

Cost of Living (Tenant Protection) (Scotland) Bill

Fairer Scotland Duty summary

October 2022



Scottish Government
Riaghaltas na h-Alba
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Purpose and intended effect

The purpose of the Cost of Living (Tenant Protection) 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 and a temporary moratorium on evictions, along with increased damages for unlawful evictions, until at least 31 March 2023, and with additional powers to temporarily reform rent adjudication in connection with the expiry of the rent freeze. 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 reporting requirement will be included to demonstrate the need for provisions to either continue or expire, where appropriate, based on evidence at the relevant time.

Background

On 6 September 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 and are linked from this [Bill webpage](#).

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.

Objective

The over-arching objective of the Bill is to provide greater temporary support and protection to tenants during the cost crisis are detailed above. Given 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. Therefore a range of appropriate safeguards have been considered as part of the Bill development process to offer protection against tenants 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.

Summary of evidence

These are emergency measures as the cost crisis is placing huge pressures on households, with particular issues being experienced by many people who rent their home.

Rental Sector – household characteristics

Rented households are more likely to have lower household incomes, higher levels of poverty and to be financially vulnerable: 63% of social rented households and 40% of private rented households in Scotland are estimated to be financially vulnerable, with savings which would cover less than one month of income at the poverty line, compared to 24% of households buying with a mortgage and 9% of households owning outright¹.

Households in the rented sector, especially those on lower incomes, in general pay more of their income on housing costs than owner occupiers higher rates of poverty and child poverty, and have less resilience to cope with financial shocks.

The rented sectors have a higher proportion of people who are in relative poverty (39% of in social rented households and 34% in private rented households, compared to 7% in households buying with a mortgage and 14% in households who own outright), as well as children in relative poverty (47% in social rented households and 40% in private rented households are, compared to 10% in households buying with a mortgage and 18% in households who own outright.)

¹ *Scottish Government Statistical publication on Wealth in Scotland 2006-2020*

For households who depend partly or fully on benefit income, the situation is more precarious. The Scottish Government have uprated most devolved benefits by 6% in contrast to the UK Government's 3.1%, but despite this additional protection, the spike in inflation means that the value of devolved benefits has also fallen in real terms, albeit by less than reserved benefits.

Energy costs

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 social rented sector and 48% of households in the private rented sector will be in fuel poverty. This compares to 24% of owner occupied households.

The share of households on prepayment meters is also higher in the rented sector – these households will be particularly affected in winter when the majority of heating is required, since they are unable to spread the costs over the year.

The share of households on pre-payment meters is much higher in the private rented sector (22%) and social rented sector (43%) than in the owner occupier sector (6%).

Whilst grants and support payments in a number of forms are being provided to mitigate this, these mitigations will not be sufficient to offset the impact of higher energy costs.

Households will need to use more of their income to pay their energy bills, and this impact is being felt at the same time as a large increase in other types of inflation. CPI inflation, which averaged 4% in 2021/22, has accelerated to nearly 10% in August 2022. Increases in wages and benefits are not keeping pace with the higher inflation rate, meaning that in real terms households are worse off. Households will struggle to cover non-energy related inflation, even before attempting to pay for energy bills, meaning they will either need to draw on any savings or cut back on consumption. These spending choices will be particularly challenging for households who have low or no savings.

Rent

Figures from the ONS Private Rental Index show that the annual increase in private rents across all tenants in Scotland has risen over recent months. In data from letting agents (noting that they will not have complete market coverage) for the latest quarter Apr-Jun 2022 compared with Apr-Jun 2021, Citylets have reported that advertised rents have increased by 15.1% in Edinburgh, 13.0% in Glasgow, and 4.4% in Aberdeen. Rightmove have reported that advertised rents in Scotland have increased by 12.5% over the same time period.²

² Sourced from [ONS Private Rental Index results to July 2022](#), [Citylets Quarterly Reports](#), and [Rightmove Rental Price Tracker](#)).

With respect to the issue of how often rents are increased, a variety of anecdotal and survey evidence suggests that a significant share of sitting tenants within the private rented sector do not experience a rent increase each year.

