

COST OF LIVING (TENANT PROTECTION) (SCOTLAND) ACT 2022

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 3—Rent adjudication: power to modify

83. **Paragraph 1** of schedule 3 confers regulation-making powers that may be used on or in anticipation of the expiry or suspension of paragraph 1 of schedule 1. These powers enable the Scottish Ministers to modify Chapter 2 (rent variation instigated by landlord's notice) of Part 4 of the 2016 Act in connection with the determination of rent payable under a private residential tenancy by a rent officer or the First-tier Tribunal. Regulations under this power are subject to the affirmative procedure. For example, the power could be used to change the basis on which rents are determined (i.e. otherwise than on the basis of open market value as provided for in section 32 of the 2016 Act which is modified by the Act to be treated as having been repealed). It could also be used to provide that a rent adjudicator can only determine an increased rent if the increase is the same or lower than the increase sought by the landlord. Before laying draft regulations, the Scottish Ministers must consult such persons as appear to them to represent the interests of tenants and landlords under private residential tenancies and any other persons as they consider appropriate.
84. **Paragraph 2** of schedule 3 makes similar provision with respect to the rent adjudication process for assured tenancies and short assured tenancies under Part 2 of the 1988 Act with the regulation-making powers being exercisable on or in anticipation of the expiry or suspension of paragraph 2 of schedule 1. Regulations under this power are subject to the affirmative procedure. Before laying draft regulations, the Scottish Ministers must consult such persons as appear to them to represent the interests of tenants and landlords under assured tenancies and short assured tenancies and any other persons as they consider appropriate.