



# Private Housing (Tenancies) (Scotland) Act 2016 2016 asp 19

## PART 4

### RENT

#### CHAPTER 3

##### RENT PRESSURE ZONES

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

### 35 Request by local authority that a zone be designated

- (1) A local authority may make an application to the Scottish Ministers asking that all or part of the authority's area be designated as a rent pressure zone.
- (2) An application under subsection (1) is valid only if it fulfils any requirements which, prior to the application being made, the Scottish Ministers told the local authorities in Scotland an application must fulfil in order for it to be valid.

#### **Modifications etc. (not altering text)**

- C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), **sch. 1 para. 1(1)(19)** (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), **2(2)**); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), **2(2)**)

#### **Commencement Information**

- I1** S. 35 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

*Changes to legislation:* There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, CHAPTER 3. (See end of Document for details)

### 36 Scottish Ministers' duty to react to request

Within 18 weeks of receiving a valid application under section 35, the Scottish Ministers must lay before the Scottish Parliament either—

- (a) a draft of a Scottish statutory instrument containing regulations under section 37 designating the area specified in the application as a rent pressure zone, or
- (b) a document explaining why the Ministers have not laid before the Parliament the draft instrument described in paragraph (a).

#### Modifications etc. (not altering text)

**C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

#### Commencement Information

**I2** S. 36 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

### 37 Power to designate a zone

- (1) After receiving an application under section 35, the Scottish Ministers may by regulations—
  - (a) designate an area as a rent pressure zone, and
  - (b) prescribe in relation to that zone a number of percentage points as the value of X for the purposes of section 38(1).
- (2) In subsection (1)(b), “a number”—
  - (a) includes zero and fractional parts of a whole number, but
  - (b) does not include negative numbers.

#### Modifications etc. (not altering text)

**C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

#### Commencement Information

**I3** S. 37 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

### 38 Restriction on rent increases within a zone

- (1) A rent-increase notice may not increase the rent payable under a private residential tenancy where the let property is in a rent pressure zone to an amount greater than—

$$R \times \left( 1 + \frac{\text{CPI} + 1 + X}{100} \right) + Y$$

where—

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*Changes to legislation:* There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, CHAPTER 3. (See end of Document for details)

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R is the rent payable under the tenancy immediately before the rent-increase notice in question takes effect,

CPI is the percentage increase in the consumer prices index over the period—

- (a) from—
  - (i) the day of the last increase in the rent payable under the tenancy, or
  - (ii) if the rent payable under the tenancy has not previously been increased, the day on which the tenancy was granted,
- (b) to the day that the rent-increase notice in question is given to the tenant,

X is the number of percentage points prescribed in relation to the rent pressure zone under section 37(1)(b),

Y is the amount (if any) by which the rent may be increased by virtue of a rent officer's determination under section 42.

- (2) In subsection (1), “the consumer prices index” means the all consumer prices index published by the Office of National Statistics.

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**Modifications etc. (not altering text)**

- C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

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**Commencement Information**

- I4** S. 38 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

### 39 Limits on power to designate a zone

- (1) An area may not be designated as a rent pressure zone unless it is an area which the Scottish Ministers have been asked to designate as a rent pressure zone in an application under section 35.
- (2) An area may not be designated as a rent pressure zone more than once on the basis of the same application under section 35.
- (3) Regulations designating a rent pressure zone cease to have effect 5 years after they come into force, unless—
- (a) they provide, or another enactment provides, that they cease to have effect sooner, or
  - (b) they are revoked.

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**Modifications etc. (not altering text)**

- C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

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**Commencement Information**

- I5** S. 39 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

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*Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, CHAPTER 3. (See end of Document for details)*

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#### 40 Procedure for designating a zone: consultation and information

- (1) This section applies in relation to the making of regulations under section 37 which designate an area as a rent pressure zone.
- (2) Before laying a draft of a Scottish statutory instrument containing the regulations before the Scottish Parliament, the Scottish Ministers must consult—
  - (a) persons appearing to the Ministers to represent the interests of persons who offer residential property for let within the area mentioned in subsection (4), and
  - (b) persons appearing to the Ministers to represent the interests of persons who are tenants of residential property within the area mentioned in subsection (4).
- (3) Along with a draft of a Scottish statutory instrument containing the regulations, the Scottish Ministers must also lay before the Scottish Parliament a document which—
  - (a) sets out the evidence which leads them to believe that—
    - (i) rents payable within the proposed rent pressure zone are rising by too much,
    - (ii) the rent rises within the proposed zone are causing undue hardship to tenants, and
    - (iii) the local authority within whose area the proposed zone lies is coming under increasing pressure to provide housing or subsidise the cost of housing as a consequence of the rent rises within the proposed zone,
  - (b) summarises the responses they received to the consultation carried out in accordance with subsection (2).
- (4) The area referred to in subsection (2) is that of the local authority within whose area the proposed rent pressure zone lies.

