

## **Note by the Clerk: Subordinate legislation**

### **Overview**

1. At this meeting, the Committee will consider two Scottish Statutory Instruments (SSIs), which are subject to annulment by resolution of the Parliament until 27 March and 30 March respectively. The Committee is invited to consider the instruments and decide what, if any, recommendations to make.
2. Further information about both instruments is provided in the Annexes to this paper.
  - Annexe A – The Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 (2025/29)
  - Annexe B - Local Governance (Scotland) Act 2004 (Remuneration) Amendment (Amendment) Regulations 2025 (2025/36)

### **Procedure**

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

### **Committee consideration**

7. So far, no motion recommending annulment of either instrument has been lodged.
8. Members are invited to consider both instruments and decide whether there are any points they wish to raise. If there are, options include:

- seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
  - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.
9. It would then be for the Committee, at its next meeting, to consider any additional information gathered and decide whether to make recommendations in relation to either instrument.
10. If members have no points to raise, the Committee should note both instruments (that is, agree that it has no recommendations to make).
11. However, should a motion recommending annulment of either or both instruments be lodged later in the 40-day period, it may be necessary for the Committee to consider either or both instruments again.

**Clerks to the Committee**  
**February 2025**

# Annexe A - The Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 (2025/29)

**Title of instrument:** [The Cost of Living \(Tenant Protection\) \(Saving Provision\) \(Scotland\) Regulations 2025](#)

**Laid under:** [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#)

**Laid on:** 7 February 2025

**Procedure:** Negative

**Deadline for Committee consideration:** 24 March 2025

**Deadline for Chamber consideration:** 27 March 2025

**Commencement:** 31 March 2025

## Purpose of the instrument

12. The accompanying [Policy Note](#) explains that the instrument contains saving provisions to support transition out of the temporary modifications to rent adjudication provided for by the [Rent Adjudication \(Temporary Modification\) \(Scotland\) Regulations 2024](#) (“the 2024 Regulations”) which are due to expire at the end of 31 March 2025.
13. The Rent Adjudication (Temporary Modification) (Scotland) Regulations 2024 provided for a temporary ‘tapering’ approach to rent control following the expiration of parts of the Cost of Living (Tenant Protection) Act 2022. The Committee considered these regulations at its meeting on [5 March 2024](#).
14. In practice this means that where a referral against a rent increase is made to the Rent Officer or First-tier Tribunal before 1 April it will still be considered under the terms of the 2024 Regulations. Similarly, provisions in the regulations on appeals to the First Tier Tribunal against an order of a rent officer or an appeal to the Upper Tribunal against an order of the First Tier Tribunal will continue.
15. The Policy Note then explains that these saving provisions are required—

“To support a smooth transition out of the temporary modifications which will cease to exist after 31 March 2025. If no action is taken to save these provisions, applications made by tenants while the temporary measures where in force that have yet to be determined may no longer be able to be determined under the temporary changes.”
16. The Policy Note also includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.
17. A [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#) was published alongside the Policy Note. It confirms that “no aspects of the proposal are

relevant to the UNCRC requirements and the impact on children's rights has been assessed as neutral."

18. In respect of financial implications, the Policy Note confirms that a [Business and Regulatory Impact Assessment \(BRIA\)](#) relating to the implementation of regulations to temporarily amend the existing rent adjudication process was published in February 2024. It further confirms that in the Minister for Housing's view, "no further BRIA is necessary as the instrument has no additional financial effects on the Scottish Government, local government or on business beyond those identified in relation to the 2024 Regulations."

## **Delegated Powers and Law Reform Committee consideration**

19. The DPLR Committee considered the instrument on 25 February 2025 and [reported on it](#). The DPLR Committee made no recommendations in relation to the instrument although it drew to the attention of the Committee [correspondence with the Scottish Government](#).

20. The correspondence noted that—

"The Policy Note suggests that regulation 2 of the instrument saves provisions for referrals and appeals where they were made before 1 April 2025. Regulation 2 applies the time limit of 1 April 2025 to referral proceedings in regulations 2(a) and (c) only. The time limit is not applied to the subsequent appeal procedures specified in regulations 2(b) and (d)."

21. The DPLR Committee invited the Scottish Government to confirm whether the policy intention is "to apply the 1 April 2025 time limit to referral proceedings only."

22. The Scottish Government responded as follows—

"The policy intention is accurately reflected in the instrument; the 1 April 2025 time limit is only applied in connection to referral proceedings as set out in regulations 2(a) and (c). The 1 April 2025 time limit is not applied to subsequent appeal procedures specified in 2(b) and (d). We note that the policy note lacks clarity on this point due to the words "and appeals" in the first sentence under the heading "Policy objectives" and in terms of corrective action we undertake to publish an updated policy note to put this matter beyond doubt."

