

Proposed extension of the Cost of Living (Tenant Protection) (Scotland) Act 2022

Statement of Reasons

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Proposed Extension of the Cost of Living (Tenant Protection) (Scotland) Act 2022: Statement of Reasons

1. Introduction

1.1 The Scottish Government is committed to putting, and keeping, in place measures necessary to address the ongoing cost of living crisis.

1.2 The Cost of Living (Tenant Protection) (Scotland) Act 2022¹ (“the Act”) is a response to the impact of the cost crisis on those living in the rented sector. The Act introduced a temporary rent cap and a temporary moratorium on the enforcement of evictions, along with simplifying the process for claiming unlawful eviction damages and increasing the level of damages that can be awarded – until at least 31 March 2023. The Act also contains powers to temporarily reform rent adjudication in connection with the expiry of the rent cap.

1.3 Given the measures in the Act are in response to the cost of living crisis, they are necessarily time limited with Part 1 of the Act due to expire at the end of 31 March 2023. However, there is the potential for extension of the Act for two periods of 6 months by secondary legislation. Any extension would be subject to the approval of the Scottish Parliament.

1.4 In addition to being time limited, the Scottish Government has also made clear it will retain and use the provisions in the Act only where they remain necessary and proportionate in connection with the cost of living. As a result, provisions in the Act must be expired or suspended if they are no longer considered necessary and proportionate – as demonstrated in the recent decision by Scottish Ministers to expire the rent cap provisions for the social sector and suspend the rent cap provisions for the student accommodation sector. The Scottish Government must keep Part 1 of the Act under review and prepare reports on their review which must be laid before Parliament. The [first report](#) was laid on 12 January 2023. The next formal report will be due by 14 July 2023. The requirement to keep the provisions under review remains ongoing and we will also continue to give consideration to the evidence available to us, with interim updates on the Act being provided as required.

1.5 The draft regulations which accompany this Statement of Reasons would extend the expiry date of Part 1 of the Act from 31 March 2023 to 30 September 2023. This Statement of Reasons has been prepared by the Scottish Government to set out reasons why The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Dates and Rent Cap Modification) Regulations 2023 (“the extension regulations”) should be made. It explains that it is necessary and proportionate in connection with the cost of living to extend Part 1 of the Act. This Statement of Reasons is laid with the draft extension regulations in compliance with section 7(6) of the Act.

1.6 Details of specific measures are contained in section 4 of this Statement, and a summary of the Government’s recommendations and actions in relation to the Act is provided in Annex A.

¹ [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(legislation.gov.uk\)](#)

2. Background to proposals

2.1 The Act, which came into force on 28 October 2022, aims to:

- protect tenants by stabilising their housing costs through the introduction of a temporary, variable rent cap;
- where possible, during the cost crisis, reduce impacts on the health and wellbeing of tenants caused by being evicted and/or being made homeless by giving them more time to find alternative accommodation; and
- seek to avoid tenants being evicted from the private sector by a landlord wanting to raise rents between tenancies during the temporary measures and reduce unlawful evictions, through the complementary measures of a moratorium on evictions and raising the level of damages that may be awarded.

2.2 As set out in section 7 of the Act, Part 1 is due to expire at the end of 31 March 2023, with the potential for extension for two periods of 6 months by secondary legislation, subject to the approval of the Scottish Parliament. The first extension would cover the period from 1 April to 30 September 2023 and the second, if subsequently decided, for a further six months until the end of 31 March 2024.

2.3 The Scottish Government has been clear that the provisions contained within the Act must only be in place for as long as they are necessary. In reflection of this, the Cost of Living (Tenant Protection) (Scotland) Act (Early Expiry and Suspension of Provisions) [Regulations](#) 2023 (the “expiry and suspension regulations”) were laid in Parliament on 19 January 2023 to: expire the rent cap provisions relating to the social sector on 26 February 2023, and, suspend the rent cap provisions relating to the student residential sector on 30 March 2023.

2.4 The social sector rent cap (paragraph 3, Schedule 1 of the Act) expiry follows the development of an agreed approach on rent setting for 2023-24, taken forward on a voluntary basis, with social housing landlords. Social housing landlords are “not for profit” organisations and all rental income is used to support the delivery of housing and associated services for tenants. Under the Scottish Government’s Social Housing Charter social landlords are required to set rents and service charges in consultation with their tenants so that a balance is struck between the level of services provided, the cost of the services and how far current and prospective tenants and service users can afford them. The aim of the agreed approach to rent setting has been to keep rent increases well below inflation to ensure that rents remain affordable, whilst still supporting continued investment in the sector.

2.5 The suspension of the rent cap in relation to student residential tenancies (paragraph 4, Schedule 1 of the Act) is due to the evidence of minimal impact that the rent cap is having in this sector. These tenancies are regulated by the terms of the contract between the accommodation provider and the student, and by common law. These contracts typically cover the whole academic year and there is only a very slight possibility of a contract that permits in-tenancy rent increases arising. As such, the rent cap measures are having minimal impact on the student residential sector. It should be noted that suspension of the measures will mean that they cease to have effect but there is a power for the provisions to be revived during the lifetime

of Part 1 of the Act should evidence support that being necessary and proportionate. Although assurances were received from the majority of institutional and Purpose Built Student Accommodation (“PBSA”) providers that there would be no in-contract rent increases, and evidence to date supports this, these assurances do not cover all providers with certainty, so suspension (as opposed to expiry) is appropriate.

2.6 Information on the provisions to be expired or suspended, and the reasons for their inclusion in the expiry and suspension regulations, is provided within the Policy Note for those regulations.

3. Stakeholder Engagement

3.1 A formal public consultation exercise on the draft extension regulations has not been undertaken. However, as part of the ongoing review of the continued necessity of the Act and the formal duty to report to Parliament required under the Act, there has been ongoing stakeholder engagement and consultation on the status and operation of the provisions, consideration of any impacts arising from the Act and whether the provisions continue to be necessary. The reporting regime will continue should the extension regulations be approved.

3.2 The first Report was laid before Parliament on 12 January 2023 and reports are due three-monthly thereafter within 14 days of the end of each reporting period, unless there has been a Statement of Reasons laid before Parliament during a reporting period. Accordingly, this Statement of Reasons will remove the need for a report to be laid at the end of the present reporting period (per section 9(8) of the Act). The next formal report will therefore be due by 14 July 2023. The requirement to keep the provisions under review remains ongoing and we will also continue to give consideration to the evidence available to us, with interim updates on the Act being provided as required.

3.3 Detailed stakeholder engagement has been undertaken to arrive at the proposal for extension and this is set out below.

3.4 As part of assessing the continued necessity of these provisions we have engaged with those representing landlords, letting agents and tenants in both the private and social rented sectors as well as Local Authorities, the Scottish Housing Regulator, student accommodation providers and Lenders.

