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## SCOTTISH STATUTORY INSTRUMENTS

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# 2024 No. 19

## HOUSING

### The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Saving Provisions) Regulations 2024

*Made* - - - - - *22nd January 2024*  
*Laid before the Scottish Parliament* - - - - - *24th January 2024*  
*Coming into force* - - - - - *31st March 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 7(7)(b) of the Cost of Living (Tenant Protection) (Scotland) Act 2022(**1**) and all other powers enabling them to do so.

#### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Saving Provisions) Regulations 2024 and come into force on 31 March 2024.

(2) In these Regulations—

“the 1988 Act” means the Housing (Scotland) Act 1988(**2**),

“the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016(**3**),

“the 2022 Act” means the Cost of Living (Tenant Protection) (Scotland) Act 2022.

#### Rent cap: saving provision

**2.** Despite the expiry of Part 1 of the 2022 Act in accordance with section 7(1) of the 2022 Act(**4**), paragraphs 1 and 2 of schedule 1, and section 1 as it relates to these paragraphs, of the 2022 Act continue to have effect as they did immediately before the expiry of that Part(**5**) (including as modified by the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry

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(1) [2022 asp 10](#).

(2) [1988 c 24](#).

(3) [2016 asp 19](#).

(4) Part 1 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 (“the 2022 Act”) expires at the end of 31 March 2024 in accordance with section 7(1) of that Act as last amended by [S.S.I. 2023/275](#).

(5) Paragraphs 1 and 2 of schedule 1 of the 2022 Act imposed rent cap controls with effect from 6 September 2022 which meant that rents for most private residential forms of tenancy could not be increased (except by application to a rent officer for an increase of up to 3% for prescribed property costs) until 1 April 2023, when [S.S.I. 2023/82](#) changed the permitted rate of increase to 3% and allowed applications to rent officers for increases of up to 6% above the existing rent for prescribed property costs.

Dates and Rent Cap Modification) Regulations 2023(6)) insofar as they are applicable in relation to—

- (a) a rent-increase notice given in accordance with section 22(1) of the 2016 Act(7) on or after 1 April 2023 and before 1 April 2024,
- (b) a notice proposing a new rent served in accordance with section 24(1) of the 1988 Act(8) on or after 1 April 2023 and before 1 April 2024,
- (c) a referral to a rent officer made in accordance with section 24(1) of the 2016 Act(9) in relation to a rent-increase notice described in paragraph (a),
- (d) a referral to the relevant rent officer made in accordance with section 24(3)(a) of the 1988 Act(10) in relation to a notice described in paragraph (b),
- (e) an appeal to the First-tier Tribunal made in accordance with section 28(1) of the 2016 Act(11) against an order of a rent officer in relation to a referral described in paragraph (c),
- (f) an appeal to the First-tier Tribunal made in accordance with section 24B(1) of the 1988 Act(12) against an order of a rent officer in relation to referral described in paragraph (d),
- (g) an application to the relevant rent officer to increase rent by more than the permitted rate made in accordance with section 33A(1) of the 2016 Act(13) on or after 1 April 2023 and before 1 April 2024,
- (h) an application to the relevant rent officer to increase rent by more than the permitted rate made in accordance with section 24E(1) of the 1988 Act(14) on or after 1 April 2023 and before 1 April 2024,
- (i) an appeal to the First-tier Tribunal made in accordance with section 33C(1) of the 2016 Act(15) against an order of a rent officer in relation to an application described in paragraph (g),
- (j) an appeal to the First-tier Tribunal made in accordance with section 24G(1) of the 1988 Act(16) against an order of a rent officer in relation to an application described in paragraph (h).

