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## **Local Government, Housing and Planning Committee**

# **Subordinate Legislation under the Cost of Living (Tenant Protection) (Scotland) Act considered by the Local Government, Housing and Planning Committee on 12 September 2023**

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# Local Government, Housing and Planning Committee

To consider and report on matters relating to local government and planning falling within the responsibility of the Cabinet Secretary for Finance and matters relating to housing and tenants' rights within the responsibility of the Cabinet Secretary for Social Justice and matters relating to the Local Government Boundary Commission and local governance review and democratic renewal within the responsibility of the Deputy First Minister.



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# Committee Membership



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Scottish Conservative  
and Unionist Party



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Scottish Labour



**Pam Gosal**  
Scottish Conservative  
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**Ivan McKee**  
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**Marie McNair**  
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# Introduction

1. At its meeting on 12 September 2023, the Local Government, Housing and Planning Committee considered the following affirmative instrument:
  - [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Amendment of Expiry Date\) Regulations 2023](#).

# The Regulations

2. The Cost of Living (Tenant Protection) (Scotland) Act 2022 gives Scottish Ministers temporary power to cap rents for private and social tenants, as well as for student accommodation. The Act also introduces a temporary pause on the enforcement of eviction orders in certain cases.
3. It was considered in the Parliament as emergency legislation and accordingly the Committee did not have time to undertake scrutiny of the Bill. The Committee did, however, take evidence from stakeholders and the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights ('the Minister') on the issues raised by the proposals on 4 October 2022.
4. The Cost of Living (Tenant Protection) (Scotland) Act 2022 was initially due to expire on 31 March 2023, however, Scottish Ministers used the powers available to them to extend Part 1 for a further period of 6 months to 30 September 2023. The Committee considered these Regulations at its meeting on 28 February 2023 and agreed to recommend approval by division (For 5, Against 2, Abstentions 0).
5. On 1 June 2023, the Scottish Government published a statement of reasons setting out the evidence why it believes it is necessary and proportionate to extend the measures for a further 6 months.
6. The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023 (the draft regulations) extend the effect of Part 1 for a further and final 6 months to 31 March 2024. Apart from extending the date to which the legislation applies the regulations do not make any other changes. Therefore, the current position would remain the same i.e.:
  - Most in-tenancy private rent increases are capped at 3%
  - Alternatively, private landlords can apply to a rent officer for increases of up to 6% to help cover certain cost increases incurred over the preceding six months.
  - Some evictions orders approved by the First-tier Tribunal cannot be enforced for six months. Some eviction orders can still be enforced.
  - Increased damages for unlawful evictions of up to 36 months' worth of rent would continue to be applicable.

## Committee Consideration

7. At its meeting on 13 June 2023 the Delegated Powers and Law Reform Committee considered the draft Regulations and agreed not to draw the instrument to the attention of the lead Committee.
8. The Local Government, Housing and Planning Committee took evidence on the draft Regulations on 12 September 2023 from the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights. Prior to taking evidence the Committee issued a call for written evidence and received the following responses:
  - [Living Rent](#)
  - [Propertymark](#)
  - [ALACHO](#)
  - [Scottish Land and Estate](#)
  - [Scottish Association of Landlords](#)



## Conclusion

9. After taking evidence, the Committee was invited to consider S6M-09290— That the Local Government, Housing and Planning Committee recommends that the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations [draft] 2023 be approved.

10. The Committee agreed by division (For 4, Against 2, Abstentions 0) to recommend approval of the draft Regulations.

11. However, in expressing its support for the draft Regulations, the Committee notes that this is the final time that the Scottish Ministers can extend the application of Part 1 of the Act and is concerned that there is still no clarity on what will happen after 31 March 2024.
12. The Committee notes the Minister's continued intention to make use of the rent adjudication measures in the 2022 Act in the absence of any longer term rent control measures, but would welcome clarity on how the adjudication measures will be applied and when the Committee will have an opportunity to scrutinise them. It is critical that landlords and tenants have certainty about what is happening after 31 March as soon as possible.
13. Furthermore, the Committee welcomes the Minister's commitment to continued monitoring of the impact of the 2022 Act's provisions. As part of that work, the Committee urges the Scottish Government to improve its data collection to enable a better understanding of the long-term impact of these provisions and to inform any future legislative approaches.

