POLICY NOTE

THE COST OF LIVING (TENANT PROTECTION) (SAVING PROVISION) (SCOTLAND) REGULATIONS 2025

SSI 2025/29

The above instrument was made in exercise of the powers conferred by section 12(1) of the Cost of Living (Tenant Protection) (Scotland) Act 2022 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

The Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 (the "2025 Regulations") contain saving provisions to support transition out of the temporary modifications to rent adjudication provided for by The Rent Adjudication (Temporary Modification) (Scotland) Regulations 2024 (the "2024 regulations") which are due to expire at the end of 31 March 2025.

Saving provisions mean that the 2024 Regulations modification will continue to have effect as they did immediately before their expiry in relation to referrals and appeals to Rent Service Scotland and the First-tier Tribunal for Scotland (Housing and Property Chamber) for an adjudication of a rent increase for those applications made before 1 April 2025.

Policy Objectives

Regulation 2 of the 2025 Regulations saves provisions for referrals and appeals where they were made before 1 April 2025 for:

i. a referral of a rent increase to a rent officer made under section 24(1) of the private Housing (Tenancies) (Scotland) Act 2016 Act,
ii. an appeal to the First-tier Tribunal under section 28 (1) of the 2016 Act against an order of a rent officer,
iii. a referral to the First-tier Tribunal under section 24(3)(a) of the Housing (Scotland) Act 1988 in relation to a notice proposing a new rent under the 1988 Act,
iv. an appeal to the Upper Tribunal made in accordance with section 46(1) of the Tribunals (Scotland) Act 2014 for an order of the First-tier Tribunal in relation to a referral under the 1988 Act.

These saving provisions are required to support a smooth transition out of the temporary modifications which will cease to exist after 31 March 2025. If no action is taken to save these provisions, applications made by tenants while the temporary measures where in force that have yet to be determined may no longer be able to be determined under the temporary changes.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, The Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
The Scottish Government engaged with key stakeholders on the proposed approach to temporarily modify the rent adjudication process in the development of the 2024 Regulations. An overview of this engagement is provided in the policy note for the 2024 Regulations. No further consultation has been carried out in relation to these regulations as they do not introduce new policy but are needed to support a smooth exit from the 2024 Regulations.

Impact Assessments
A Childs Rights and Wellbeing Impact Assessment has been carried out for these regulation and will be published online. No other impact assessments have been completed for this instrument. However, a range of impact assessments were carried out for the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA)[1] relating to the implementation of regulations to temporarily amend the existing rent adjudication process has been undertaken.

The Minister for Housing confirms that no further BRIA is necessary as the instrument has no additional financial effects on the Scottish Government, local government or on business beyond those identified in relation to the 2024 Regulations.

Scottish Government
Housing Directorate

January 2025

[1] https://www.gov.scot/publications/rent-adjudication-temporary-modifications-scotland-regulations-2024-business-regulatory-impact-assessment/