##### Modifications etc. (not altering text)

**C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

##### Commencement Information

**I6** S. 40 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

#### 41 Power to change inflation index

The Scottish Ministers may by regulations amend section 38 to replace references in that section to one prices index with references to another.

##### Modifications etc. (not altering text)

**C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

##### Commencement Information

**I7** S. 41 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

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*Changes to legislation:* There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, CHAPTER 3. (See end of Document for details)

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### *Improvements to let property*

#### **42 Rent officer's power to allow rent rise in consequence of improvement**

- (1) On an application by the landlord under a private residential tenancy, a rent officer is to determine the amount (if any) by which the rent payable under the tenancy may be increased in consequence of an improvement made to the let property.
- (2) The rent payable under a tenancy may not be increased by virtue of a determination made in respect of an improvement which was completed before—
  - (a) the tenancy was granted, or
  - (b) if the rent payable under the tenancy has changed previously, the day on which it last changed.
- (3) The rent payable under a tenancy may not be increased more than once by virtue of a single determination.
- (4) In subsection (1), “improvement” does not include anything done to the let property—
  - (a) which is paid for in whole or in part by the tenant, or
  - (b) by way of repair, maintenance or decoration.
- (5) In a case where two or more persons jointly are the tenant under a tenancy, the reference to the tenant in subsection (4)(a) includes any one of them.

#### **Modifications etc. (not altering text)**

- C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

#### **Commencement Information**

- I8** S. 42 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, [sch.](#)

#### **43 Further provision about making and determining an application under section 42**

- (1) An application under section 42(1) must be made—
  - (a) in such form as may be prescribed by the Scottish Ministers in regulations,
  - (b) to a rent officer for the area in which the let property in question is situated.
- (2) On receiving an application under section 42(1), a rent officer must send a copy of it to the tenant concerned.
- (3) Before making a final determination under section 42, a rent officer must send—
  - (a) to both the landlord and tenant concerned a draft of the determination which the rent officer proposes to make,
  - (b) to the tenant a copy of any timeous representations received from the landlord in relation to the draft determination.
- (4) In making a determination under section 42, a rent officer must—
  - (a) follow any guidance published by the Scottish Ministers which sets out for the purposes of that section—

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*Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, CHAPTER 3. (See end of Document for details)*

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- (i) what does, and does not, constitute an improvement made to a let property, and
  - (ii) the amount by which the rent payable under a tenancy may be increased in consequence of a particular improvement, or the methodology by which the assessment of that amount is to be made, and
  - (b) have regard to any timeous representations received from the landlord or tenant concerned.
- (5) For the purposes of subsections (3)(b) and (4)(b), representations are timeous if they are sent to the rent officer by—
- (a) the landlord within 14 days of the landlord receiving the draft determination sent in accordance with subsection (3)(a),
  - (b) the tenant—
    - (i) within 14 days of the tenant receiving the copy of the application for a determination in accordance with subsection (2), or
    - (ii) if the rent officer sends to the tenant a copy of representations received from the landlord in accordance with subsection (3)(b), not more than 14 days after the tenant received the copy of the landlord's representations.
- (6) In a case where two or more persons jointly are the landlord under the tenancy, references to the landlord in section 42 and this section are to any one of those persons.

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**Modifications etc. (not altering text)**

- C1** Ss. 35-43 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 1\(1\)\(19\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))
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**Commencement Information**

- I9** S. 43(1) in force at 31.10.2016 for specified purposes by S.S.I. 2016/298, [reg. 2](#), [sch.](#)
- I10** S. 43(1) in force at 1.12.2017 in so far as not already in force by S.S.I. 2017/346, [reg. 2](#), [sch.](#)
- I11** S. 43(2)-(6) in force at 1.12.2017 by S.S.I. 2017/346, [reg. 2](#), [sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, CHAPTER 3.