23. The DPLR Committee welcomed the Scottish Government's response and its commitment to publishing an updated Policy Note to provide greater clarity.

## Scottish Government Policy Note

### THE COST OF LIVING (TENANT PROTECTION) (SAVING PROVISION) (SCOTLAND) REGULATIONS 2025

SSI 2025/29

The above instrument was made in exercise of the powers conferred by section 12(1) of the Cost of Living (Tenant Protection) (Scotland) Act 2022 and all other powers enabling them to do so. The instrument is subject to negative procedure.

#### Summary Box

The Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 (the “2025 Regulations”) contain saving provisions to support transition out of the temporary modifications to rent adjudication provided for by The Rent Adjudication (Temporary Modification) (Scotland) Regulations 2024 (the “2024 regulations”) which are due to expire at the end of 31 March 2025.

Saving provisions mean that the 2024 Regulations modification will continue to have effect as they did immediately before their expiry in relation to referrals and appeals to Rent Service Scotland and the First-tier Tribunal for Scotland (Housing and Property Chamber) for an adjudication of a rent increase for those applications made before 1 April 2025.

#### Policy Objectives

Regulation 2 of the 2025 Regulations saves provisions for referrals and appeals where they were made before 1 April 2025 for:

- i. a referral of a rent increase to a rent officer made under section 24(1) of the private Housing (Tenancies) (Scotland) Act 2016 Act,
- ii. an appeal to the First-tier Tribunal under section 28 (1) of the 2016 Act against an order of a rent officer,
- iii. a referral to the First-tier Tribunal under section 24(3)(a) of the Housing (Scotland) Act 1988 in relation to a notice proposing a new rent under the 1988 Act,
- iv. an appeal to the Upper Tribunal made in accordance with section 46(1) of the Tribunals (Scotland) Act 2014 for an order of the First-tier Tribunal in relation to a referral under the 1988 Act.

These saving provisions are required to support a smooth transition out of the temporary modifications which will cease to exist after 31 March 2025. If no action is taken to save these provisions, applications made by tenants while the temporary measures were in force that have yet to be determined may no longer be able to be determined under the temporary changes.

#### UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children’s rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, The Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

### **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Consultation**

The Scottish Government engaged with key stakeholders on the proposed approach to temporarily modify the rent adjudication process in the development of the 2024 Regulations. An overview of this engagement is provided in the policy note for the 2024 Regulations. No further consultation has been carried out in relation to these regulations as they do not introduce new policy but are needed to support a smooth exit from the 2024 Regulations.

### **Impact Assessments**

[A Childs Rights and Wellbeing Impact Assessment](#) has been carried out for these regulation and will be published online. No other impact assessments have been completed for this instrument. However, a range of impact assessments were carried out for the [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#).

### **Financial Effects**

[A Business and Regulatory Impact Assessment](#) (BRIA) relating to the implementation of regulations to temporarily amend the existing rent adjudication process has been undertaken.

The Minister for Housing confirms that no further BRIA is necessary as the instrument has no additional financial effects on the Scottish Government, local government or on business beyond those identified in relation to the 2024 Regulations.

Scottish Government Housing Directorate

January 2025

## **Annexe B - Local Governance (Scotland) Act 2004 (Remuneration) Amendment (Amendment) Regulations 2025 (2025/36)**

**Title of instrument:** [Local Governance \(Scotland\) Act 2004 \(Remuneration\) Amendment \(Amendment\) Regulations 2025](#)

**Laid under:** [Local Governance \(Scotland\) Act 2004](#)

**Laid on:** 19 February 2025

**Procedure:** Negative

**Deadline for committee consideration:** 24 March 2025

**Deadline for Chamber consideration:** 30 March 2025

**Commencement:** 31 March 2025

### **Purpose of the instrument**

24. The accompanying [Policy Note](#) explains that the purpose of the instrument is to correct an error in the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025 and that the instrument also sets out the increased salaries to be paid to Conveners and Vice-Conveners of Joint Boards from 1 April 2025.

25. [The Scottish Government wrote to the Committee on 18 February](#) to inform members that after laying the Amendment Regulations (which were considered on 25 February) her officials became aware of two errors in them and further amending Regulations would be required as follows—

“To rectify these errors a set of amendment regulations will be laid on 19 February. The maximum salaries specified for Band B Civic Heads and Senior Councillors were wrong, with the January regulations stating £37,458 rather than £37,548 - a transposition of two numbers. The new regulations correct that transposition and ensure that the correct maximum salaries can be paid. The regulations also omitted to provide for the annual uplift to the salaries of Conveners and Vice-Conveners of Joint Boards and these are now included. The new salaries will be £28,207 and £26,797 respectively. The amendment regulations will come into force on 31 March 2025. This ensures that the January regulations are amended as necessary and that the increased salaries can be paid from 1 April 2025.”