### Evictions: saving provision

3.—(1) Despite the expiry of Part 1 of the 2022 Act in accordance with section 7(1) of the 2022 Act, paragraphs 4, 5 and 6 of schedule 2, and section 2 as it relates to these paragraphs, of the 2022 Act continue to have effect as they did immediately before the expiry of that Part insofar as they are applicable in relation to—

- (a) an eviction notice which was served before 1 April 2024,
- (b) proceedings for a decree for removing—
  - (i) in relation to an eviction notice mentioned in paragraph (a), or
  - (ii) raised before 1 April 2024 without the need for an eviction notice,

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(6) S.S.I. 2023/82.

(7) Section 22 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) was modified by paragraph 1(6) of schedule 1 of the 2022 Act.

(8) Section 24 of the Housing (Scotland) Act 1988 (“the 1988 Act”) was modified by paragraph 2(4) of schedule 1 of the 2022 Act.

(9) Section 24 of the 2016 Act was modified by paragraph 1(8) of schedule 1 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 (“the 2022 Act”).

(10) Section 24 of the 1988 Act was modified by paragraph 2(4) of schedule 1 of the 2022 Act.

(11) Section 28 of the 2016 Act was modified by paragraph 1(12) of schedule 1 of the 2022 Act.

(12) Section 24B of the 1988 Act was given effect by the modification in paragraph 2(5) of schedule 1 of the 2022 Act.

(13) Sections 33A of the 2016 Act was given effect by the modification in paragraph 1(17) of schedule 1 of the 2022 Act.

(14) Section 24E of the 1988 Act was given effect by the modification in paragraph 2(5) of schedule 1 of the 2022 Act.

(15) Section 33C of the 2016 Act was given effect by the modification in paragraph 1(17) of schedule 1 of the 2022 Act.

(16) Section 24G of the 1988 Act was given effect by the modification in paragraph 2(5) of schedule 1 of the 2022 Act.

- (c) a decree for removing granted in proceedings mentioned in paragraph (b),
  - (d) appeal, recall or review proceedings against a decree mentioned in paragraph (c).
- (2) Despite the expiry of Part 1 of the 2022 Act in accordance with section 7(1) of the 2022 Act, the definitions of “decree for removing” and “eviction notice” in paragraph 1(10) of schedule 2 of the 2022 Act continue to have effect and apply for the purposes of this regulation.

#### **Unlawful eviction notification and determination of damages: saving provision**

4. Despite the expiry of Part 1 of the 2022 Act in accordance with section 7(1) of the 2022 Act, paragraphs 7 and 8 of schedule 2, and section 2 as it relates to these paragraphs, of the 2022 Act have effect as they did immediately before the expiry of that Part insofar as they are applicable in relation to—

- (a) an action for damages raised before 1 April 2024,
- (b) appeal proceedings against a decision of the court or First-tier Tribunal, as the case may be, made under section 36 or 37 of the 1988 Act.

St Andrew’s House,  
Edinburgh  
22nd January 2024

*PATRICK HARVIE*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 1 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 (“the 2022 Act”) expires at the end of 31 March 2024. It introduces schedules 1 and 2 of the 2022 Act. Schedule 1 imposes restrictions on rent increases for residential tenancies (“the rent cap”), and schedule 2 imposes an evictions moratorium and makes further provision in relation to damages for unlawful evictions.

Regulation 2 saves paragraphs 1 and 2 of schedule 1 (relating to the rent cap) so that they continue to have effect in relation to notices about rent increases served before Part 1 expires and in relation to any subsequent referrals, applications or appeals.

Regulation 3 saves paragraphs 4, 5 and 6 of schedule 2 (relating to certain temporary eviction grounds) so that these grounds continue to have effect in relation to eviction notices served before Part 1 expires and in relation to any subsequent proceedings or appeals. The temporary eviction grounds include circumstances in which the landlord is seeking to sell or live in their property to alleviate financial hardship or where the tenant has rent arrears equal to 6 months’ rent or more.

Regulation 4 saves paragraphs 7 and 8 of schedule 2 (relating to damages for unlawful eviction) so that these provisions continue to have effect in relation to actions for damages raised before Part 1 expires and in relation to any subsequent appeals.