

## POLICY NOTE

### THE PRIVATE RESIDENTIAL TENANCIES AND ASSURED TENANCIES (PRESCRIBED NOTICES AND FORMS) (TEMPORARY MODIFICATIONS) (SCOTLAND) REGULATIONS 2023

#### SSI 2023/58

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred on them by sections 24(1) and (3), and 53(3) of the Housing (Scotland) Act 1988<sup>(1)</sup> and sections 22(2)(b), 24(4) and 77(2) of the Private Housing (Tenancies) (Scotland) Act 2016<sup>(2)</sup> and all other powers enabling them to do so.

#### **Purpose of the instrument**

The purpose of this instrument is to make temporary changes to the prescribed notices and forms within the Private Housing (Tenancies) (Scotland) Act 2016 and the Housing (Scotland) Act 1988, in order to:

- enable a landlord from 1 April 2023 to issue a rent increase notice to a tenant, in line with the permitted rate or ‘rent cap’ set by Scottish Ministers via the Cost of Living (Tenant Protection) (Scotland) Act 2022; and
- enable a tenant to refer a rent increase notice to a Rent Officer because they think the increase may be above the amount permitted by the rent cap.

The temporary versions of these forms are in place until such time as section 1 and schedule 1 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 is suspended or expired.

#### **Legislative background**

2. The Cost of Living Act came into force on 28 October 2022 and has provided powers and measures which have helped to protect tenants by stabilising their housing costs through the introduction of a temporary, variable rent cap. The cap is set at 0% until 31 March 2023 in relation to in-tenancy rent increases.

3. On 27 January 2023, draft regulations and an accompanying Statement of Reasons were published, which – subject to Parliamentary approval – will extend the expiry date of Part 1 of the Act from 31 March 2023 to 30 September 2023. The draft regulations would also from 1 April 2023 raise the rent cap in the private rented sector to allow within-tenancy rent increases of up to 3% and for the associated ‘Prescribed Property Costs’ safeguard to increase to 6%.

#### **Policy objectives**

4. Should Parliament approve the draft Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Dates and Rent Cap Modification) Regulations 2023,

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<sup>(1)</sup> 1988 c. 43.

<sup>(2)</sup> 2016 asp 19.

private landlords will be able to issue their tenant with a rent increase notice following the relevant statutory process from 1 April 2023, provided that the increase is within the amount permitted by the rent cap and that the rent has not been increased in the preceding 12 months.

5. On receipt of a rent increase notice, a tenant will be able to refer a rent increase notice they have received to a relevant rent officer (part of Rent Service Scotland) if they think that the proposed increase would be above the amount permitted by the rent cap.

6. These regulations make temporary changes to relevant prescribed forms in line with the Cost of Living (Tenant Protection) (Scotland) Act 2022: rent increase notices, and also the form required for referral by a tenant of a rent increase to a rent officer. If approved, these regulations would remain in place until such time as section 1 and schedule 1 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 is suspended or expired

### **Consultation**

7. A specific formal public consultation exercise has not been undertaken in relation to this instrument.

### **Impact Assessments**

8. No impact assessments have been completed for this instrument. However, a range of impact assessments were carried out for the Act.

### **Financial Effects**

9. The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Better Homes Division  
February 2023