

POLICY NOTE

THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020 (SUSPENSION: TERMINATION OF STUDENT RESIDENTIAL TENANCY) REGULATIONS 2022

SSI 2022/192

The above instrument was made in exercise of the powers conferred by section 8(1)(a) of the Coronavirus (Scotland) (No.2) Act 2020 and all other powers enabling them to do so. The instrument is subject to the *negative procedure*.

Purpose of the instrument. To suspend, from 1st July 2022, paragraphs 1 – 3 of part 1 of Schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 (the 2020 Act), which allows students who enter into a student residential tenancy to bring a tenancy to an end for a reason related to coronavirus by giving 28 days' notice to their accommodation provider. This would have the effect of suspending the operation of these provisions on 1st July 2022.

Legislative background

Notice to leave periods were introduced for college and university halls of residence and Purpose Built Student Accommodation (PBSA) in the Coronavirus (Scotland) (No.2) Act 2020 (the 2020 Act). Initially these provisions created a seven day notice period for student tenancies entered prior to May 2020 and a twenty-eight day notice period for all other student tenancies.

The seven day notice period was expired at the end of October 2021. The twenty-eight day notice period was extended to March 2022 by the Coronavirus (Extension and Expiry) (Scotland) Act 2021 and then again to 30 September 2022 by the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2022.

Policy Objectives

The notice provisions in the 2020 Act were introduced as a response to the pandemic to ensure that students were not financially disadvantaged because of restrictions on face to face teaching, the move to on line learning and travel restrictions to mitigate against the spread of Covid-19, all of which meant that students could be paying for accommodation they did not require to use. The notice provisions enable students to give 28 days' notice for the termination of a PBSA tenancy for a reason related to coronavirus.

The position now with regard to Covid-19 has changed significantly, with the reduced impact of the virus, the vaccination programme and the fact that most of the remaining restrictions in place have now been removed, the combined effect of which significantly reduces the need for students to leave accommodation for a reason related to coronavirus. In March 2022 officials consulted institutions and PBSA providers through the Student Accommodation Group. The evidence from providers highlighted a significant financial impact on landlords in 20/21 and 21/22 and concern about the ongoing financial and operational impacts going forward into 22/23 if the provisions continued into the next academic year.

It has been judged that the provisions be suspended on 1st July 2022 in line with the cautious approach of the Government through and out of the pandemic and to reassure students that, should there be a change in the situation with Covid-19 over the summer, the provisions could be revived (noting that the 2020 Act in its' entirety will expire at the end of September 2022).

Consultation

Initial consultation had been held with the Student Accommodation Group in January 2022 concerning extending the measures to September 2022. Views expressed, at that time included fully supporting an extension to the end of September 2022 (for example, by NUS Scotland), to having a lesser extension period to July or August to the end of the university term, to not supporting any extension beyond the end of March 2022.

In March 2022, a further consultation was held with the accommodation provider stakeholders through the Student Accommodation Group in relation to the proposed extension of the provisions to the end of September 2022.

As a result of that consultation the following themes emerged:

- A significant financial impact on landlords; and
- Concern around confusion and uncertainty by changing tenancy terms during the academic year, if the provisions extended to September 2022.

A further informal consultation was carried out with Universities Scotland, NUS Scotland and CUBO and ASRA in May 2022. Universities Scotland, CUBO and ASRA advised that they were supportive of suspension and that it was important to be clear on the start date for this. NUS Scotland, while noting the proposed suspension, expressed the need for a permanent basis for student tenancy rights going forward.

Impact Assessments

An Equality and Human Rights Impact Assessment, Child Rights and Wellbeing Impact Assessment (CRWIA) have been completed on the SSI and are attached.

Financial Effects

A final Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is to reduce the potential loss of income for private student accommodation providers due to legislation related to coronavirus and provide clarity for student tenants and landlords on tenancy arrangements for Academic Year 2022/23.

Scottish Government
Advanced Learning and Science Directorate

30 May 2022