3.5 Scottish Ministers issued a formal call for written evidence to a wide range of rented sector stakeholder groups in respect of the social, private, and student rented sectors representing a range of interests. For the private rented and student accommodation sectors, stakeholders representing landlords’ interests were invited to share their views on the impact of the measures on landlords and those involved in the provision of private rental accommodation.

3.6 The call for evidence set out three questions:

- What has been the impact of these temporary measures on your perception of risk associated with involvement in the rental sector in Scotland?

- Do you have evidence of behavioural changes as a direct result of the temporary measures coming into force?
- Is there any other evidence (qualitative or quantitative) you can provide at this stage about the impact of the temporary measures to date?

3.7 Stakeholders representing tenant groups were also invited to share their views on the impact of the measures on tenants across the private and social rented sectors and student accommodation sector. That call for evidence sought responses to the following four questions:

- Have the temporary measures provided any immediate assistance to tenants?
- Are you aware of any wider impacts of the provisions on tenants, such as reducing impacts on health and wellbeing due to the additional security being provided by the temporary measures?
- Do you have evidence of behavioural changes as a direct result of the temporary measures coming into force?
- Are you aware of any evidence that tenants are experiencing landlords not meeting the terms of the emergency requirements (seeking to increase rent, unlawful evictions etc)?

3.8 A summary of responses to the call for evidence – along with a summary of wider stakeholder engagement - can be found in the [1st report](#) to Parliament on the Act.

4. Proposal to extend

4.1 The ongoing cost crisis continues to place people across Scotland in an unprecedented economic position. Renters, in particular, have lower household incomes, higher levels of poverty and are more vulnerable to economic shocks. 63% of social rented households and 40% of private rented households do not have enough savings to cover even a month of income at the poverty line, compared to 24% of households buying with a mortgage and 9% of households owning outright.²

4.2 This economic position has not yet changed fundamentally and many households on low and modest incomes continue to struggle. People are facing increased costs across the board, and the biggest impact is felt by those on the lowest incomes. The Office for National Statistics estimated that inflation for low-income households was 11.9% in October 2022, leaving many struggling to cope.

4.3 A comprehensive overview of the latest economic situation was provided in the first report to the Scottish Parliament published on 12 January 2023.³ Key points highlighted include the following:⁴

- The fuel poverty rate is expected to increase from 35% in October 2022 to 39% in April 2023, when the Energy Price Guarantee increases.

² [Cost of Living Bill - Key Statistics - gov.scot \(www.gov.scot\)](#).

³ See Section 4, Updated Economic Context, at [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022: first report to the Scottish Parliament - gov.scot \(www.gov.scot\)](#)

⁴ These have been updated where additional data has been released since the report was published.

- Consumer Price Index (CPI) inflation, which was 9.9% in August 2022, stood at 10.5% in December. While CPI inflation is expected to moderate over the course of 2023, it will remain elevated, with the Office for Budget Responsibility expecting inflation to still be as high as 7% in Q3 2023.
- Increases in pay and earnings remain below inflation, with the Scottish Fiscal Commission expecting that real disposable income per person in Scotland will fall by 2.3% in 2023-24.
- While the decision by the UK government to uprate reserved disability and low-income benefits by 10.1% (the inflation rate in September 2022) in 2023-34 will compensate benefit clients for the exceptionally high rate of inflation in 2022-23, they will again face elevated inflation in 2023-24; the UK Government has also decided to freeze Local Housing Allowance (LHA) rates, which apply in the private rented sector, at 2020 levels for the third year running.
- Latest data shows high levels of rental growth, with the Scottish Government Private Rent Statistics (primarily based on advertised rents) showing a 6.2% annual increase in average 2 bedroom monthly rents across Scotland in the year to end September 2022, while data from letting agents (which relates to new let rents only) showing high growth: Rightmove reporting an annual increase of 13.0% and Cylets an increase of 8.3% in Q3 2022 in Scotland, and Zoopla reporting an increase of 11.4% for Scotland in October 2022. The ONS Private Rental Index experimental statistics shows an acceleration in the annual growth rate in Scotland, from 3.6% in August 2022 to 4.4% in December.⁵ These data show that in the absence of legislation, there is a high probability of substantial increases in rents for existing tenants.

4.4 It is taking the wider economic context and stakeholder engagement into account that Scottish Ministers have given consideration to the question of whether Part 1 of the Act should be extended. In doing so, careful consideration has been given to the requirement to balance the needs of many stakeholders and partners who wish to see the provisions remain available, against the commitment given when the Act was introduced, that the provisions would not remain in place unless necessary.

4.5 Part 1 of the Act can only be extended in its entirety and not on a provision by provision basis. Any provisions that should not be extended therefore need to be expired through separate regulations.

4.6 Throughout the proposed six month extension period, if provisions are deemed to be no longer necessary during that time, they must be suspended or expired early. A suspended provision could subsequently be revived if this was considered necessary.

⁵ The ONS data attempts to model rental trends across both new and existing lets, which is an important reason why its level might differ from letting agent data. However, due to data limitations on rents for existing lets, this is achieved primarily by a methodological assumption that a rental record will remain unchanged for a period of 14 months. The rental index will therefore not directly pick up the impact of the rental freeze in the initial six month period of the operation of the legislation.

4.7 Therefore, proposing that Part 1 of the Act be extended at this time does not mean that all provisions covered by the extension will remain in place until 30 September 2023. The Scottish Government will continue to review whether the provisions remain necessary and proportionate in connection with the cost of living.

4.8 This Statement of Reasons provides further detail of the justification for extending the expiry date of Part 1 of the Act.

5. Rights and Equalities Considerations

5.1 The Scottish Government has acknowledged in its [report](#) on the Act published on 12 January 2023, that some provisions have more significant impacts on rights and equality than others.

5.2 The following Impact Assessments were undertaken for the Act as part of the development of the Bill which was introduced to Parliament on 3 October 2022:

- Business and Regulatory Impact Assessment⁶
- Child Rights and Wellbeing Impact Assessment⁷
- Data Protection Impact Assessment⁸
- Equality Impact Assessment⁹
- Fairer Scotland Duty Impact Assessment¹⁰
- Island Communities Impact Assessment¹¹

5.3 The human rights impacts were summarised in the Policy Memorandum¹² for the Bill.

5.4 The Scottish Government's justification for why each individual provision in the extension regulations continues to be needed beyond the end of 31 March 2023 is set out in this Statement of Reasons. The Scottish Government has assessed the potential impacts of extension and more detail is set out in the Annex B.

5.5 In setting out the proposals for extension of the provisions under the Act which are covered in this Statement of Reasons, consideration was given to the ongoing necessity and proportionality of the measures.