A survey undertaken for the Nationwide RentBetter Project found that over half³ of tenants responding to the survey had not experienced a rent increase during their current tenancy. A survey of landlords and letting agents undertaken for the RentBetter project reported that of those responding to the survey, around half reported never increasing rents or only on change of tenancy.⁴ Of the remainder, only around a third reported that they increased rents each year, and for landlords who increase rents less frequently than each year, only a portion of their tenants will experience a rent increase in any given year. Recent experience therefore suggests that, on average, most tenants would not expect a rent increase over the 6 months period ahead. However, the cost crisis creates a less predictable environment in which rent increases may be more likely and would be much harder for tenants to meet.

New research for the Joseph Rowntree Foundation and Scottish Government also found that many respondents reported worry about spending significant proportions of their income on rent. 44% of low income renters surveyed worry about being able to pay their rent and more than half worry about being able to afford other essentials in future. People on Universal Credit (UC) / Local Housing Allowance (LHA), women, people with disabilities and people with children are more likely to report worry and cut backs on essential spending⁵.

College and University Halls of Residence and Purpose Built Student Accommodation

A significant number of students live in college and university halls of residence and Purpose Built Student Accommodation (PBSA).

The NUS/Unipol accommodation costs survey showed that, in 2021/22 the average annual rent for purpose built student accommodation in the UK was £7,374, an increase of £309 (+4.4%) on last year and since 2011/12, average rents have risen by 61% overall⁶.

Although assurances have been received from the majority of institutional and PBSA providers regarding the stability of contracts, and that there is little appetite to increase costs mid tenancy, this does not cover with certainty all the providers.

³ 59% of tenants reported not having experienced an increase, and this increases to 63% if the “no answers” are excluded.

⁴ Around 17% reported never increasing rents and around 32% reported increasing rent only when the tenancy changes.

⁵ “What do lower income tenants in Scotland’s private rented sector want to see from a new Rented Sector? Summary report” September 2022 (Unpublished – in press)

⁶ [accommodationcostssurvey_2021.aspx](https://www.unipol.org.uk/accommodationcostssurvey_2021.aspx) (unipol.org.uk)

Many private providers have signed up for the voluntary UNIPOL codes, but again this does not cover, with certainty, all the private providers and Scottish college and university providers have not adopted an equivalent code.

Students renting college and university and PBSA accommodation did not receive the £400 energy cost support which was for households. Although they are eligible for support from other routes such as via hardship funds, these are already under significant pressure and should utility cost increases be passed onto students there may be insufficient financial resource to meet all individual needs.

Providers and college and university halls of residence and PBSA should be able to utilise the Energy Bill Relief Scheme: help for businesses and other non-domestic customers announced by the UK Government earlier in September 2022⁷

Summary of assessment findings

As set out above, households that rent are more likely to have lower household incomes, higher levels of poverty and to be financially vulnerable and struggling to meet their housing costs.

The overall aim of the measures is to support households in the rented sector, especially those on lower incomes, who generally pay more of their income on housing costs than owner occupiers and have less resilience to cope with financial shocks.

It is the Scottish Government's view that these proposals will help address socio-economic disadvantage and reduce the inequalities that are associated with being disadvantaged.

More generally, and to address tenant's on low incomes general lack of awareness around private rented sector rights and protections (highlighted by findings from the Nationwide's RentBetter Project Wave 2⁸ research) we are also including 'Renting Rights' as part of the Cost of Living Crisis campaign which outlines what the Government is doing to help the public deal with the cost of living crisis. Raising awareness of the rent adjudication process could directly help more people successfully challenge rent increases and prevent their cost of living rising beyond what they can afford, as well as helping to prevent unlawful evictions.

Given the impacts of the cost crisis may also be felt by landlords, (more information is available in the Business and Regulatory Impact Assessment) we have also put in place a number of safeguards to reduce the risk of tenants accumulating unsustainable debts, that recognise the costs to landlords associated with offering a

⁷ [Energy Bill Relief Scheme: help for businesses and other non-domestic customers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/energy-bill-relief-scheme-help-for-businesses-and-other-non-domestic-customers)

⁸ [Findings | Rent Better \(indigohousegroup.com\)](https://www.indigohousegroup.com/)

property for rent and that ensure there is a continued clear legal disincentive to tenants choosing not to pay their rent when they can afford to do so.

It is proposed that the emergency measures are in place for 6 months initially (subject to review and extension for a maximum of 18 months from the date the Bill comes into force) and includes powers on rent adjudication that, on the expiry of the rent cap, will seek to ease the transition for tenants away from the emergency protections in the future by preventing immediate significant rent increases.

It is also 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.



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