

Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Dates and Rent Cap Modification) Regulations 2023
Briefing from Propertymark / March 2023

Background

The Cost of Living (Tenant Protection) (Scotland) Act 2022 came into force on 28 October 2022 and introduced temporarily restrictions on landlords from increasing the amount of rent they can charge and restrictions on evictions from residential tenancies.

Key concerns¹

- The legislation is continuing to have an effect on landlord confidence. The majority of agents are still seeing landlords exiting the market.
- The crux of the housing problem is that demand is far outstripping supply - the legislation is having the opposite effect by pushing landlords out of the sector.
- Rent increases have never been a significant factor, yet this legislation and the threat of further rent control is forcing landlords to put up rents between tenancies to cover any future cost implications.

Review

Following the first review of the legislation in January 2023, amendments were proposed to modify the level of the rent cap in the private rented sector to 3%, and to modify the maximum permitted level of rent increase in certain circumstances up to 6% of existing rent, for an extended period up to the 30 September 2023.

NB: An extension on the rent cap has not been proposed for the social or student housing sectors, where rent controls will be dropped entirely. The restriction on evictions is proposed to remain in place for all tenures.

Key statistics

Impact of the proposed extension to the Act:

- In December 2022,² 91% of agents said that landlords would be inclined to increase rents between tenancies, because of the Act, to cover impending and rising costs. **When asked in February 2023,³ this had risen to 94%.**
- In December 2022, 68% of agents had seen an increase in notices to sell due to the temporary measures, by February 2023 **83% said they had seen an increase in notices.**
- 90% of agents said that landlords had no desire to increase their portfolio in December 2022.
- In February 2023, **92% of agents are saying that landlords are looking to exit** the PRS due to the extension of the Act.

¹ <https://www.propertymark.co.uk/resource/the-impact-of-the-cost-of-living-regulations.html>

² Propertymark Scottish member survey December 2022: Received 94 responses, totalling 169 lettings agency branches who manage more than 46,000 rented properties.

³ Propertymark Scottish member survey February- March 2022: Received 70 responses, totalling 164 lettings agency branches who manage more than 31,000 properties.

Impact

- The 3% rent cap does not meet the increased mortgage and maintenance costs private landlords are facing.
- The prospect of rent control is promoting rent increases at tenancy changeover, with 89% of Propertymark letting agents saying they are concerned about the impact of rent caps on the future of their business.
- Landlords are struggling with affordability and are looking to leave the sector in Scotland.
- The temporary measures are disproportionate to the scale of the problem and have only driven more landlords out of the sector.

Case Studies

- **Landlord mortgage costs** - a letting agent in Lanarkshire highlighted the rise in mortgage costs for landlords, outlining that one landlord has had an increase in their premiums from £151 to £560.
- **Forcing rents to go up** - an agent from Inverness said that one landlord is between tenancies and her fixed mortgage is due to end in 15 months' time but has increased the rent now in expectation of future costs and changes to legislation.
- **High demand** - an agent said they recently advertised a flat in Glasgow and received 100 requests to view it within three hours of going live. They advertised a house in Westhill, Aberdeenshire which was on the market for one day and they received over 30 requests from families to view it.

Rents

Average rent increase across the UK was 4.4% in the 12 months to January 2023, less than the average of 6% proposed by social landlords in Scotland and significantly less than inflation. In Scotland the average increase was 4.5% in the 12 months to January 2023, in Wales, where there are no rent controls, it was 3.9%.⁴

Solutions

- **Remove the rent cap** – (whilst a percentage rise is welcome) how does a three per cent cap deal with inflation which is much higher and rising costs for landlords.
- **Reduce the Additional Dwelling Supplement** - to boost the supply of rented housing and reduce rent rises the Scottish Government should reduce the surcharge on additional homes.
- **Review all taxes relating to private landlords** - through a review the Scottish Government will be better placed to introduce policies that reduce costs for those wishing to invest in the sector.

Propertymark

Propertymark is the UK's leading professional body of property agents, with over 17,000 members. For further information and to arrange a meeting please contact Rose Forman, Policy & Campaigns Officer via roseforman@propertymark.co.uk or telephone 01926 496 800.

⁴ [Index of Private Housing Rental Prices, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)