⁶ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: business regulatory impact assessment - gov.scot \(www.gov.scot\)](#)

⁷ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: children's rights and wellbeing impact assessment - gov.scot \(www.gov.scot\)](#)

⁸ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: data protection impact assessment - gov.scot \(www.gov.scot\)](#)

⁹ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: equalities impact assessment - gov.scot \(www.gov.scot\)](#)

¹⁰ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: Fairer Scotland Duty assessment - gov.scot \(www.gov.scot\)](#)

¹¹ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: island communities impact assessment - gov.scot \(www.gov.scot\)](#)

¹² [Policy Memorandum accessible \(parliament.scot\)](#)

6. Necessity and proportionality

6.1 As part of the assessment of continued necessity, more fully outlined in Annex D of this statement, the Scottish Government considered if there were alternative options to extension for the provisions under Part 1 of the Act and extension of the provisions detailed in this statement was deemed by Scottish Ministers appropriate. The measures being necessary and proportionate in connection with the cost of living.

7. Provisions proposed for extension

7.1 Schedule 1: Rent Cap for residential tenancies (as defined by paragraphs 1 & 2 of Schedule 1 of the Act)

7.1.1 As set out in the recent 1st report on the Act, the economic data demonstrates that the cost crisis continues to have a significant and detrimental impact on household finances, with fuel poverty on the rise, continued high levels of inflation, and other costs. Rented households are more likely to have lower household incomes, higher levels of poverty, and to be financially vulnerable.¹³

7.1.2 The Scottish Government therefore considers that it is necessary and proportionate for the measures which cap rents in the private rented sector to be extended, in order to ensure that private tenants continue to be protected against the impact of the wider economic conditions, through stabilisation of their housing costs at a time when the cost of living crisis continues to place exceptional financial pressure on households.

7.1.3 The Scottish Government has considered the implications of expiry or suspension of the rent cap in the private rented sector. With no cap on rent increases, tenants in the private rented sector would have little protection against high in-tenancy rent increases at a time of ongoing pressure on household finances, due to the high increases in market rents.

7.1.4 The Scottish Government is continuing to engage proactively with private rented sector representatives regarding the emergency measures. The carefully considered approach taken to engagement must be approached in a bespoke manner, based on the unique make-up of the sector and lack of common sector-wide practice for rent increases. The private rented sector has a high quantity and range of landlords; it also has a very different statutory regime governing its rent increase process. It was therefore not feasible to replicate the Task Group to that formed in respect of the social rented sector, where all landlords could be effectively represented by membership bodies. The Scottish Government will nonetheless continue to seek the most effective ways in which to engage private landlord representative bodies going forwards.

7.1.5 Whilst the focus of the emergency measures continues to be on protecting tenants, the Scottish Government recognises that the ongoing impacts of the cost crisis may also be experienced by some private landlords. The Scottish Government

¹³ [Cost of Living Bill - Key Statistics - gov.scot \(www.gov.scot\)](https://www.gov.scot/cost-of-living-bill-key-statistics).

is therefore of the view that it would be proportionate to raise the rent cap in the private rented sector to allow within-tenancy rent increases of up to 3%.

7.1.6 The voluntary approach to rent setting taken by landlords in the social sector is intended to equate to an approximate average rental increase of less than £5 a week (or less than £22 per month) across the country. As rents in the private rented sector are generally significantly higher than those in the social rented sector, allowing a maximum rent increase of 3% for rents in the private rented sector equates to a similar average rent increase for tenants in two-bedroom properties (the most common property size in the private rented sector). As set out in Annex C, there will be variation around these averages, with higher increases for three-bedroom and four-bedroom properties and lower increases for one-bedroom properties. The Scottish Government considers that this will give a measure of parity to landlords in the private and social sectors in monetary terms, whilst continuing to protect tenants from unaffordable rent increases whilst the pressures of the costs crisis continue. There is also the safeguard that private landlords could, alternatively, opt to apply to Rent Service Scotland for a rent increase of up to 6% if they have had an increase in their defined prescribed property costs within a specified time.

7.1.7 Tenants will continue to have the protections set out in relevant tenancy legislation regarding frequency of rent increases, the notice period required before rent can be increased, and the information which must be included in a rent increase notice in order for it to be valid (including any amendments made to this as a result of the Cost of Living measures).

7.1.8 As a result of the rent cap, the concept of 'market rent' does not apply post 6 September 2022 whilst the Act is in force. If the proposed 3% rent cap is in force from 1 April, the right of a tenant to refer a rent increase to Rent Service Scotland or to the First-tier Tribunal for Scotland for a determination of whether it is in line with local market rents will not apply in the case of rent increases made. Instead, tenants will be protected by the temporary 'verification' process brought in by the Act, whereby tenants can refer a rent increase notice to a Rent Officer to confirm whether a proposed rent increase is in line with the rent cap. This 'verification' process will ensure that a tenant can challenge a landlord if they believe a rent increase notice above the permitted cap has been issued.

7.1.9 It is the intention of the Scottish Government that the safeguard for landlords introduced by the Act, in the form of the ability to apply to a Rent Officer to increase the rent for a let property above the rent cap in connection with defined 'prescribed property costs' will continue to apply.

7.1.10 In recognition of the increase in the rent cap, the extension regulations would amend the maximum percentage increase to the existing rent which can be made using this safeguard, to 6%. The amended safeguard would therefore allow a landlord to apply to increase the rent to recover up to the lower of either 50% of the increase in the prescribed property costs, or 6% of the existing rent. Only one rent increase is possible in any 12 month period so that if the landlord increases rent using the increased cap of 3% they cannot also apply to increase rent using the safeguard.

7.1.11 It is intended that other aspects of the safeguard will remain as they are set out in the Act for the time being. An application to a Rent Officer may therefore still only be made under this safeguard if a landlord has had an increase, during the preceding six months, in 'prescribed property costs', which are defined as follows:

- the interest payable in respect of any mortgage or standard security over the rental property;
- any insurance premium payable by a landlord relating to insurance connected to offering the property for rent, for example 'landlords' insurance' (excluding building and property insurance); and
- any 'service charge(s)' related to the rental property that are recoverable from the tenant as part of the tenancy agreement between tenant and landlord.

7.1.12 In order to continue to protect tenants and ensure that they have sufficient clarity regarding any proposed rent increase, landlords will still be required to give their tenant notice in writing when they make an application to a Rent Officer, and the existing protections regarding the frequency of rent increases will continue to apply.

7.1.13 If an application is approved by the Rent Officer, the resultant rent increase would still not come into effect until (at the earliest) 12 weeks after the date the landlord made the application. Both the landlord and the tenant will still have the ability to appeal the Rent Officer's decision by applying to the First-tier Tribunal for Scotland (Housing and Property Chamber) within 14 days to have the Rent Officer's calculation reviewed.

7.1.14 The Scottish Government considers that this amendment to the safeguard ensures that it remains a suitable safeguard which balances the rights of landlords who may be experiencing the impact of the cost crisis, and their tenants.

7.1.15 As part of assessing the continued necessity and extension of the rent cap provisions, we have reviewed the impact assessments carried out as part of the development of the Act and the available data and evidence on operation of the provisions since they came into force. More information on this can be found in Annexes B and D.