26. The Committee considered the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025 [at its meeting on 25 February](#) and agreed to make no recommendations in respect of the instrument. In so doing, the Committee considered the correspondence from the Cabinet Secretary for Finance and Local Government noted above.

27. The Policy Note confirms that the instrument under consideration today makes the following changes to the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025—

- Regulations 2(2)(a) and (b) correct a typographical error and set out the correct maximum salaries which can be paid to Band B Civic Heads and Senior Councillors. These maximum salaries are now set at £37,548.
- Regulation 2(2)(c) inserts a paragraph (6A) into regulation 2 of the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025. This amends regulation 12(8) and (9) of the Local Governance (Scotland) Act (Remuneration) Regulations 2007 (“the 2007 Regulations”), to provide for the annual uplift to the salaries paid to Conveners and Vice-Conveners of Joint Boards. It brings them to £28,207 and £26,797 respectively. Paragraph (6A) also removes a superfluous “of” in regulation 12(9) of the 2007 Regulations.

28. The Policy Note also includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

29. In respect of financial implications, the Policy Note states that—

“No Business Regulatory Impact Assessment is required as there is no impact on business or the third sector and the impact on the public sector (council budgets) is not expected to cause a significant financial pressure. The uplift in General Revenue Grant 2025-26 ensures that the salaries are affordable within the Local Government Settlement.”

30. A [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#) was published alongside the Policy Note. It confirms that there is “no intended relevance or impact and no existing evidence” of an impact on children’s rights which has therefore been assessed as neutral.

## **Delegated Powers and Law Reform Committee consideration**

31. The DPLR Committee considered the instrument on 25 February 2025 and [reported on it](#). The DPLR Committee made no recommendations in relation to the instrument.

## **Scottish Government Policy Note**

### **THE LOCAL GOVERNANCE (SCOTLAND) ACT 2004 (REMUNERATION) AMENDMENT (AMENDMENT) REGULATIONS 2025**

#### **SSI 2025/36**

The above instrument was made in exercise of the powers conferred by sections 11(1) and 16(2)(b) of the Local Governance (Scotland) Act 2004 and all other powers enabling them to do so. The instrument is subject to negative procedure.



## Summary Box

The Local Governance (Scotland) Act 2004 (Remuneration) Amendment (Amendment) Regulations 2025 correct an error in the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025. They also set out the increased salaries to be paid to Conveners and Vice-Conveners of Joint Boards from 1 April 2025.

## Policy Objectives

This instrument makes provision for the annual increase in salary of Conveners and Vice-Conveners of Joint Boards. It also corrects an error in the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025 in relation to the maximum salaries which can be paid to Band B Civic Heads and Senior Councillors.

Regulations 2(2)(a) and (b) correct a typographical error and set out the correct maximum salaries which can be paid to Band B Civic Heads and Senior Councillors. These maximum salaries are now set at £37,548.

Regulation 2(2)(c) inserts a paragraph (6A) into regulation 2 of the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2025. This amends regulation 12(8) and (9) of the Local Governance (Scotland) Act (Remuneration) Regulations 2007 (“the 2007 Regulations”), to provide for the annual uplift to the salaries paid to Conveners and Vice-Conveners of Joint Boards. It brings them to £28,207 and £26,797 respectively.

Paragraph (6A) also removes a superfluous “of” in regulation 12(9) of the 2007 Regulations.

## UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children’s rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Local Governance (Scotland) Act 2004 (Remuneration) Amendment (Amendment) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## EU Alignment Consideration

This instrument is not relevant to the Scottish Government’s policy to maintain alignment with the EU.

## Consultation

No consultation was conducted in advance of these regulations as they provide for a routine annual uplift to the salaries of Conveners and Vice-Conveners of Joint Boards and correct a typographical error.

## Impact Assessments

The instrument amends existing principal Regulations to provide for the normal annual uplift to the salaries of Conveners and Vice-Conveners of Joint Boards and correct a typographical error. An equality impact assessment has not been undertaken as the increase in Joint Board Convener and Vice-Convener salaries applies to all those holding those posts. A [child rights and wellbeing impact assessment](#) has been prepared.

### **Financial Effects**

The Cabinet Secretary for Finance and Local Government confirms that no Business Regulatory Impact Assessment is required as there is no impact on business or the third sector and the impact on the public sector (council budgets) is not expected to cause a significant financial pressure. The uplift in General Revenue Grant 2025-26 ensures that the salaries are affordable within the Local Government Settlement.

Scottish Government

Local Government Directorate 19 February 2025