Attached

Thank you for your letter of 12 March. You will now have seen a copy of Ian Gow's letter to me of 19 March on the same subject.

I am sorry that you cannot agree in principle to amend the Scottish rules affecting previous purchasers to bring them into line with the proposed arrangements for England. It remains the case that a Scottish second time purchaser will be better off than his English counterpart unless there has been clawback on his first purchase. However I accept that the legislative timetable does not make it practicable to introduce such an amendment to the Tenants' Rights Etc (Scotland) Amendment Bill. But I think you should look at this again with a view to introducing an appropriate clause in the next suitable piece of Scottish housing legislation.

On the proposed amendment to the rules affecting second time purchases by purchasers of defective dwellings, for the general reasons referred to above, I believe that Scottish purchasers in such a position will be better off than their English counterparts.

They will be able to defer asking the local authority to exercise the buy back option until the clawback period has expired. On the other hand I understand that the number of second time purchasers affected is likely to be rather less than 100 and on de minimis grounds I do not wish to oppose this.

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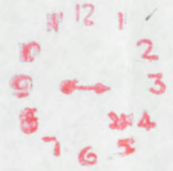
I am copying this letter to the Chairman and other members of H Committee, to Sir Robert Armstrong, to First Parliamentary Counsel and to the Legal Secretary, Lord Advocate's Department.

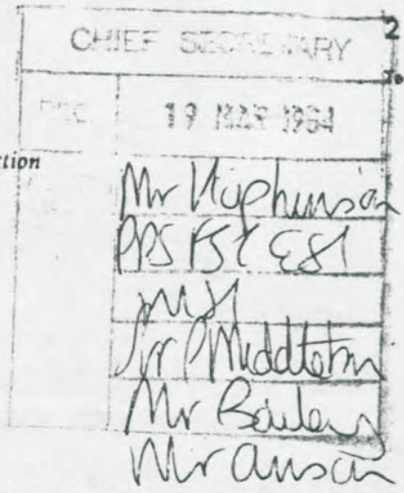
PETER REES

22 MAR 1984



Department of the Environment
2 Marsham Street London SW1P 3EB
Telephone 01-212 7601

Minister for Housing and Construction



Mr Lovell.
Mr Watson.
Mr Perfect
Mrs Conn
Mr Gordon.

19 March 1984

Mr FK Jones.
Mrs Law
Mr Shedden
Mr Lord.

HOUSING AND BUILDING CONTROL BILL

Since our recent discussion about the handling of the 3 defeats at Committee stage Irwin Bellwin and I have had talks with Lords Selkirk, Coleraine and Molson about Clause 1, charitable freeholds

We have been able to demonstrate that university bodies have unique safeguards under the Leasehold Reform Act 1967. Not only can they impose tough restrictive covenants safeguarding their future development rights when a freehold is enfranchised; in addition they can ask the Secretary of State for Education and Science to re-acquire such enfranchised freeholds if at any time they want them for development purposes. This is an effective answer to the charge that Clause 1, by allowing tenants of non-charitable housing associations in Cambridge the right to buy and subsequently to enfranchise their freeholds, will prejudice the long term rights of university bodies.

However it is also argued that if any tenants enfranchise their freeholds on the original valuation basis in the 1967 Act the freeholders will be unduly disadvantaged because that basis is regarded as confiscatory. I propose therefore that, if it is tabled by one of these back bench supporters, the Government should accept an amendment to the Bill which

a. reverses the defeat at Committee; and

b. allows the higher valuation basis, inserted into 1967 Act in 1974 for more expensive properties, to apply in any case where enfranchisement arises as a result of Clause 1 of the Bill.

In making this proposal I am conscious of the need not to make any public pronouncement which could affect the conduct of the case on the Leasehold Reform Act now before the European Commission on Human Rights. We would justify our acquiescence in this proposal on the grounds that freeholders have been caught unawares by the extended coverage given to the 1967 Act by Clause 1 and the fact that the Bill overrides any covenants preventing the granting of enfranchiseable

sub-leases to individual tenants.

Present indications are that at least 2 of the 3 Peers mentioned may be prepared to go along with this compromise and we are hoping to let them have a draft of the amendment tomorrow. As you know Report stage is on Thursday of this week, 22 March. I should therefore be grateful to have H clearance for Government support for this proposal no later than close of play on Wednesday, 21 March.

I am copying this letter to all members of H, to Sir Robert Armstrong and First Parliamentary Counsel.