7.1.16 The Scottish Government is of the view that the extension of the rent cap measures in the private rented sector, with the amendments set out in this statement:

- i. is likely to positively impact on equal opportunities and across those with protected characteristics, as this provision will continue to provide tenants with greater confidence about their housing costs and the security of a stable home;
- ii. will not have any detrimental impacts on island communities, local government and sustainable development;
- iii. continues to help address socio economic disadvantage and reduce the inequalities that are associated with being disadvantaged;
- iv. appropriately and proportionately balances the interests of landlords by taking into account that the ongoing impacts of the cost crisis may also be

experienced by some landlords, and the application of an amended safeguard allowing a landlord to make an application to increase the rent to a level that is offered by the new rent cap, in connection with prescribed property costs, will allow for the individual circumstances of landlords to be taken into account; and

- v. does not negatively impact the rights and wellbeing of children and by reducing the harms caused by eviction for children and their families, the Act is contributing to promoting the health of children and young people and supporting their education.

7.1.17 The Scottish Government considers that the purpose of the rent cap provisions (as extended by these Regulations), which is the social protection of tenants (by stabilising their housing costs), remains a legitimate aim.

7.1.18 The Scottish Government considers that extension of the rent cap measures, with the amendments described above, is a proportionate and necessary response to the ongoing costs crisis, and strikes an appropriate and proportionate balance between the public interest in the form of protection for tenants during the current economic situation, and the rights of landlords in terms of the use of their property.

7.2 Protection against eviction (Eviction from residential properties: restrictions on enforcement). Schedule 2 of the Act, sections 1, 2, 3, 4, 5 and 6

Private and Social Rented Sectors

7.2.1 Extending these provisions which introduce restrictions on the enforcement of evictions will continue to give tenants more time to access alternative accommodation helping to reduce the negative impacts on the health and wellbeing of tenants caused by being evicted and/or being made homeless at a time of greater financial stress resulting from the ongoing cost of living crisis. For tenants in the private rented sector, it will also continue to provide protection by making it easier and more meaningful for tenants to challenge an unlawful eviction and receive appropriate damages where an unlawful eviction is found to have occurred and continues to make it more difficult, more expensive and higher risk for a landlord to pursue an illegal eviction rather than going through the lawful routes, therefore continuing to dis-incentivise this behaviour.

7.2.2 The Scottish Government has considered the implications of expiring the provisions restricting the enforcement of evictions in certain circumstances. As there has not been any significant change in current economic circumstances, renters remain particularly vulnerable to the continued impacts of the cost crisis. Expiring this protection at this time would mean that tenants in the private rented sector would not be protected from private landlords seeking to end a tenancy to raise rents above the rent cap. In addition, tenants in both the private and social rented sectors would not benefit from the additional time to find alternative accommodation provided by the 6 month pause in the enforcement of eviction action, which could increase the negative impact on those being evicted during the cost of living crisis.

7.2.3 Provisions under the Act include a number of safeguards for landlords. These recognise that there are some circumstances where enforcement of an eviction order

or decree should be able to proceed to protect communities and to strike an appropriate balance between protection of tenants and the rights of landlords. For example:

- where a tenant is to be evicted for antisocial and criminal behaviour and the negative impact on the community delaying enforcement of an order would have;
- where landlords themselves are in financial hardship and need to sell or live in the let property; and
- in cases where there are substantial rent arrears given the negative impact of accruing further significant debt on both the tenant and the landlord.

7.2.4 A full list of exemptions provided for under the Act can be found in [Schedule 2](#). These exemptions help to ensure, alongside provision that restricts the pause in any individual enforcement action to a maximum of 6 months, that an extension of the evictions moratorium remains a proportionate and necessary response to the ongoing cost crisis.

7.2.5 As part of assessing the continued necessity and extension of the provisions, we have reviewed the impact assessments carried out as part of the development of the Act and the available data and evidence on operation of the provisions since they came into force. No material changes to the findings from the impact assessments have been identified in relation to the extension of this provision.

7.2.6 The Scottish Government is of the view that extension of measures to prevent the enforcement of evictions in certain circumstances during this period of extraordinary economic challenge:

- i. is likely to positively impact on equal opportunities and across those with protected characteristics, as this provision will continue to provide support to all tenants being evicted with appropriate safeguards for landlords;
- ii. will not have any detrimental impacts on island communities, local government and sustainable development;
- iii. continues to help address socio economic disadvantage and reduce the inequalities that are associated with being disadvantaged;
- iv. appropriately and proportionately balances the interests of landlords to recover their property and support to tenants vulnerable to the impact of the cost crisis by providing greater time to access support and find alternative accommodation; and
- v. does not negatively impact the rights and wellbeing of children and by reducing the harms caused by eviction for children and their families, the Act is contributing to promoting the health of children and young people and supporting their education through the provision of housing stability.

7.2.7 The Scottish Government's view is that extension of this provision continues to be a proportionate and reasonable response to the cost of living emergency and appropriately balances the property rights of landlords and the protection of tenants. This is because this provision includes a range of exemptions to the restrictions on the enforcement of eviction for landlords to ensure that evictions can continue to be enforced in certain circumstances. These include where the landlord is being

negatively impacted by the cost crisis and needs to sell or live in the let property to alleviate financial hardship; or where substantial rent arrears are negatively impacting both the landlord and tenant. In addition, where the enforcement of an eviction is prevented, the pause in enforcement of any individual eviction order/deed is for a maximum period of 6 months while the Act is in force providing certainty for both the landlords and tenant.

Student Residential Tenancies

7.2.8 Extending the provisions which introduce restrictions on the enforcement of evictions for student residential tenancies will continue to insulate students living in university or college Halls of Residence or Purpose Built Student Accommodation more time to access alternative accommodation from the negative impacts on their health and wellbeing caused by being evicted and/or being made homeless at a time of greater financial stress resulting from the ongoing cost of living crisis.

7.2.9 The Scottish Government has considered the implications of expiring the provisions restricting the enforcement of evictions in certain circumstances. As there has not been any significant change in current economic circumstances, student tenants also remain particularly vulnerable to the continued impacts of the cost crisis.

7.2.10 Provisions under the Act include a number of safeguards for student accommodation providers - for example where a student has engaged in criminal or anti-social behaviour. These recognise that there are some circumstances where enforcement of an eviction order should be able to proceed to protect those also staying in a particular student accommodation building and to strike an appropriate balance between protection of student tenants and the rights of accommodation providers. These exemptions help to ensure, alongside provision that restricts the pause in any individual enforcement action to a maximum of 6 months, that an extension of these provisions remains a proportionate and reasonable response to the ongoing cost crisis.

