Draft Regulations laid before the Scottish Parliament under section 77(3) of the Private Housing (Tenancies) (Scotland) Act 2016, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

HOUSING

The Private Housing Rent Control (Exempt Property) (Scotland) Regulations 2026

Made - - - -	*2026*
Coming into force - -	*1st April 2026*

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 17D(1) of the Private Housing (Tenancies) (Scotland) Act 2016(**a**) and all other powers enabling them to do so.

In accordance with section 17D(6) of that Act, the Scottish Ministers have consulted persons who appear to them to represent the interests of tenants and landlords, and such other persons they consider appropriate.

In accordance with section 77(3) of that Act(**b**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Private Housing Rent Control (Exempt Property) (Scotland) Regulations 2026.

(2) These Regulations come into force on 1 April 2026.

Interpretation

2. In these Regulations—

"the 2016 Act" means the Private Housing (Tenancies) (Scotland) Act 2016,

"build to rent property" has the meaning given by regulation 4,

"mid-market rent property" has the meaning given by regulation 5.

(**a**) 2016 asp 19. Section 17D was inserted by section 23(3) of the Housing (Scotland) Act 2025 (asp 13).
(**b**) Section 77(3) was relevantly amended by paragraph 7(6)(c)(i) of the schedule of the Housing (Scotland) Act 2025 (asp 13).

Exempt property

3. For the purposes of Parts 4 and 4A of the 2016 Act, the following are exempt properties—

(a) build to rent property,

(b) mid-market rent property.

Meaning of "build to rent property"

4.—(1) A build to rent property is a property that—

(a) is built, converted or renovated for use as a residential property,

(b) forms part of a relevant development,

(c) the completion date is on or after 31 August 2021, and

(d) is included in the property owner's entry in the landlord register.

(2) A property will cease to be an exempt property, for the purposes of this regulation, on the earliest of—

(a) the date on which the property is first occupied by the owner of the property as their only or principal home,

(b) the date on which the property is first used as a short-term let,

(c) the date on which the property is no longer included in the property owner's entry in the landlord register, or

(d) the date on which the property no longer forms part of a relevant development.

(3) A property is not an exempt property under this regulation where it is a mid-market rent property.

(4) For the purposes of paragraph (1)(a)—

(a) a property is converted for use as a residential property where the works to convert the property have required an application for planning permission to change the use of that property to permit its use as a dwelling,

(b) a property is renovated for use as a residential property where, immediately prior to its renovation, the property was not suitable for use as a dwelling by reason of—

(i) the structural integrity of that property was compromised to the extent that without significant repair work, beyond the extent of normal repair, modernisation or refurbishment, it was deemed unsafe to live in, or

(ii) repair work to make the property suitable to live in required the demolition of the existing structure.

(5) For the purposes of this regulation—

"completion date" means the date of—

(a) the acceptance of a completion certificate in accordance with section 18 of the Building (Scotland) Act 2003(**a**) in respect of the construction, conversion, or renovation of a building or part of a building, or

(b) if earlier, the grant of permission for the temporary occupation of that building under section 21(3) of that Act in respect of that construction, conversion or renovation,

(**a**) 2003 asp 8.

"landlord register" means the register prepared and maintained by the local authority in accordance with section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004(**a**),

"planning permission" has the meaning given by section 277 of the of the Town and Country Planning (Scotland) Act 1997(**b**),

"relevant development" is a group of six or more properties which—

(a) are all covered by the same planning permission,

(b) are all owned by the same person or group of persons, and

(c) since the completion date, have all solely been used for lease under a private residential tenancy under the 2016 Act.

"short-term let" has the meaning given by article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short term Lets) Order 2022(**c**).

(6) For the purposes of the definition of "relevant development" in paragraph (5), a property has not solely been used for lease under a private residential tenancy if at any time it has been—

(a) occupied by the owner of the property as their only or principal home, or

(b) used as a short-term let.

Meaning of "mid-market rent property"

5.—(1) A mid-market rent property is a property where—

(a) the landlord is restricted from increasing the rent for the property in the circumstances specified in paragraph (2), (3) or (4),

(b) those restrictions prevent the landlord from increasing the rent above the specified level, and

(c) the rent for the property is not increased above the specified level.

(2) A landlord is restricted from increasing the rent for the property where—

(a) the landlord receives, or has received, funding from the Scottish Government or a local authority to provide the property for rent, and

(b) there are conditions applicable to that funding which restrict the landlord's ability to increase the rent.

(3) A landlord is restricted from increasing the rent for the property where—

(a) a person, other than the landlord, receives, or has received, funding from the Scottish Government or a local authority to provide the property for rent, and

(b) there are conditions applicable to that funding which indirectly restrict the landlord's ability to increase the rent.

(4) A landlord is restricted from increasing the rent for the property where the terms of the tenancy agreement for the property restrict the landlord's ability to increase the rent.

(5) For the purposes of this regulation—

"broad rental market area" has the meaning given by paragraph 4 of schedule 3B of the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(**d**),

"funding"means any form of financial assistance, including grants, loans, guarantees or indemnities,

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(**a**) 2004 asp 8. Section 82 was amended by section 176(2) of the Housing (Scotland) Act 2006 (asp 1).
(**b**) 1997 c. 8. Section 277 was relevantly amended by S.S.I. 2006/243.
(**c**) S.S.I. 2022/32, to which there are amendments not relevant to this instrument.
(**d**) S.I. 1997/1995, as relevantly amended by S.I. 2008/3156.

"median" means the middle value when a series of numbers are arranged by order of magnitude, with the median being the average of the two values closest to value in the centre of that distribution where there is an even number of values,

"the specified level" is—

(a) the median of market rent levels for that size of property in that broad rental market area, or

(b) where there are no market rent levels available for that size of property in that broad rental market area, the median of market rent levels for a property of similar size in that broad rental market area.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify descriptions of properties which are to be exempt properties for the purposes of Parts 4 and 4A of the Private Housing (Tenancies) (Scotland) Act 2016 ("2016 Act"). Part 4 of the 2016 Act sets out restrictions on rent increases in areas which have not been designated as rent control areas. The Part 4 restrictions will also apply to exempt properties in rent control areas. Part 4A of the 2016 Act, as inserted by section 23 of the Housing (Scotland) Act 2025, sets out restrictions on rent increases in rent control areas. The Part 4A restrictions will not apply to exempt properties in rent control areas.

Regulation 3 provides that build to rent properties and mid-market rent properties are exempt properties, which are defined in regulations 4 and 5 respectively.

A build to rent property is described as a property forming part of a development of 6 or more residential properties, all in single or joint ownership, all covered by the same planning permission, and where the completion date for the property is on or after the Scottish Ministers' announcement of the intention to introduce rent control ("relevant development"). That announcement was made on 31 August 2021. The exemption would no longer apply if the property is owner-occupied, used for a short-term let, removed from the landlord's entry in the landlord register, or no longer part of a relevant development.

A mid-market rent property is described as a property where the landlord is prevented from increasing the rent in three specified circumstances, those restrictions prevent the landlord from increasing the rent above a specified level and the rent is not increased above that specified level. The restrictions on rent increases can be in the form of conditions attaching to direct or indirect funding for the provision of the mid-market rent or via conditions in the tenancy agreement. The specified level above which rent cannot be increased is the median of market rent levels for a property of that size (or, in certain circumstances, similar size) in that broad rental market area.

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