1. Cunninghame Housing Association Ltd was formed and Registered as a Housing Association in October 1984 and we operate within the geographical areas of North and East Ayrshire.

2. At present the Association owns and manages approximately 2200 rented properties with a further 300 rented properties either on-site or in its Development Programme.

3. A recipient of the Chartered Institute of Housing’s Outstanding Achievement in Housing in Scotland Award (2007), and the current Scottish Business in the Community Small Business of the Year Award winner, the Association welcomes the opportunity to provide comment on the Housing (Scotland) Bill.

4. The Association would offer the following comments:

Overview of the Bill
5. The Association is in agreement with the policy objectives of the Bill and its aim to play its part in delivering on the Scottish Government’s National Outcomes.

6. In terms of the previous consultation, we are delighted that the undernoted items have now been dropped from the Bill. These are:
   - No requirement for existing Registered Social Landlords to register.
   - No fee charging by the Scottish Housing Regulator for services (at this time).
   - Profit distributing bodies will not be allowed to register as a Registered Social Landlord (Private Companies).
   - No provision in the Bill to streamline the consent procedures for changing Registered Social Landlords rules.

7. We will now move on to comment on each part of the Bill:

Part One – Scottish Housing Regulator
8. Similar to its counterpart in England, the Tenant Services Authority, it is proposed that the SHR’s core purpose will be to put “current and future tenants, homeless people and other service users at the heart of regulation by giving the SHR the statutory objective of safeguarding and prioritising the interests of these groups.”

9. The Association welcomes this “championing role” and looks forward to the coming consultation and the statement, yet to be published, about how it intends to discharge these proposed engagement functions. In this
respect, clear examples of when the Regulator would consider it appropriate to involve these groups would be most welcome for inclusion in the published statement or Code.

10. We also welcome the stated purpose of streamlining and reducing the burden of regulation which will in some instances reduce bureaucracy in the sector.

Charging for Regulation
11. We are concerned that this section within the Bill still states “the Regulator is entitled to charge a fee in respect of performing any function in relation to a social landlord; and the social landlord is obliged to pay that fee.”

12. Whilst it is acknowledged that, in terms of powers to charge fees for any SHR function, this has been merely restated (as Scottish Office Ministers have this power at present) it is implied in this part of the Bill that at sometime in the future a charging scheme to be approved by Ministers may be introduced, similar to that operated in England. We also note that before submitting a proposed charging scheme to Ministers for approval, the SHR must consult with tenants, social landlords and their representatives. Our view remains that charging for the SHR service should not in the future be considered and we think that this part of the Bill should be deleted in its entirety.

Part Two – Registered Social Landlords
13. The Association welcomes the decision by the Scottish Government to drop the requirement for existing RSLs to Re-Register within 24 months of the implementation of the new Regulatory Registration Criteria and its new Register after the Enactment of the Bill.

14. We also note at this time that the detail on what types of body are to be eligible for registration are somewhat unclear and that Ministers will have the power, through an order, to specify which types of body are to be eligible for registration – the “Legislative Registration Criteria”. We welcome that the sector will have an opportunity to comment further on this as part of the Bill, given consultation by Ministers before the Order is laid before Parliament.

Part Three – Performance of Social Landlords
15. As advocates of continuous improvement, we note and agree with the principal policy objective of this part of the Bill, to create a modernised and proportionate regime (we would use the terms framework) that assists and encourages landlords to improve their performance and the value that they deliver to their tenants, homeless people and other service users.
16. In our response to the previous consultation to the Scottish Government on 13th August 2009, we commented that “the balance in identifying value and national outcomes and areas for setting local outcomes would be one of the key aspects of the new Charter. Therefore, in terms of the specific outcomes to be achieved, this will require a lot of thought and must add value to service delivery, governance and accountability.

17. Whilst we welcome that the Charter is to be introduced and that it is to be the subject of separate wide consultation commencing in Autumn 2010, with a view to coming into effect in Autumn 2011. We would, on a cautionary note, highlight that when viewed within the context of the raft of other consultations, introduction of Codes and various new or amended guidance notes contained within the Bill, this timescale seems a bit ambitious, possibly some timescales should be rethought.

18. In terms of the consultation, we view this as being the key stage in the Charter process and we are mindful that great care must be taken in the area of performance standards and that the “one size does not fit all” approach does not always necessarily work in terms of National outcomes. We also note that the Regulator must issue a Code of Conduct setting out standards of financial management and governance for regulated social landlords and that the Code of Conduct may make different provision for different RSL landlords or for different areas or cases.

19. Whilst the policy memorandum accompanying the Bill makes reference to the Code of Conduct replacing the outdated Schedule 7, it is not particularly clear from the proposed wording in the Bill itself that this is specifically to be solely limited to the replacing of Schedule 7. Possibly further clarification or rewording in the Bill would be beneficial to all.

**Part Four – Inquiries and Information**

20. The Association welcomes this part of the Bill and notes that under Section 48 of the Bill that it is the intention to issue a Code of Practice within which it will set out examples of situations in which the SHR may make enquiries, arrange for surveys or audits or require information to be provided by RSLs. The Association also notes and welcomes that before issuing a Code of Practice, the Regulator must consult with Ministers, tenants or their representatives, RSLs or their representatives (i.e., SFHA), lenders and the Accounts Commission for Scotland.