7.2.11 As part of assessing the continued necessity and extension of the provisions, we have reviewed the impact assessments carried out as part of the development of the Act and the available data and evidence on operation of the provisions since they came into force. No material changes to the findings from the impact assessments have been identified in relation to the extension of this provision. The Scottish Government is of the view that extension of measures to prevent the enforcement of evictions in certain circumstances during this period of extraordinary economic challenge:

- i. is likely to positively impact on equal opportunities and across those with protected characteristics, as this provision will continue to provide support to all student tenants being evicted with appropriate safeguards for student accommodation providers;
- ii. will not have any detrimental impacts on island communities, local government and sustainable development;
- iii. continues to help address socio economic disadvantage and reduce the inequalities that are associated with being disadvantaged;
- iv. appropriately and proportionately balances the interests of student

accommodation providers to recover their property, while supporting students vulnerable to the impact of the cost crisis, by giving them greater time to access support and find alternative accommodation; and

- v. does not negatively impact the rights and wellbeing of children and by reducing the harms caused by eviction for children and their families, the Act is contributing to promoting the health of children and young people and supporting their education¹⁴.

7.2.12 The Scottish Government consider that the proposed extension of the moratorium on the enforcement of eviction provisions, the purpose of which is the social protection of tenants, remains a legitimate aim

7.2.13 The Scottish Government's view is that extension of this provision continues to be a proportionate and reasonable response to the cost of living emergency and appropriately balances the property rights of student accommodation providers and the protection of students living in university or college Halls of Residence or Purpose Built Student Accommodation. This is because this provision includes a range of exemptions to the restrictions on the enforcement of eviction for student accommodation providers, ensuring that evictions can continue to be enforced in certain circumstances.

7.3 Protection against eviction (Unlawful evictions: notification and determination of damages). Schedule 2, section 7 and 8

7.3.1 Extending these provisions will ensure that measures that make it easier and more meaningful for a tenant to challenge an unlawful eviction and, where an unlawful eviction is found to have occurred, receive an appropriate level of damages, can continue. This will also continue to make it more difficult, more expensive and higher risk for a landlord to pursue an unlawful eviction rather than going through the lawful routes, dis-incentivising this type of behaviour.

7.3.2 No cases within the scope of the Act have been made to the First-tier Tribunal for Scotland (Housing and Property Chamber) since these provisions came into force, however, anecdotal evidence submitted as part of the Call for Evidence from advice services suggests that there may be a small minority of private landlords acting unlawfully.

7.3.3 The Scottish Government considered the implications of not extending this provision, however, the measure remains necessary to support the effective operation of the rent cap and moratorium provisions and support tenants and ensure tenants can more easily challenge any unlawful practices and be appropriately compensated. Under normal legislation tenants would need a professional surveyor valuation of the difference between the landlord's interest in the property with and without a sitting tenant. This is an expensive process but feedback from stakeholders indicates can also lead to a nil valuation creating a significant barrier to challenging an unlawful eviction.

¹⁴ [Cost of Living \(Tenant Protection\) \(Scotland\) Bill: children's rights and wellbeing impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/cost-of-living-tenant-protection-scotland-bill-childrens-rights-and-wellbeing-impact-assessment)

7.3.4 The Scottish Government has assessed the potential impact of the extension of these provisions on human rights, children's rights and equality rights and considers that the extension of these measures will have a positive impact across those with protected characteristics. The Scottish Government also considers that these measures support the right to adequate housing under the International Covenant on Economic, Social and Cultural Rights by ensuring appropriate safeguards are in place to deter unlawful eviction and support those affected.

SUMMARY OF THE SCOTTISH GOVERNMENTS ACTIONS AND RECOMMENDATIONS

Provision	Subject	Action	Relevant section in statement	Further Info
Schedule 1, paragraph 3	Rent cap for Scottish secure tenancies and short Scottish secure tenancies	Expiry	See section 2	See the Policy Note accompanying the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Early Expiry and Suspension of Provisions) Regulations 2023
Schedule 1, paragraph 4	Rent cap for student residential tenancies	Suspension	See section 2	See the Policy Note accompanying the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Early Expiry and Suspension of Provisions) Regulations 2023
Schedule 1, paragraph 1	Rent cap for private residential tenancies	Extension	See section 6.2	See the Policy Note accompanying the extension regulations.
Schedule 2, paragraphs 1, 2, 3, 4, 5 and 6	Eviction from residential properties: restrictions on enforcement	Extension	See section 6.3	The extension of the moratorium on the enforcement of eviction orders will continue across the private rented sector, social rented sector and student accommodation sectors. See the Policy Note accompanying the extension regulations.
Schedule 2, paragraph 7	Unlawful eviction	Extension	See section 6.4	See the Policy Note accompanying the extension regulations.

SUMMARY OF RIGHTS AND EQUALITIES CONSIDERATIONS

Impact Assessment	Private Rented Sector Rent Cap	Moratorium on the enforcement of eviction orders	Unlawful eviction damages
Business and Regulatory Impact Assessment	See Annex D	No material changes to findings from the impact assessment have been identified in relation to the extension of this provision.	No material changes to findings from the impact assessment have been identified in relation to the extension of this provision.
Child Rights and Wellbeing Impact Assessment	<p>No material changes to findings from the impact assessment have been identified.</p> <p>Whilst there may be some households where even the modest rent increase allowed under the 3% cap causes an increase in financial hardship, we consider that the amended rent cap will ensure that rent increases are proportionate and therefore continue to protect households against high rent increases whilst the costs crisis is ongoing.</p> <p>The increase to the rent cap will mitigate against a disproportionate impact on private landlords who may also be experiencing increased costs due to the cost crisis, allowing them to maintain their properties and meet other expenses, and we consider that the amendment to the cap and to the landlord safeguards achieves this balance.</p> <p>The Scottish Government is therefore satisfied that the extension and amendment</p>	No material changes to findings from the impact assessment have been identified. Extension of this provision does not negatively impact the rights and wellbeing of children; rather, by reducing the harms caused by eviction for children and their families, the Act is contributing to promoting the health of children and young people and supporting their education.	No material changes to findings from the impact assessment have been identified. Extension of this provision does not negatively impact the rights and wellbeing of children; rather, by deterring unlawful evictions, it will reduce the harms caused by unlawful eviction for children and their families. By continuing to make it easier for those affected to challenge and unlawful eviction and seek damages, the Act is contributing to promoting the health of children and young people and supporting their education.

