



What you need to know about the review of emergency cost of living legislation Updated 19 January

Update

This briefing was updated on 19 January to reflect the publication of regulations updating the emergency Cost of Living Act. The final decision differs from the recommendations set out in the review and is detailed on page 2.

Introduction

The [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) was passed as part of the Scottish Government's response to the cost of living crisis.

The emergency measures introduced include:

- A cap of zero percent on in-tenancy rent increases for private and social tenancies and student accommodation.
- Ability for Ministers to vary or remove the cap.
- Ability for private landlords to appeal for a rent increase above the cap in certain circumstances.
- Moratorium on evictions in the private and social sectors and student accommodation with some exceptions.
- Increased penalties for unlawful eviction.

You can read the full details of the legislation in the CIH member briefing, [What you need to know: Cost of Living \(Protection of Tenants\) \(Scotland\) Bill 2022](#).

The legislation will initially be in place until 31 March 2023 but could be extended for up to a further two six-month periods. Ministers are required to review the legislation every three months to inform the decision to continue or withdraw the measures.

The [first review](#) was published 12 January 2023. This followed an announcement on the social sector rent cap in December 2022.

Social sector rent cap

Following discussions with the sector, Patrick Harvie, Minister for zero carbon buildings, active travel and tenants' rights, published a statement on 21 December 2022 stating the Scottish Government's intention to **remove the social sector rent cap from March 2023**.

The statement outlines voluntary agreement from COSLA committing to an average local authority rent increase of no more than £5 per week, and SFHA reporting an average planned increase of 6.1 percent among their members.

You can read the [full statement here](#).

Emergency legislation review

The report reiterates the intention to remove the rent cap from the social rented sector. It also outlines consultation undertaken with representatives from across the housing sector, recommendations for rent capping in the PRS and student accommodation, and restrictions on evictions going forward.

Rent capping in the PRS should remain in place

Consultation with landlords and representative bodies raised a number of concerns including:

- Landlords leaving the sector
- Landlords increasing rents between tenancies when they may not have done so previously
- Discouraging investment in repairs and improvements
- Delays to planned new development

However, the report states that while the economic climate continues to have significant detrimental impact on tenants, the measures are necessary.

The 'prescribed property costs' that allow landlords to apply for a rent increase above the cap will also remain in place.

Rent capping for student accommodation should remain in place

The report states that evidence on the impact of the provisions in the student sector is limited.



Representative bodies suggest that the rent cap is unlikely to affect the vast majority of providers who agree rents in advance for the whole academic term, therefore avoiding in-tenancy increases.

However, it was pointed out that if supply in the PRS becomes restricted, demand for purpose-built student accommodation could increase further and be extremely difficult to meet.

Restrictions on evictions should remain in place across all tenures – the moratorium on evictions will retain existing exemptions where:

- The tenant has engaged in antisocial or criminal behaviour (all sectors)
- Tenant has abandoned the property (PRS and social sector)
- The property is being sold by the lender (PRS)
- Tenants is no longer an employee (PRS and social sector)
- The property is subject to demolition or requires substantial work and alternative accommodation is available (social sector)

It was recommended that three new grounds should be added where:

- Landlord intends to sell the property due to financial hardship (PRS)
- Landlord intends to live in the property due to financial hardship (PRS)
- Tenant has rent arrears of six months or more in the PRS or £2,250 or more in the social sector.

Representatives from the PRS and social sector have suggested that the measures could be encouraging non-payment of rent and discouraging those in arrears to work with their landlord on repayments putting tenancies at risk over the long term. Private landlords may also be more selective with prospective tenants, limiting access to more vulnerable households.

The Scottish Government states that it will keep the impact of emergency measures under review.

Final decision and new regulations

[Regulations](#) amending the Act were laid in Parliament on 19 January 2023. A [statement from Patrick Harvie](#), Minister for zero carbon buildings, active travel and tenants' rights confirmed the following.

- **Social sector rent caps provisions will be expired** from 26 February allowing rent changes from the end of March.

- **Purpose built student accommodation rent caps are to be suspended.**
- **PRS rent increases will be capped at three percent.**
- **Prescribed Property Costs** which allow private landlords to increase the rent above the cap in certain circumstances will be **increased to six percent.**
- **Eviction protections will remain in place.**
- **Increased penalties for unlawful eviction will remain in place.**

Reaction from CIH

We appreciate that the Scottish Government is striving to provide a balance between the needs of tenants in financial difficulty and landlords' ability to provide vital housing and services.

We welcome the decision to remove the rent cap from the social housing sector. Social landlords invest income in maintaining and improving existing homes, delivering new affordable homes and providing a range of services to support tenants. Steady rental income is vital to the sector.

The decision to allow limited rent increases in the PRS does suggest recognition of the challenges facing private landlords and brings the decision more closely in line with the agreement reached with social landlords. However, we do still have some concerns about the possible long-term impact of keeping rent caps in place.

Concerns have been raised about private landlords leaving the market or being discouraged from investing in repairs and improvements to properties – neither of which will lead to better outcomes for tenants.