

Cost of Living (Tenant Protection) (Scotland) Bill

Child Rights and Wellbeing Impact Assessment (CRWIA)

October 2022

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The purpose of the Cost of Living (Tenant Protection) (Scotland) Bill (“the Bill”) is to respond to the emergency situation caused by the impact of the cost crisis on those living in the rented sector in Scotland by introducing a temporary rent freeze, a temporary moratorium on evictions, increased penalties for unlawful evictions and additional powers to temporarily reform rent adjudication until at least 31 March 2023. The intended effect of the Bill is to:

1. Protect tenants by stabilising their housing costs;
2. 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
3. Seek to avoid tenants being evicted from the rented 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.

As this is emergency legislation, it is intended that a three-monthly reporting requirement will be included in the legislation, to demonstrate the need for provisions to either continue or expire, where appropriate, based on evidence at the relevant time.

Introduction

As set out in Part 1 of the Children and Young People (Scotland) Act 2014, Scottish Ministers must keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements, and if they consider it appropriate to do so, take any of the steps identified by that consideration. Undertaking a CRWIA helps Ministers to fulfil this duty.

Background

On 6 September 2022 the Programme for Government (PfG) committed to a suite of emergency measures in response to the cost crisis. This emergency legislation will offer protection to tenants in recognition of the particular issues that will affect people who rent their home. Households in the rented sector, especially those on lower incomes, generally pay more of their income on housing costs than owner occupiers and have less resilience to cope with financial shocks.

Further information about the background, rationale and policy intention behind the Bill is set out in the Policy Memorandum which accompanies the Bill. The Bill, Policy Memorandum and other accompanying documents are available from the Scottish Parliament website.

It is the Scottish Government's view that the following measures will support those most vulnerable to the cost crisis through a temporary restriction on rent increases, temporary moratorium on evictions, increased temporary penalties for unlawful evictions and additional powers to temporarily reform rent adjudication.

Although the Bill aims primarily to support tenants, it is recognised that the impacts of the cost crisis may also be felt by some landlords so appropriate safeguards have been considered as part of the Bill development process and provided for within the Bill.

1. Which articles of the UNCRC does this policy/measure impact on?

[Article 27\(1\)-\(3\)](#) right to adequate standard of living.

2. What impact will your policy/measure have on children's rights?

Positive - this bill will help families and young people in rented accommodation to stay in their homes during the cost crisis. A safe and stable home is vital to the practical realisation of children's rights.

3. Will there be different impacts on different groups of children and young people?

The policy of introducing a temporary rent freeze, a temporary moratorium on evictions, increased penalties for unlawful evictions and additional powers to temporarily reform rent adjudication will directly and indirectly support children and young people in the social and private rented sectors, including students and those residing in college and university halls of residence and Purpose Built Student Accommodation (PBSA).

The policy will have both direct impact on some young people, for example those named on tenancies and accommodation contracts, and indirectly on those children and young people living in rented accommodation.

We have not identified any competing interests between the different groups of children and young people.

4. If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?

No negative direct impacts have been identified on groups of children and young people in the private rented sector (PRS) and the social rented sector (SRS). However, if there is a change in investor behaviour in both the PRS or PBSA sectors as a result of these changes and the sectors contract or investor confidence is undermined, there may be more limited supply of homes, particularly for young people and students who have to compete with others to secure accommodation when they may not have a secure income or references, putting them at a disadvantage exacerbated by limited supply. Given the time limited nature of the interventions and safeguards being developed for landlords, it is our view that the risk of immediate market change is low. This risk will need to be monitored depending on the duration of that freeze and its impact on PRS, SRS and PBSA stock.

To reduce the risks to landlords (and supply) and in recognition that the impacts of the cost crisis may also be felt by landlords, and the legislation needs to strike a balance between supporting tenants and reducing the impact of the measures on landlords, a range of appropriate safeguards have been considered as part of the Bill development process. These safeguards will offer protection against tenants (including young people) accumulating unsustainable debts, recognise the costs associated with offering a property for rent and ensure there is a continued clear legal disincentive to tenants from choosing not to pay their rent when they can afford to do so. Further details of these safeguards are set out in the Business Regulatory Impact Assessment.

The Scottish Government is satisfied that the measures contained in the Bill are appropriate and proportionate and will support young people by stabilising housing costs for them and their families.

In addition, specific safeguards are included in the Bill for landlords including provision allowing enforcement of eviction in certain circumstances (including in the PBSA due to criminal or anti-social behaviour). This is also an important safeguard for children to ensure their homes are safe and not blighted by such behaviours.

5. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?

The Scottish Government remains committed to the incorporation into Scots law of the UNCRC to the maximum extent possible as soon as practicable.

By reducing the harms caused by eviction and financial insecurity for both them and their families, this Bill is contributing to promoting the health (Article 24) of children and young people and supporting their education (Article 28) but ensuring they have a stable home during the cost crisis.

In addition, a great deal of harm is also done to children and young people where landlords fail to follow the correct procedures for eviction so the Bill also seeks to increase penalties imposed on such action to act as a disincentive.