Impact Assessment	Private Rented Sector Rent Cap	Moratorium on the enforcement of eviction orders	Unlawful eviction damages
	<p>of this provision does not negatively impact the rights and wellbeing of children, and will continue to support young people by stabilising housing costs for them and their families.</p>		
<p>Equalities Impact Assessment</p>	<p>No material changes to findings from the impact assessment have been identified.</p> <p>Whilst there may be some households where even the modest rent increase allowed under the 3% cap causes an increase in financial hardship, we consider that the amended rent cap will ensure that rent increases are proportionate and therefore continue to protect households against high rent increases whilst the costs crisis is ongoing.</p> <p>The increase to the rent cap will mitigate against a disproportionate impact on private landlords who may also be experiencing increased costs due to the cost crisis, allowing them to maintain their properties and meet other expenses, and we consider that the amendment to the cap and to the landlord safeguards achieves this balance.</p> <p>The Scottish Government is therefore satisfied that the extension and amendment of this provision will not negatively impact across those with protected characteristics, and instead is likely to have a positive</p>	<p>No material changes to the findings from the impact assessment have been identified in relation to the extension of this provision. Extension of this provision is likely to positively impact on equal opportunities and across those with protected characteristics, as this provision will continue to provide support to most tenants being evicted, while providing appropriate safeguards for landlords.</p>	<p>No material changes to the findings from the impact assessment have been identified in relation to the extension of this provision. Extension of this provision is likely to positively impact on equal opportunities and across those with protected characteristics, as this provision will continue to provide support to all tenants to make it easier to challenge an unlawful eviction and to be awarded appropriate damages.</p>

Impact Assessment	Private Rented Sector Rent Cap	Moratorium on the enforcement of eviction orders	Unlawful eviction damages
	<p>impact during this period of continuing extraordinary economic challenge.</p>		
<p>Fairer Scotland Duty</p>	<p>No material changes to the findings from the impact assessment have been identified in relation to the extension of this provision.</p> <p>Whilst there may be some households where even the modest rent increase allowed under the 3% cap causes an increase in financial hardship, we consider that the amended rent cap will ensure that rent increases are proportionate and therefore continue to protect households against high rent increases whilst the costs crisis is ongoing.</p> <p>The increase to the rent cap will mitigate against a disproportionate impact on private landlords who may also be experiencing increased costs due to the cost crisis, allowing them to maintain their properties and meet other expenses, and we consider that the amendment to the cap and to the landlord safeguards achieves this balance.</p> <p>It is the Scottish Government's view that the extension and amendment of this provision will continue to help address socio-economic disadvantage and reduce the inequalities that are associated with being disadvantaged.</p>	<p>No material changes to the findings from the impact assessment have been identified in relation to the extension of this provision.</p> <p>Extension of this measure, alongside the rent cap, continues to help address socio economic disadvantage and reduce the inequalities that are associated with being disadvantaged by providing those being evicted with additional time to access support and find alternative accommodation.</p>	<p>No material changes to the findings from the impact assessment have been identified in relation to the extension of this provision. Extension of this measure continues to help address socio economic disadvantage and reduce the inequalities that are associated with being disadvantaged by making it easier for tenants to challenge and unlawful eviction and to be awarded appropriate damages.</p>

Impact Assessment	Private Rented Sector Rent Cap	Moratorium on the enforcement of eviction orders	Unlawful eviction damages
Island Communities	<p>No material changes to the findings from the impact assessment have been identified in relation to the extension of this provision.</p> <p>Whilst there may be some households where even the modest rent increase allowed under the 3% cap causes an increase in financial hardship, we consider that the amended rent cap will ensure that rent increases are proportionate and therefore continue to protect households against high rent increases whilst the costs crisis is ongoing.</p> <p>The increase to the rent cap will mitigate against a disproportionate impact on private landlords who may also be experiencing increased costs due to the cost crisis, allowing them to maintain their properties and meet other expenses, and we consider that the amendment to the cap and to the landlord safeguards achieves this balance. Given the available data suggests that the impacts of the cost crisis may be greater in some island communities, due to the already higher cost of living and the continued higher prevalence of fuel poverty experienced in these communities (figures in Annex E show that fuel poverty rates will remain higher in rural than in urban areas when the Energy Price Guarantee increases from £2,500 to £3,000 for a typical household in April 2023), we do not</p>	No material changes to findings from the impact assessment have been identified in relation to the extension of this provision.	No material changes to findings from the impact assessment have been identified in relation to the extension of this provision.

Impact Assessment	Private Rented Sector Rent Cap	Moratorium on the enforcement of eviction orders	Unlawful eviction damages
	consider that the extension and amendment of this provision is likely to affect private landlords and tenants disproportionately in island communities compared to communities on the Scottish mainland.		
Data Protection	No material changes to findings from the impact assessment have been identified in relation to the changes and extension of this provision.	No material changes to findings from the impact assessment have been identified in relation to the extension of this provision.	No material changes to findings from the impact assessment have been identified in relation to the extension of this provision.

COMPARISON OF PRIVATE AND SOCIAL RENTED SECTORS

The following table provides illustrative figures on the scale of rent increase in the private rented sector, based on the average rent across Scotland for properties of different sizes. Two examples are given: a maximum increase of 3%, under the general rental uplift, or a maximum increase of 6%, if the landlord alternatively makes an application in respect of prescribed property costs.

Table C.1.: Illustrative figures on the potential scale of monthly private sector rent increases for existing tenants

Property Size	Average monthly rent, year to end Sept 2022*	Increase of 3% as a monthly rent amount	Increase of 6% as a monthly rent amount	Share of PRS households in property size
1 Bedroom Property	£522	£15.66	£31.32	24%
2 Bedroom Property	£663	£19.88	£39.77	49%
3 Bedroom Property	£815	£24.46	£48.91	21%
4 Bedroom Property	£1,314	£39.43	£78.86	5%**

* Note that the monthly rent figures as set out in this table are based on published figures from [Private Sector Rent Statistics, Scotland, 2010 to 2022](#) that have been adjusted to reflect existing tenants rents, by applying an assumed reduction of 10% given that the published figures are predominantly based on advertised rents. This is based on information set out in Figure 8 in the published [Cost of Living Bill Economic Background Paper](#) which shows that at a national level, average two bedroom rents for existing households are approximately 10% lower than average rents for new households, averaged across each year from 2010 to 2019.

** The figure for share of PRS households in 4 bedroom properties includes 4 and larger bedroom sizes.

These can be compared to an average rent across the social rented sector of under £5 per week (or less than £22 per month). It should be noted that there will also be variation around this average for different sizes of properties in the social rented sector. However, looking at two bedroom properties (the most prevalent size in the private rented sector), it can be seen that a 3% uplift in the private rented sector (equating to an average of £19.88 per month) is of a similar magnitude in monetary terms as a £22 per month increase in the social rented sector.

KEY UPDATES TO THE BUSINESS REGULATORY IMPACT ASSESSMENT (BRIA) AND FINANCIAL MEMORANDUM

This Annex sets out key estimates which were set out in the [Business Regulatory Impact Assessment](#) (BRIA) and [Financial Memorandum](#) which accompanied the introduction of the Cost of Living (Tenant Protection) Bill, and which require significant updating due to extending the cap by an additional six months, with different provisions applying to rent increases.