**Part Five – Regulatory Intervention**

21. The Association would wholeheartedly agree that it is essential that the new SHR has at least as a minimum the same specific powers as the present agency to address any risks to RSL finances or governance. We would also agree with the stated intention that the existing provisions of
the 2001 Act would be repealed and replaced by a modernised set of powers that would enable the SHR to take “proportionate and targeted action to protect tenants interests and safeguard an RSLs social housing assets for future use.”

22. We would think it prudent and would support the formulation and issue of a Code of Practice on Regulatory Intentions setting out how the SHR would intend to exercise these powers. We would also express the view that the Code of Practice should, in particular, set out examples of the situations in which the SHR may make a regulatory intervention and that a consultation exercise prior to the issue of the Code of Practice will be undertaken.

Remedial Action
23. The Association agrees with this part of the Bill and particularly with the need for RSLs to publish any approved Performance Improvement Plan and sending a copy of it to any Registered Tenants’ Organisation associated with the social landlord.

24. With regards to the remaining sections of this part of the Bill, in terms of enforcement notices, specialist appointments and general powers to remove officers etc., etc., the Association agrees with the content.

25. However, we would suggest that bodies such as Employers in Voluntary Housing and the Scottish Federation of Housing Associations should be consulted on the finer detail on some of the above.

Part Six – Registered Social Landlords Accounts and Audit
26. Having taken advices from the Association’s External Financial Auditor, the Association would agree with the contents of this part of the Bill.

Part Seven – Registered Social Landlords: Insolvency
27. The Association would agree with the contents of this part of the Bill, which will allow the SHR to take quick and effective action to prevent an RSL becoming insolvent, and where an RSL is insolvent to take forward proposals to safeguard services to tenants and to safeguard social housing assets.

Part Eight – Registered Social Landlords: Organisational Change etc..
28. The Association would agree with the contents of this part of the Bill, and that the Regulatory requirements for organisational change that are in the 2001 Act should be followed in the Bill.

Part Nine – Disposal of Land or Assets by an RSL
29. The Association would agree with the contents of this part of the Bill, and that the existing requirements of the 2001 Act are not overly burdensome
and that RSLs continue to seek Regulatory consent for disposal of land and assets.

**Part Ten – Change of Landlord: Secure Tenants**

30. The Association would agree with the contents of this part of the Bill.

**Part Eleven – Reforming the Right to Buy**

31. Whilst the Association welcomes the reforms to the Right to Buy we would like to see further reductions made to the financial levels of RTB discount relevant at this time. We feel this reduction would help in its own way to preserve existing and in some instances future supply of social rented housing for future generations.

32. In addition, from our reading of the Bill, it is still not clear if transferring tenants who voluntarily move from a non-new supply house to another non-new supply house would retain their right to buy, possibly this should be made clear in the wording within the Bill and any resultant guidance.

33. We would also express the view that we are in agreement that the Right to Buy should end for new tenants entering the social rented sector or returning after a break as this could have, in our opinion, have a potentially significant impact on the number of homes sold in future through the Right to Buy.

34. We are, however, still of the opinion that where a tenant who was entitled to Right to Buy moved first to a new supply social house (over which they would not have any Right to Buy entitlement) and later moves to a second property that is not a new supply social house, then they should not have the Right to Buy over that second property. This we feel would provide further safeguards for RSLs and indeed lenders who have security over those properties.

**Reforming Pressured Area Designations**

35. We would agree with this part of the Bill, which would devolve the process for designating pressured areas to the local authority and increasing the designation period from 5 years to 10 years.

**Further Extension of RSL Suspension of RTB Reforms Requiring New or Amended Guidance**

36. We note that two proposed reforms require changes to guidance and, therefore, do not appear in the Bill. These two reforms are:

- Developing guidance for RSL applications to extend the 10 year suspension (RTB)
• Revising guidance on landlords continuous occupation discretionary powers.

Developing Guidance for RSL Applications to Extend the 10 Year Suspension (RTB)
37. We would agree for the need for such clear guidance which would be based on the current pressured area application process:

• Meeting housing need
• Safeguarding stock
• Financial impact on other policy priorities, such as meeting the Scottish Housing Quality Standard (SHQS) by 2015.

Revising Guidance on Landlords Continuous Occupation Discretionary Powers
38. We acknowledge that the continuous occupation rule effectively “resets the clock” on a tenants RTB qualifying period and discount entitlement, if there is a break of more than one day between ending one tenancy and taking another. We would advocate that in order to ensure consistency nationally that the guidance is revised to ensure that landlords have limited, but clear, discretionary powers to disregard breaks between tenancies where the breaks are outwith the tenants control.

Part Twelve – Registration of Private Landlords

40. In general we would agree with the proposals to introduce new provisions to assist Local Authorities in gathering information and taking enforcement action relating to private landlord registration.

Part Thirteen – Amendment of Housing (Scotland) Bill 2006
41. In general we would agree with the proposals on this part of the Bill.

Part Fourteen – Miscellaneous Amendments
42. The Association notes the proposed miscellaneous amendments and that there may come a Stage 2 of the Bill. We are in broad agreement with the main thrust of the possible amendments.

Term ‘Social Landlord’
43. In closing, we note that there was insufficient consensus from the feedback from the previous consultation on the Draft Bill on an alternative term for “social landlord”. We welcome the intention that the Scottish
Government will discuss the matter further with stakeholders and that if a consensus can be reached that it will bring forward amendments at Stage 2 of the Bill’s progress to introduce an alternative term.

Frank A. Sweeney
Chief Executive
Cunninghame Housing Association Ltd

March 2010