6. How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?

Given how urgently the measures in this Bill are required as a result of the unprecedented challenges faced by the costs crisis, no formal public consultation has taken place. However, the measures in the Bill reflect concerns highlighted by members of the public, stakeholders and Members of the Scottish Parliament.

The recent New Deal for Tenants draft Rented Sector Strategy Consultation¹ consulted widely on a draft strategy for the rented sector (both private and social rented) which covered a broad range of areas. The consultation received 8346 responses and gathered feedback from tenants from across all rented sector tenures, as well as community based and national third sector organisations, local authorities, housing associations and many other tenant organisations across Scotland. Furthermore, consideration has been taken of the consultation on the Coronavirus Recovery and Reform (Scotland) Bill.

¹ New Deal for Tenants draft Rented Sector Strategy Consultation <https://consult.gov.scot/housing-and-social-justice/draft-rented-sector-strategy/>

7. What evidence have you used to inform your assessment?

We have considered a range of evidence including analysis by Scottish Government analysts, internal and external published research and the analysis of the and the New Deal for Tenants Consultation. Consideration has been taken of the consultation on the Coronavirus Recovery and Reform (Scotland) Bill. This evidence suggests that the current cost crisis will have a major impact on renters.

In Scotland 21% of tenants in the PRS have children, and in the SRS this figure rises to 25%. (Source : [SHS Data Explorer \(shinyapps.io\)](#) figures for 2019) Rented households are more likely to have lower household incomes, higher levels of poverty and to be financially vulnerable. When looking at children in relative poverty, 47% of children in social rented households and 40% of children in private rented households are in poverty, compared to 10% of children in households buying with a mortgage and 18% of children in households who own outright².

Rented households are also more likely to be in fuel poverty. With the price cap frozen at £2,500, we estimate that 54% of households in the SRS and 48% of households in the PRS will be in fuel poverty. This compares to 24% of owner occupied households. As the cost of living crisis is primarily being driven by an increase in energy and fuel costs.

Students, often reliant on fixed funding streams such as bursaries, grants and loans, are also vulnerable to cost of living increases, making it more likely they will be pushed into poverty. An NUS survey found that 92% of UK students said the cost-of-living crisis was impacting their mental health, 96% are cutting back, 68% can no longer afford course materials, and more than 1 in 10 are using food banks.

Over recent years the private rented sector has seen an increasing number of families calling it home. There are now an estimated 70,000 family households out of 340,000 in the private rented sector in Scotland, based on the household composition categories of large family, small family and single parent households within Scottish Household Survey (SHS) results.

SHS data for 2019 also highlights that, 9% of social rented households were single parent families, 10% were small families and 6% were large families. Many of these family households will be significantly impacted by the current cost crisis, therefore these policies being taken forward to help protect renters are highly likely to have a positive impact on both children and young people residing within these rented family homes.

8. How will the impact of the policy/measure be monitored?

As this is emergency legislation, it is intended that a three-monthly reporting requirement will be included in the legislation, to demonstrate the need for provisions

² Source: Family Resources Survey, as reported on in [Poverty and Income Inequality in Scotland Tables](#)

to either continue or expire, where appropriate, and based on evidence at the relevant time.

Section 6(1) of the Coronavirus (Extension and Expiry) (Scotland) Act 2021 Act also requires the Scottish Ministers to report on evictions orders issued by the First-tier Tribunal for Scotland because of rent arrears. This allows the Scottish Government to review any impacts from the measures.

9. How will you communicate to children and young people the impact of the policy/measure on their rights?

Information on this will be available on the Scottish Government website and in advice agencies such as Shelter Scotland and Citizens Advice Scotland. In addition Programme for Government this year noted that there will be a new tenants' rights campaign, showcasing existing rights and ensuring tenants are aware, for example, of their ability to challenge rent rises.

Whilst some of the communications work will have an online focus, there are also plans to raise awareness by other routes, to ensure that communities and individuals who have limited internet access will still have information on their rights.

10. Sign & Date

Signed:



Catriona MacKean, Deputy Director, Better Homes

Date: 27 September 2022

Annex 1 – UNCRC Article Clusters

[CRC Clusters \(unicef-irc.org\)](http://www.unicef-irc.org)

I General measures of implementation

[Article 4](#) implementation obligations

[Article 41](#) respect for existing standards

[Article 42](#) making Convention widely known

[Article 44\(6\)](#) making reports widely available

II Definition of a child

[Article 1](#)

III General principles

[Article 2](#) non-discrimination

[Article 3\(1\)](#) best interest to be a primary consideration

[Article 3\(2\)](#) State's obligations to ensure necessary care and protection

[Article 3\(3\)](#) standards for institutions services and facilities

[Article 6](#) the right to life, survival and development (see also: [VI Basic health and welfare](#))

[Article 12](#) respect for the views of the child

IV Civil rights and freedoms

[Article 7](#) right to name, nationality and to know and be cared for by parents

[Article 8](#) preservation of child's identity

[Article 13](#) freedom of expression

[Article 14](#) freedom of thought, conscience and religion

[Article 15](#) freedom of association and peaceful assembly

[Article 16](#) protection of privacy

[Article 17](#) child's access to information, and role of mass media

[Article 37\(a\)](#) [right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment](#)