IAN GOW

The Rt Hon Viscount Whitelaw CH MC

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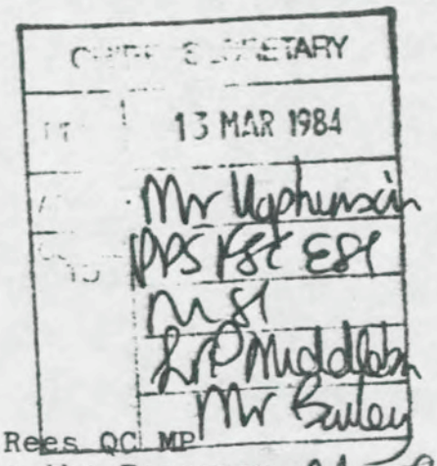

NEW ST.ANDREWS HOUSE
ST. JAMES CENTRE
EDINBURGH EH1 3SX

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The Rt Hon Peter Rees QC MP
Chief Secretary to the Treasury
Treasury Chambers
Parliament Square
LONDON
SW1P 3EB

Mr Anson.
Mr Pestell
Mr Watson
Mr Lord.

12 March 1984

Dear Peter,

SUPPLY SIDE MEASURES: HOUSING
HOUSING AND BUILDING CONTROL BILL
TENANTS' RIGHTS ETC (SCOTLAND) AMENDMENT BILL

Thank you for copying to me your letter of 29 February to Ian Gow, in which you ask me to reconsider amending the Tenants' Rights Amendment Bill to bring the previous purchaser rules for Scotland into line with what is now proposed for England and Wales.

I fear that you have perhaps not fully understood the differences in the Scottish position, or the extent of the changes which would be required if we were now to adopt the English approach. The Scottish approach, which emerged from the usual process of inter-Departmental consultation and Parliamentary considerations, has always been substantially different. We have nothing like the English "previous purchaser" rules in our 1980 Act. Our own rules place no bar on a tenant who has bought previously from buying a second time at discount. Since, however, tenants may only count periods of "continuous occupation" of public sector housing in building up entitlement, and 'continuous occupation' is broken by a break of twelve months or more, in practice a tenant who has bought and sold his first house and wishes to purchase his second would have to build up his right to buy entitlement from the beginning of his second tenancy. After 2 years he would again be entitled to discount at 32%; but this reflects the fact that the market value of the house is reduced by virtue of its sitting tenant.

I am surprised that you feel that there would be public expenditure benefit if we were now to bring the Scottish position into line with that of England and Wales. Given the difference between our two systems it is difficult to make direct comparisons, but in some cases, eg where discount was not available on the first purchase because of the cost floor, Scottish second purchasers will be significantly less well off than the English, while in others the Scots will be somewhat better off. Overall the public expenditure implications of the two approaches are likely to be broadly similar.

That apart, I feel that there are strong arguments in favour of not changing the Scottish system. Under our system, we have not experienced the problems which I understand have arisen under the English approach, and which have given rise to Ian's suggestion for further amendments. Even if I believed the change was desirable, I would be extremely reluctant to propose the very substantial amendments to our 1980 legislation which would be required if we were now to adopt the English approach, particularly since our Tenants' Rights Amendment Bill is now at a late stage and we have no other Government amendments in prospect for the House of Lords.

I believe, in short, that a strong case can be made for the Scottish system, and I am not aware of any pressure to change it. I would venture to suggest indeed that our system interferes less with the free play of market forces than the English system, and also acts to discourage tenants who sell from returning to the public sector, since they will be unable to repurchase for two years.

However, as I indicated in my earlier letter of 14 February, there is one case where I think tenants who sell and return to the public sector should be entitled to repurchase immediately, and this concerns tenants whose defective dwellings have been repurchased by their councils under the proposed new defective dwelling legislation. I have indicated that I would wish to amend the Scottish rules in order that such tenants in Scotland might be in no worse position than their counterparts in England and Wales. Because of the timetable, it would not be possible to make such amendments in the Tenants' Rights Bill and provision would need to be made instead in the Defective Housing Bill when it is brought forward. I hope therefore that you, Willie Whitelaw and Ian Gow can agree to this course of action, so that my officials can prepare the necessary drafting instructions.

I am copying this letter to the Chairman and other members of H Committee, to Sir Robert Armstrong, to First Parliamentary Counsel and to the Legal Secretary, Lord Advocate's Department.

Yours ever,

George.