

# **PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **STRUCTURE AND SUMMARY OF THE ACT**

#### **Part 4 – Rent**

#### *Chapter 3 – Rent pressure zones*

#### **Designation and effect of rent pressure zone**

62. [Section 35](#) provides that a local authority may make an application to the Scottish Ministers requesting that all or part of the authority's area be designated as a rent pressure zone. Subsection (2) states that an application will only be valid if it fulfils any requirements which, prior to the application being made, the Scottish Ministers told the local authorities an application must fulfil in order for it to be valid.
63. [Section 36](#) provides that within 18 weeks of receiving a valid application, the Scottish Ministers must lay before the Scottish Parliament either draft regulations designating a rent pressure zone or a document explaining why they have not done so.
64. [Section 37](#) specifies that after receiving an application from a local authority, the Scottish Ministers may bring forward regulations which would designate an area as a rent pressure zone and specify the percentage, which includes zero and fractional parts of a whole number, that should be inserted into the formula set out in section 38(1) and used when calculating the rent increase cap in that area.
65. [Section 38](#) provides that any rent-increase notice issued for a private residential tenancy within a rent pressure zone cannot increase the rent payable under the tenancy to more than the amount calculated in accordance with that section. The calculation produces an amount which is the current rent, increased by the consumer prices index, plus one percentage point plus the number of percentage points (if any) specified in the regulations under section 37(1)(b). In addition to that amount, the rent may also be increased by an amount set by a rent officer under sections 42 and 43 to reflect improvements made to the let property.
66. [Section 39](#) provides that the Scottish Ministers cannot designate an area as a rent pressure zone without receiving an application from the local authority. An area can only be designated as a rent pressure zone once on the basis of the same application and the regulations designating the zone will cease to have effect after five years unless they, or another enactment, provide that they cease to have effect sooner or unless they are revoked.
67. [Section 40](#) outlines the procedure for designating a rent pressure zone and requires the Scottish Ministers to consult persons representing the interests of landlords and tenants within the local authority's area prior to laying before the Scottish Parliament any draft regulations designating an area as a rent pressure zone. Alongside draft regulations designating a zone, the Scottish Ministers must also lay before the Scottish Parliament

a document which sets out a summary of the consultation responses and the evidence which leads them to believe that in the proposed area: rents are rising too much; the rises are causing undue hardship to tenants; and the rises are having a detrimental effect on the local authority's broader housing system.

68. [Section 41](#) enables the Scottish Ministers to amend section 38, so that instead of referring to the consumer prices index it refers to some other measure of inflation.

### **Improvements to let property**

69. [Section 42](#) allows the rent of a let property within a rent pressure zone to be increased to reflect improvements made to the property. It specifies that only property improvements completed after the tenancy was granted, or (where applicable) since the date of the last rent review, will be considered by the rent officer. And no increase will be allowed for work paid for (in whole or part) by the tenant. Repairs, maintenance and decoration do not constitute improvements for which a rent officer can allow an increase in rent under section 42.
70. [Section 43](#) outlines the process that should be followed by a rent officer when considering an application under section 42. It requires rent officers to follow any guidance published by the Scottish Ministers on what constitutes an improvement and the amount that can be charged in respect of improvements. When considering an application, the rent officer must have regard to any timeous representations made by the landlord and the tenant. Section 43 also gives the Scottish Ministers the power to make regulations prescribing the form by which applications to a rent officer under section 42 are to be made.