V Family environment and alternative care

[Article 5](#) parental guidance and child's evolving capacities

[Article 18\(1\) and \(2\)](#) parental responsibilities and State's assistance

[Article 9](#) separation from parents

[Article 10](#) family reunification

[Article 11](#) illicit transfer and non-return

[Article 27\(4\)](#) recovery of maintenance for the child

[Article 20](#) [children deprived of their family environment](#)

[Article 21](#) [adoption](#)

[Article 25](#) periodic review of placement and treatment

[Article 19](#) protection from all forms of violence

[Article 39](#) rehabilitation and reintegration of victims of violence (see also: [VIII - Special protection measures](#))

VI Basic health and welfare

[Article 6](#) right to life, survival and development (see also: [III - General principles](#))

[Article 18\(3\)](#) support for working parents

[Article 23](#) rights of disabled children

[Article 24](#) right to health and health services

[Article 26](#) right to social security

[Article 27\(1\)-\(3\)](#) right to adequate standard of living

VII Education, leisure and cultural activities

[Article 28](#) right to education

[Article 29](#) aims of education

[Article 31](#) right to leisure, play and participation in cultural and artistic activities

VIII Special protection measures

A - Children in situations of emergency

[Article 22](#) refugee children

[Article 38](#) children and armed conflict

[Article 39](#) rehabilitation of child victims (see also: [V Family environment and alternative care](#))

B - Children involved with the system of administration of juvenile justice

[Article 40](#) administration of juvenile justice

[Article 37\(a\)](#) prohibition of capital punishment and life imprisonment

[Article 37\(b\)-\(d\)](#) restriction of liberty

[Article 39](#) rehabilitation and reintegration of child victims (see also: [V Family environment and alternative care](#))

C - Children in situations of exploitation

[Article 32](#) child labour

[Article 33](#) drug abuse

[Article 34](#) sexual exploitation

[Article 35](#) sale, trafficking and abduction

[Article 36](#) other forms of exploitation

D - Children belonging to a minority or an indigenous group

[Article 30](#)

[Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict](#)

[Governments](#) should ensure that children under 18 who are members of the armed forces do not take a part in combat. Any recruitment of children under 18 must be voluntary and carried out with the full consent of the child's parents/carers. The UK Government has entered interpretive Declarations to this Optional Protocol. The UK would not exclude the deployment of under 18s who are members of the armed forces in direct combat if there is a genuine military need; it is not practicable to withdraw them before deployment; or doing so would undermine the operational effectiveness of their unit. The minimum age at which children may join the UK armed forces is 16 years, with parental consent required.

[Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography](#) [Governments](#) must prohibit the sale of children, child prostitution and

child pornography, and recognise the vulnerability of child victims, protect their privacy, provide appropriate support services and ensure their safety.

Annex 2 – General Comments

General Comments are non-legally binding interpretive aids issued by the UN Committee on the Rights of the Child to provide State parties with assistance regarding the interpretation of an article or issue relating to the UNCRC, and what actions governments should take to ensure its implementation. New General Comments appear at irregular intervals.

[Treaty bodies Search \(ohchr.org\)](#)

1. [The aims of education \(2001\)](#)
2. [The role of independent National Human Rights Institutions in the protection and promotion of the rights of the child \(2002\)](#)
3. [HIV/AIDS and the rights of children \(2003\)](#)
4. [Adolescent health and development in the context of the Convention on the Rights of the Child \(2003\)](#)
5. [General measures of implementation on the Convention on the Rights of the Child \(2003\)](#)
6. [Treatment of unaccompanied and separated children outside their country of origin \(2005\)](#)
7. [Implementing child rights in early childhood \(2005\)](#)
8. [The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment \(2006\)](#)
9. [The rights of children with disabilities \(2006\)](#)
10. [Children's rights in juvenile justice \(2007\)](#)
11. [Indigenous children and their rights under the Convention \(2009\)](#)
12. [The right of the child to be heard \(2009\)](#)
13. [The right of the child to freedom from all forms of violence \(2011\)](#)
14. [On the right of the child to have his or her best interests taken as a primary consideration \(2013\)](#)
15. [On the right of the child to enjoyment of the highest attainable standard of health \(2013\)](#)
16. [State obligations regarding the impact of the business sector on children's rights \(2013\)](#)
17. [On the right of the child to rest, leisure, plan, recreational activities, cultural life and the arts \(2013\)](#)

18. [On harmful practices \(Joint General Comment with the Committee on the Elimination of Discrimination against Women\) \(2019\)](#)
19. [Public budgeting for the realisation of children's rights \(2016\)](#)
20. [Implementation of the rights of the child during adolescence \(2016\)](#)
21. [Children in street situations \(2017\)](#)
22. General principles regarding the human rights of children in the context of international migration [\(Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families\) \(2017\)](#)
23. State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return [\(Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families\) \(2017\)](#)
24. [General comment No. 24 \(2019\)](#) on children's rights in the child justice system
25. [General comment 25 \(2021\)](#) Children's Rights in relation to the digital environment.



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