

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Cost of Living (Tenant Protection) (Scotland) Act 2022. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 3

(introduced by section 10)

RENT ADJUDICATION: POWER TO MODIFY

Private residential tenancies

- 1 (1) The Private Housing (Tenancies) (Scotland) Act 2016 is amended as follows.
- (2) After ^[F1]section 33] insert—

^[F2]“Power to modify Chapter 2]

^[F3]Power to modify Chapter 2]

- (1) On or in anticipation of the expiry or suspension of [paragraph 1 of schedule 1](#) of the Cost of Living (Tenant Protection) (Scotland) Act 2022, the Scottish Ministers may by regulations modify the provisions of this Chapter in connection with the determination of the rent payable under a private residential tenancy by a rent officer or the First-tier Tribunal.
 - (2) Regulations under subsection (1) may in particular make provision—
 - (a) about the basis on which the rent is to be determined by a rent officer or the First-tier Tribunal which may include—
 - (i) matters to be taken into account in determining the rent,
 - (ii) matters to be disregarded in determining the rent,
 - (iii) assumptions to be made in determining the rent,
 - (b) limiting the rent that may be determined to an amount that is no more than the rent specified in accordance with section 22(2)(a)(i) in a rent-increase notice prompting the referral to the rent officer in question or (as the case may be) leading to the appeal to the First-tier Tribunal,
 - (c) about the procedure relating to referral to a rent officer or appeal to the First-tier Tribunal.
 - (3) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers—
 - (a) must consult such persons as appear to them to represent the interests of tenants and landlords under private residential tenancies, and
 - (b) may consult any other person they consider appropriate.”.
- (3) In section 77(3) (regulation-making powers), before “37” insert ^[F5]“33ZA”].

Textual Amendments

- F1** Words in sch. 3 para. 1(2) substituted (31.3.2023) by [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Incidental Provision\) Regulations 2023](#) (S.S.I. 2023/116), regs. 1(2), **2(2)(a)**
- F2** Words in sch. 3 para. 1(2) substituted (31.3.2023) by virtue of [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Incidental Provision\) Regulations 2023](#) (S.S.I. 2023/116), regs. 1(2), **2(2)(b)(iii)**
- F3** Words in sch. 3 para. 1(2) substituted (31.3.2023) by virtue of [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Incidental Provision\) Regulations 2023](#) (S.S.I. 2023/116), regs. 1(2), **2(2)(b)(ii)**

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- F4** Word in sch. 3 para. 1(2) substituted (31.3.2023) by virtue of [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Incidental Provision\) Regulations 2023 \(S.S.I. 2023/116\)](#), regs. 1(2), **2(2)(b)(i)**
- F5** Word in sch. 3 para. 1(3) substituted (31.3.2023) by [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Incidental Provision\) Regulations 2023 \(S.S.I. 2023/116\)](#), regs. 1(2), **2(2)(c)**

Commencement Information

- I1** Sch. 3 para. 1 in force at 28.10.2022, see [s. 13\(1\)](#)

Assured tenancies and short assured tenancies

- 2 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) After section 25 insert—

“25ZA Power to modify this Part

- (1) On or in anticipation of the expiry or suspension of [paragraph 2 of schedule 1](#) of the Cost of Living (Tenant Protection) (Scotland) Act 2022, the Scottish Ministers may by regulations amend or repeal the provisions of this Part in connection the determination of the rent payable under an assured tenancy or a short assured tenancy by the First-tier Tribunal.
- (2) Regulations under subsection (1) may in particular make provision—
- (a) about the basis on which the rent is to be determined by the First-tier Tribunal which may include—
 - (i) matters to be taken into account in determining the rent,
 - (ii) matters to be disregarded in determining the rent,
 - (iii) assumptions to be made in determining the rent,
 - (b) limiting the rent that may be determined to an amount that is no more than the rent proposed in accordance with section 24(1) leading to the referral to the First-tier Tribunal,
 - (c) about the procedure relating to referral to the First-tier Tribunal.
- (3) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers—
- (a) must consult such persons as appear to them to represent the interests of tenants and landlords under assured tenancies and short assured tenancies, and
 - (b) may consult any other person they consider appropriate.
- (4) Regulations under subsection (1) are subject to the affirmative procedure.”.
- (3) In section 53(2) (orders and regulations), before “, shall” insert “or regulations under section 25ZA”.

Commencement Information

- I2** Sch. 3 para. 2 in force at 28.10.2022, see [s. 13\(1\)](#)

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Changes and effects yet to be applied to :

- sch. 3 expires by [2022 asp 10 s. 11\(1\)](#)