

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2024 No.

The Rent Adjudication (Temporary Modifications) (Scotland) Regulations 2024

Private residential tenancies

2.—(1) Where a referral to a rent officer under section 24(1) of the 2016 Act is prompted by a rent-increase notice given to a tenant on or after 1 April 2024, the 2016 Act applies in relation to the referral or to any subsequent appeal to the First-tier Tribunal, in accordance with the following modifications.

(2) Section 25 (rent officer’s power to set rent) has effect as if, in subsection (1), for “32” there were substituted “31A”.

(3) Section 29 (First-tier Tribunal’s power to set rent) has effect as if, in subsection (1), for “32” there were substituted “31A”.

(4) The 2016 Act has effect as if after section 31 there were inserted—

“31A Determination of rent payable

(1) Where an order maker is to determine the rent payable under section 25(1) or (as the case may be) 29(1), the determination is to be made on the basis that the rent payable is the lowest of—

- (a) the proposed rent,
- (b) the open market rent,
- (c) where the market difference is more than 6%, the permitted rent.

(2) The permitted rent is—

- (a) where the market difference is less than 24%, the calculated amount,
- (b) where the market difference is 24% or more, 12% more than the current rent.

(3) The calculated amount is the amount (to the nearest £1) determined using the formula—

$$\text{Amount (£)} = C \times \left(106\% + \frac{(D\% - 6\%)}{3} \right)$$

where—

C is the current rent,

D% is the market difference expressed as a percentage.

(4) In this section—

“the proposed rent” means the rent specified in accordance with section 22(2)(a)(i) in the rent-increase notice which prompted the referral,

“the current rent” means the rent payable under the tenancy immediately before the date on which the rent would have been increased in accordance with section 22(4) had a referral to the rent officer not been made,

“the market difference” means the percentage figure (to the nearest two decimal places) determined using the formula—

$$\text{The market difference expressed as a percentage (D\%)} = \left[\left(\frac{M - C}{C} \right) \times 100 \right] \%$$

where—

C is the current rent,

M is the open market rent,

“the open market rent” means the rent determined in accordance with section 32.”.

(5) Section 32 (determination of open market rent) has effect as if in subsection (1) for “rent under” to “29(1)” there were substituted “open market rent for the purpose of section 31A”.

(6) Section 34 (duty to make information available) has effect as if in subsection (1)—

(a) after “about—” there were inserted—

“(za) what rents they have determined to be payable in accordance with section 31A,”,

(b) for paragraph (b) there were substituted—

“(b) the open market rents they have determined in accordance with section 32.”.