In the BRIA/Financial Memorandum, it was estimated that around 55,000 private rented properties may have increased rents in the first six months in the absence of legislation. This was based on an assumption that 50% of landlords would raise rents,¹⁵ applied to the number of tenancies where there would be an opportunity to raise rents in a six month period.¹⁶ High and low estimates were provided around this central estimate to reflect potential behaviour change by landlords given current economic conditions: the high estimate of 70% was designed to reflect the possibility that landlords may have been more likely than usual to increase rents due to the high level of inflation and increases in mortgage costs, and the low estimate of 30% to represent the possibility that landlords may have been slower than usual to increase rents due to the economic pressures on tenants, which gives a range of 33,000 to 77,000.

A six month extension implies that a further 55,000 properties may have seen increased rents during this second six-month period if there had been no legislation. Assuming that the landlords of the 55,000 properties where rents would otherwise have been increased during the first six months would now also wish to increase rents, that implies that around 110,000 properties may be affected by the rent provisions that apply to the six month extension. Applying the same high and low scenarios to account for behaviour change implies a range of 66,000 to 154,000 properties which may be affected.

The amount of rent foregone by landlords will depend on what rent increase they would otherwise have been able to implement. Recent data from letting agents (which relates to the latter half of last year) indicates that increases in new let rents were around double digits in Scotland (Rightmove – 13% in Q3 2022, Citylets – 8.3% in Q3 2022, and Zoopla – 11.4% in Oct 2022).¹⁷ However, the period of extension will cover rent increase notices issued from April to September 2023. During the course of 2023, inflation is projected to fall gradually, and this may similarly be reflected in rental trends. For example, Zoopla project that rental growth may ease towards 4%-5% by the end of 2023.¹⁸ Furthermore, the relevant rental increase affected by this legislation is in rents for existing tenants, rather than new let rents,

¹⁵ This estimate was informed by findings from the RentBetter research on landlord behaviour, as discussed in the BRIA/Financial Memorandum

¹⁶ Under the Private Residential Tenancy, the rent cannot be increased until at least 12 months has passed since the last rent increase.

¹⁷ See [4. Updated Economic Context - Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022: first report to the Scottish Parliament - gov.scot \(www.gov.scot\)](#)

¹⁸ [Zoopla wrapped: 2022 in review - Zoopla](#)

and the gap in average rent levels between existing and new tenants suggests that rent increases for existing tenants may be lower on average than for new tenants.

We therefore cost three scenarios relating to what rental growth for existing tenants would have been in the absence of legislation:

- i. Rental growth of 3% or below – there will be no foregone rental income
- ii. Rental growth of 5% – with a permitted rent increase of 3%, the foregone rental growth is 2%
- iii. Rental growth of 10% – with a permitted rent increase of 3%, the foregone rental growth is 7%. This scenario is a very much an upper-end scenario, which assumes that new let rental growth will remain at the elevated level recorded in the latter half of 2022 despite projected falls in inflation, and also assumes that rents on existing lets grow at the same rate as new let rents.

As in the BRIA/Financial Memorandum, the impact of the rent growth cap is costed on an average two bedroom monthly rent of £722. This gives the following scenarios:

Table D.1: Foregone revenue per property per month under different rental growth scenarios

	Assumed rental growth in absence of cap		
	3% or lower	5%	10%
Foregone revenue per property per month	-	£14	£51

The next table presents estimates of foregone rental income across the private rental sector as whole. This depends both on the assumed rental growth in the absence of a cap, as well as the number of properties which would have experienced rent increases in the business-as-usual scenario. As was explained above, the central scenario is based on 110,000 properties being affected, with a range of 66,000 to 154,000 to reflect behavioural responses by landlords.

Table D.2: Total foregone revenue over a six month period across the private rented sector under different scenarios relating to rental growth and number of properties affected

		Assumed rental growth in absence of cap		
		3%	5%	10%
Number of properties which would have experienced a rent increase	66,000	-	£5.7m	£20.0m
	110,000	-	£9.5m	£33.4m
	154,000	-	£13.3m	£46.7m

It should be noted that the table above only includes the impact of the option to increase rents under the general 3% provision, and does not include the alternative option to increase rents up to a maximum of 6% if prescribed property costs have increased. Where a landlord does so, then the foregone revenue will be lower than presented in the above tables.

One type of prescribed property costs where there have been significant increases is mortgage costs. It is estimated that around 19% of private rented properties in

Scotland have either a variable rate mortgage, or a fixed rate mortgage which will reach its end of term during a 12 month period.¹⁹ Applying this estimate to the central estimate of 110,000 properties where the landlord may wish to raise rents results in an estimate of around 21,000 properties where the landlord may have experienced an increase in mortgage costs and may wish to raise the rent. The average increase in mortgage costs could be in the region of £300 per month. It should be noted that data limitations mean this should be regarded as an indicative costing only, and that it also depends on mortgage rates remaining at the elevated levels reached towards the end of last year.²⁰

An increase of £300 equates to around 40% of an average two-bed rent, but it should be borne in mind that:

- even in normal market conditions, a seller is unlikely to pass anywhere near a 100% of a cost increase onto buyers, since the market price is constrained by the buyers' responsiveness to price increases. In the current rental market, tenants are particularly affected by cost of living pressures, which will limit their ability to pay higher rents, and in turn limit how much the market rent can increase by;
- this is particularly the case when very large cost pressures affect only a segment of the market, since the market rent is determined independently of an individual landlord's financing decisions since they will be competing with other landlords who have made different financing decisions.

One illustration is that data from Zoopla report that annual growth in new let rents in Scotland in October 2022, following the surge in mortgage rates after the UK Government mini-budget in September 2022, was 11.3%, well short of the increase in costs that might have been incurred by some landlords due to higher mortgage costs, despite new let rents being free to be set at market rates.

In terms of the number of applications that might be received by Rent Service Scotland for the 6% increase due to prescribed property costs, in the BRIA/Financial Memorandum accompanying the initial legislation, various scenarios were set out. Although it was estimated that there could be at least 5,500 eligible cases (just from the mortgage cost element²¹), it was argued that many landlords may decide not to go through the process for an average increase in the region of £20 per month for a period of up to six months, particularly if they thought there might be the potential to increase rents by more, either due to the expiry of the initial six month period of the legislation, or because there might be a change in tenant. Accordingly, a range of scenarios was presented, ranging from 125 in the lowest scenario, to 250, 500 or 1,000 cases in the highest scenario.

¹⁹ Note that this is the higher than the 10% referred to in the BRIA /Financial Memorandum, as that estimate applied to variable rate mortgages only, while this estimate has been extended to include the share of fixed rate mortgages which are projected to reach their end of term over a 12 month period. This number is also higher than the figure of somewhat over 10% referred to in the Updated Economic Context section in the first report to Parliament, because that estimate also took into account the share of properties where the tenancy would have ended. Tenancy turnover is already taken into account here when calculating the estimated number of all properties (with or without a mortgage) which might be affected by the legislation.

²⁰ See further discussion in Updated Economic Context section in the first report to Parliament.

²¹ This estimate was based on variable rate mortgages only, as discussed above.

