

Dear Convener,

**The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Dates and Rent Cap Modification) Regulations 2023;
The Cost of Living (Tenant Protection) (S) Act (Early Expiry and Suspension of Provisions) Regulations 2023**

I am writing on behalf of the Access to Justice Committee of the Law Society of Scotland, having noted with interest that your committee will discuss the above regulations at your next committee meeting.

The first report on whether the rent freeze and evictions “moratorium” remain necessary and proportionate has, as you know, been laid, and our Access to Justice Committee and Property and Land Law Sub-Committee were grateful for the chance to provide wider feedback to the Minister for Zero Carbon Buildings, Active Travel and Tenants’ Rights prior to this. This feedback raised, amongst other issues, the necessity for a review of the measures regulating the letting sector to fully understand the impacts of the measures under the Act in conjunction with other existing and proposed measures which may impact the wider housing sector in the medium to long-term; consideration of both the urban and rural perspective where landlords not renting properties in more remote areas results in the disruption of an already fragile rural economy; and that the measures are creating a lack of certainty for return on investment in the sector, causing many businesses to choose to invest in other, more favourable jurisdictions.

We also noted in the feedback that our members have received a significant number of requests for advice around rent increases and evictions from tenants, and also requests for advice from landlords, and it is on these specific points around education and awareness, from an access to justice perspective, that this correspondence will focus.

We appreciate that the measures included in the Act include the provision of information to tenants around rent and eviction controls, and also the capacity for landlords to apply for limited increase to rents to adjust for increased costs. We are aware of correspondence sent to registered landlords and that there was some public information provided around landlord and tenant rights. There is, however, no positive obligation on landlords to provide this information. The access to justice challenge, then, is about awareness of rights, and it is clear that more needs to be done here to negate misunderstanding.

We have previously highlighted, and wish to do so again, that overall awareness of these changes remains low. There is a lack of clarity around the legislation and particularly a

misunderstanding around a perceived “moratorium” on evictions, this narrative coming from previous messaging around the act, which is not always the case.

It is important to understand the often informal communications between landlords and tenants, and that conversations between landlords and tenants can feel more like statements by landlords, than possible negotiations between both parties. It’s therefore crucial to provide clear and timely information, promotion and awareness to social and private tenants, and indeed landlords, to ensure that all parties understand their rights. Scottish Government must consider further how they can share this information more widely, more clearly and more effectively, and must consider doing so with urgency and on a wider scale than before.

It is also important to highlight that this is an area that commonly affords little recourse to legal advice. Almost nobody in the private rented sector is represented in tribunals; the consequences of this being felt acutely by tenants, but also affecting landlords who can’t afford representation in these matters. This sparse representation in tribunals must be considered in this context, and must also be kept in mind in respect of any future Housing Bill.

We are clear that awareness raising and education must be a priority for the Scottish Government. I hope the above points show the vital importance of improved and wider communication to provide both absolute clarity for tenants and landlords around these regulations and changes, and to uphold access to justice in this sector.

I thank you and the committee for your consideration.

Yours sincerely,

Fiona Menzies
Policy & Public Affairs Executive
Secretary to the Access to Justice and Legal Aid committees of the Law Society of
Scotland