



What you need to know: Cost of Living (Protection of Tenants) (Scotland) Bill 2022

Background

In the [Programme for Government](#) (PfG) published on 6 September 2022, the Scottish Government announced its plans for **emergency legislation** covering the social and private rented sector to **freeze rents** and impose a **moratorium on evictions** until at least 31 March 2023.

The [Cost of Living \(Protection of Tenants\) \(Scotland\) Bill 2022](#) has now been introduced as part of the Scottish Government's response to the cost of living crisis.

This new briefing provides an overview of the **main provisions** of the emergency Bill.

About the Bill

The emergency measures introduced by the new Bill aim to:

- **protect both social and private rented tenants** from the worst impacts of the cost of living crisis by stabilising their housing costs via a temporary rent freeze;
- **reduce impacts** on the health and wellbeing of tenants caused by being evicted and/or being made homeless by giving them more time to find alternative accommodation; and
- **stop** landlord raising rents within tenancies, reduce unlawful evictions via a moratorium on evictions and increase the level of damages that may be awarded.

Key measures

The Bill will introduce a **temporary freeze on in-tenancy rent increases** and a **temporary moratorium on evictions** until at least 31 March 2023. Although eviction exceptions do apply including for anti social behaviour, domestic abuse and extreme arrears.

The measures are **time bound** but there will be an **option to extend** them for two further periods of six months, with Parliamentary approval, up to March 2024. In addition, the Bill contains provisions that **require the measures to be reviewed**, and reported on, every 3 months, and for the Scottish Government to **expire or suspend** any provisions that are no longer deemed necessary or proportionate.

Rent cap

The Bill will set a **maximum permitted rate of rent**

increase, or 'cap', in the majority of tenancies in both the private and social rented sectors, and for college and university halls of residence and Purpose Built Student Accommodation (PBSA). The cap will be set at **zero** and is expected to remain at that level until at least 31 March 2023. The Scottish Government will be able to **vary the cap**, if necessary, to respond to any changes in the wider economic circumstances post March 2023. It is possible that a differential cap may be applied to the social and private rented sectors from April 2023.

The cap will apply to any rent increase proposed **on or after 6th September 2022**. Where a rent increase notice was issued prior to 6 September 2022 in a private residential tenancy, the 0% cap will not apply and the proposed rent will be applied **after 12 weeks** unless the tenant has made an application to Rent Service Scotland to challenge it (under section 24 of the Private Housing (Tenancies) (Scotland) Act 2016).

For the period the measures are in force, landlords will not be able to increase rents for **existing tenancies**, but the measures do not restrict rent changes between tenancies.

The emergency measures **will not apply** to regulated tenancies and other tenancy types where rent increases are governed by contract terms.

Safeguards for private landlords

In recognition of the impact on private landlords, the legislation **includes safeguards** which allow landlords to apply to a Rent Officer to increase rent to partially cover an increase in the preceding six months of prescribed costs.

These **costs** include mortgage interest payments on the property they are letting, landlords' insurance or service charges paid for by the landlord but which the tenant is responsible for.

If evidenced, a rent officer may order that a landlord can increase rent by the lower of: 50% of the increase in these prescribed costs in the preceding six months, or, 3% of the existing rent level. If the decision is disputed there would be a **route of appeal** for landlords and tenants to the First Tier Tribunal.

Impact on the social rented sector

The majority of rents in the social sector are raised from 1 April each year, therefore, the Scottish Government **does not anticipate** that the cap will have an immediate impact on rents charged by local authorities or Registered Social Landlords.

The Scottish Government has said it will work with the sector to determine what will happen **from 1 April 2023** and will confirm further details in due course. There is nothing in the Bill to stop social landlords consulting with tenants about proposed rent changes from 1 April.

Moratorium on evictions

The moratorium on evictions will prevent enforcement action for individual evictions for a **maximum of six months** in the private and social rented sector, college and university halls of residence and PBSA, although there are exceptions.

Exceptions include cases of anti-social behaviour and criminality, to protect other tenants and the local community, cases of abandonment, to avoid empty properties and additional exemptions to support landlords who find themselves in financial hardship.

This also includes cases where there are **substantial rent arrears**, which would be expected to equal at least six months' rent.

Where an eviction order or decree was granted **before the legislation comes into force** or where the landlord raised eviction proceedings before the legislation comes into force and served an eviction notice before the announcement on 6th September 2022, the case will not be caught by the moratorium requirements.

Where a landlord is **prevented from enforcing an order for eviction** while the moratorium is in effect, proceedings can still be carried out but the enforcement of that order can only be delayed for a maximum period of 6 months.

Increased damages for unlawful eviction

The Bill also changes the way **civil damages** can be awarded for **unlawful eviction** and intends to make it easier for tenants to challenge unlawful eviction and receive appropriate damages. The changes also aim to **discourage landlords** from carrying out such evictions.

Damages for unlawful evictions will be increased to a maximum **of 36 months' worth of rent** but the Tribunal or Court will have discretion to award a lower amount if appropriate.

The Court and Tribunal will also have a **duty to inform**

relevant authorities such as the Police and local authority (the

Scottish Housing Regulator in social landlord cases) where an order has been made so that appropriate action can be taken.



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Reforms to rent adjudication

Scottish Ministers will be able to **temporarily reform the rent adjudication process** to support the transition out of the emergency measures. For example, this power could be used to amend the process to ensure that rent increases are modest when the rent cap is lifted.

Any regulations made under this power will be subject to **consultation** and will be subject to parliamentary scrutiny.

The CIH view

CIH Scotland recognises the policy intent behind the rent freeze and eviction protection. It is understandable that the Scottish Government wants to do what it can to protect tenants from cost-of-living increases. However, we are concerned that the policy will have significant unintended consequences which will undermine Government ambition for the housing sector as well as tenants' housing outcomes.

In the social rented sector, landlords reported the [highest level of rent arrears](#) since the introduction of the Scottish Social Housing Charter, currently just under £170 million.

For private landlords, rising levels of interest rates have led to many private rental properties being sold off and landlords leaving the market, reducing the supply of rented accommodation available.

The decision to introduce a rent freeze and eviction protection has the potential to exacerbate these trends and undermine social and private landlords' efforts to maintain and improve existing homes, provide services for tenants, and in the case of social landlords, fund the development of new affordable housing. These improvements, alongside our plans to decarbonise Scotland's rented sector, are predicated on stable rental income.

As Parliament considers, and likely passes, the legislation this week, the Scottish Government must also provide more clarity around what evidence and benchmarking will be required in the review/reporting process to ensure that these measures are temporary and are only in place for as long as they are necessary.