As at 31 December 2022, Rent Service Scotland had received 12 applications (of which 10 were valid) from landlords in relation to prescribed costs. This suggests that over the full six months of initial period, the number of applications will fall well below the number set out in the low scenario. However, to the extent that this was due to landlords choosing to wait to see if the provisions would end after six months, there could be a substantial increase due to the extension for another six month period. This would imply a greater likelihood that the number of applications in the next period could reach the highest scenario of 1,000 applications. However, given that landlords are now able to raise rents by up to 3% without applying to Rent Service Scotland in relation to prescribed property costs, many landlords who have experienced an increase in mortgage costs may chose to go down the former route.

In addition to applications to Rent Service Scotland in respect of prescribed property costs, tenants also have the right to refer a rent increase notice to a Rent Officer to verify whether a proposed rent increase is in line with the rent cap. Although, as set out above, the number of cases where rents can be increased could be in the region of 110,000, we would anticipate that any such referrals to the Rent Service Scotland would be substantially lower than this, given that the operation of the rent cap in respect of this element is a simple uplift of 3% of the current rent. The verification check by Rent Service Scotland will require Rent Officers to verify there have been no increases in the previous year, confirm the existing rent and calculate the 3% cap and issue a verification decision to the tenant. Although the calculation is straightforward, the main burden may be ensuring that the necessary documentation is provided to produce a decision within timescales prior to the effective date. It is difficult to quantify how many tenants might apply under this provision. There is a possibility that there could be a large volume of applications if tenants whose increase is in compliance with the regulations still contact the Rent Service Scotland. We will provide clear guidance and undertake proactive communication to minimise the number of such applications.

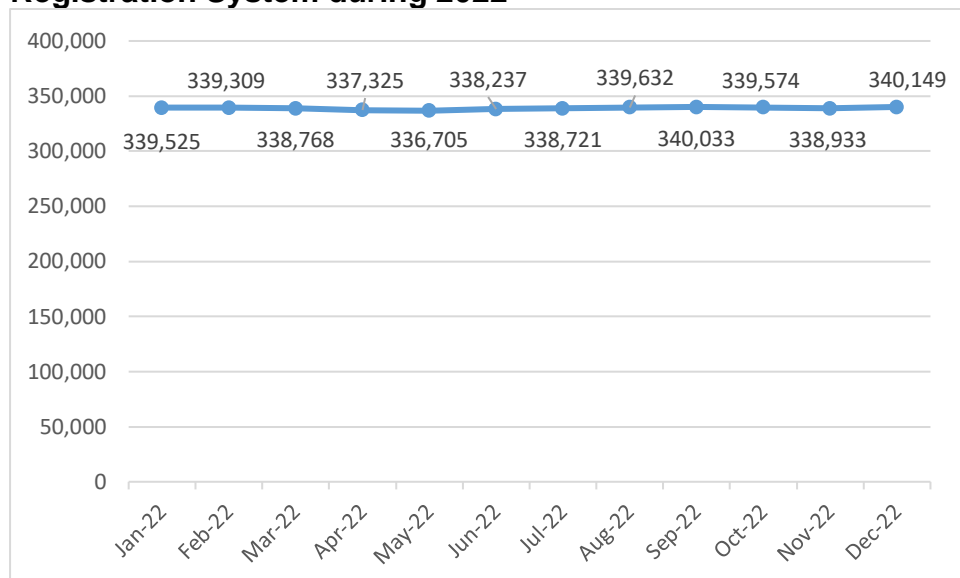
The extension of the rent cap for a further 6 months may have an impact on certain incentives to invest. The incentive to invest in new supply will not be initially affected because the cap does not apply to new lets. Furthermore, as the legislation cannot be extended beyond 31 March 2024 at the latest, landlords of new units which are let for the first time after 31 March 2023 are unlikely to raise rents for sitting tenants during the period of operation of the legislation.

However, there is a degree of tension between protecting existing tenants and preserving incentives for landlords to invest in the quality of the property and continue to provide existing rental accommodation. In extending the protection for tenants for a further six months, the intention has been to ensure that any rent increases are sufficiently modest so that they do not impose significant additional pressure on tenant budgets while cost of living pressures remain acute (which will help them to sustain their tenancy), while allowing some uplift for landlords to help them meet any cost increases related to maintaining properties to the required standard, or from higher mortgage rates, or other sources. We believe that raising the general rent cap to 3%, or alternatively allowing rent increases of up to 6% based on a 50:50 sharing of prescribed property costs, will achieve this balance.

On the issue of the overall supply of privately rented properties, it is worth considering trends in the number of properties registered on the Scottish Landlord Register. This gives a comprehensive picture of the Scottish private rented sector, although there are some limitations, such as the fact that registrations last for a period of three years and there could be a time lag in landlords de-registering properties which are no longer available for rent. In the case of any landlords looking to leave the sector or reduce their portfolio, it should be recognised that the process could take several months from freeing up properties to completing sales.

Nevertheless, subject to these limitations, Figure 1 shows that the number of registrations has been steady across the whole of 2022. In particular, the number of properties registered in December 2022 was 0.2% higher than in August 2022. We will continue to track data from the Scottish Landlord Register on a monthly basis.

Figure 1. Number of properties registered on the Scottish Landlord Registration System during 2022



ESTIMATED LEVELS OF FUEL POVERTY IN URBAN AND RURAL AREAS

The following tables set out projected fuel poverty levels across urban and rural areas, which have been updated to reflect the increase in the level of the Energy Price Guarantee which will come into effect in April 2023. The projections use the same methodology as other projections of fuel poverty contained in the Updated Economic Context section of the first report to the Scottish Parliament.²²

Table E.1: Fuel poverty rate by rural urban classification 2013/2014

	Fuel poverty rate October 2022	Fuel poverty rate April 2023	Percentage point change
Large urban areas	35%	39%	4%
Other urban areas	33%	37%	4%
Accessible small towns	31%	36%	5%
Remote small towns	44%	53%	9%
Urban Subtotal	34%	39%	4%
Accessible rural	28%	35%	6%
Remote rural	52%	57%	5%
Rural Subtotal	37%	43%	6%
Scotland	35%	39%	5%

Table E.2: Households in fuel poverty by rural urban classification 2013/2014

	Households in fuel poverty October 2022	Households in fuel poverty April 2023	Change
Large urban areas	310,000	340,000	40,000
Other urban areas	290,000	320,000	30,000
Accessible small towns	70,000	80,000	10,000
Remote small towns	40,000	50,000	10,000
Urban Subtotal	710,000	800,000	90,000
Accessible rural	80,000	100,000	20,000
Remote rural	80,000	90,000	10,000
Rural Subtotal	160,000	180,000	20,000
Scotland	860,000	980,000	120,000

²² [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022: first report to the Scottish Parliament - gov.scot \(www.gov.scot\)](https://www.gov.scot/cost-of-living-tenant-protection-scotland-act-2022-first-report-to-the-scottish-parliament)



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