



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Assured tenancies—rents and other terms

23 Limited prohibition on assignation etc. without consent.

- (1) Subject to subsection (2) below, it shall be an implied term of every assured tenancy that, except with the consent of the landlord, the tenant shall not—
 - (a) assign the tenancy (in whole or in part); or
 - (b) sublet or part with possession of the whole or any part of the house let on the tenancy.
- (2) Subsection (1) above does not apply if, under the terms of the tenancy, there is provision prohibiting or permitting (whether absolutely or conditionally) assignation, subletting or parting with possession by the tenant.

[^{F1}23A Rent cap controls

- (1) Except in the case of an exempt tenancy, on or after 6 September 2022, the landlord under an assured tenancy or a short assured tenancy may not increase the rent payable under the tenancy by more than the permitted rate.
- (2) For the purposes of this Part, the “permitted rate” is [^{F2}3%].
- (3) The Scottish Ministers may by regulations substitute a different percentage for the one for the time being mentioned in subsection (2).
- (4) Regulations under [subsection \(3\)](#) are subject to the affirmative procedure.
- (5) Any notice served under section 24(1) on or after 6 September 2022 during a period when the permitted rate is 0% is of no effect.

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- (6) In subsection (1), “exempt tenancy” means—
- (a) a statutory assured tenancy which includes a term of the type mentioned in paragraph (a) of subsection (5) of section 24, or
 - (b) a contractual tenancy which makes provision of the type mentioned in paragraph (b) of that subsection.]

Textual Amendments

- F1** S. 23A treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 2\(1\)-\(3\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))
- F2** Word substituted in s. 23A(2) (in so far as that provision is treated as inserted (temp.) by 2022 asp 10, sch. 1 para. 2(3)) (1.4.2023) by [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Amendment of Expiry Dates and Rent Cap Modification\) Regulations 2023](#) (S.S.I. 2023/82), regs. 1(3), [3\(2\)](#)

24 Increases of rent under assured tenancies.

- (1) For the purpose of securing an increase in the rent under [^{F3}a statutory] assured tenancy, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect—
 - (a) if the tenancy was [^{F4}at the time of service of the notice] a contractual tenancy (whether or not renewed by operation of tacit relocation), immediately after its termination; or
 - (b) if the tenancy was [^{F4}at the time of service of the notice] not such a contractual tenancy, at any time during the tenancy,
 but not earlier than the expiry of the minimum period after the date of service of the notice.
- (2) The minimum period referred to in subsection (1) above is [^{F5}except in a case where section 25A applies]—
 - (a) if the assured tenancy is for 6 months or more, 6 months;
 - (b) if the assured tenancy is for less than 6 months, the duration of the tenancy or one month (whichever is the longer) [^{F6}and in any case to which section 25A applies, one month].
- (3) Where a notice is served under subsection (1) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the period to which the new rent relates—
 - (a) the tenant refers the notice to [^{F7}the First-tier Tribunal] in the prescribed form; or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (4) Where a notice is served under subsection (1) above but the rent under the tenancy has previously been increased (whether by agreement or by virtue of a notice under subsection (1) above or a determination under section 25 below) the new rent shall take effect not earlier than the first anniversary of the date on which that increase took effect.
- (5) Nothing in this section

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- [^{F8}(a) extends to a statutory assured tenancy of which there is a term] which makes provision for an increase in rent (including provision whereby the rent for a particular period will or may be greater than that for an earlier period) by an amount specified in [^{F9}, or fixed by reference to factors specified in,] the tenancy contract or by a percentage there specified [^{F9}, or fixed by reference to factors there specified,] of an amount of rent payable under the tenancy [^{F10} or
- (b) affects the operation of any term of a contractual tenancy which makes provision for an increase in rent (including provision whereby the rent for a particular period will or may be greater than that for an earlier period)]

[^{F11}(6) The factors referred to in subsection (5) above must be—

- (a) factors which, once specified, are not wholly within the control of the landlord; and
- (b) such as will enable the tenant at all material times to ascertain without undue difficulty any amount or percentage falling to be fixed by reference to them.]

Textual Amendments

- F3** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 100(a)**
- F4** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 100(a)**
- F5** Words in s. 24(2) inserted (1.4.1993) by S.I. 1993/658, art. 2, **Sch. 1 para. 9(a)**
- F6** Words in s. 24(2)(b) inserted (1.4.1993) by S.I. 1993/658, art. 2, **Sch. 1 para. 9(b)**
- F7** Words in s. 24(3)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(3)** (with Sch. 1)
- F8** S. 24(5)(a) substituted for words by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 100(b)(i)**
- F9** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 100(b)(ii)(iii)**
- F10** S. 24(5)(b) and preceding word inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 100(b)(iv)**
- F11** S. 24(6) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), **Sch. 11 para. 100(c)**

Modifications etc. (not altering text)

- C1** S. 24 continued (*temp.* from 30.9.2002) by S.S.I. 2002/318, **art. 5** (with art. 4(3))
- C2** S. 24 modified (*temp.*) (28.10.2022) by virtue of Cost of Living (Tenant Protection) (Scotland) Act 2022 (asp 10), s. 13(1), **sch. 1 para. 2(1)(2)(4)** (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by S.S.I. 2023/82, regs. 1(3), **2(2)**); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), **2(2)**)

[^{F12}24A Consideration of notice to increase rent by rent officer

- (1) Where a rent officer receives a referral under section 24(3)(a), the rent officer is to decide whether the new rent specified in the notice under section 24(1) (“the proposed new rent”) would be an increase to the rent under the assured tenancy of more than the permitted rate.
- (2) If the rent officer decides under [subsection \(1\)](#) that the proposed new rent would be an increase to the rent under the assured tenancy of no more than the permitted rate,

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the rent officer must make an order stating that from the effective date the rent under the assured tenancy is the proposed new rent.

- (3) If the rent officer decides under [subsection \(1\)](#) that the proposed new rent would be an increase to the rent under the assured tenancy of more than the permitted rate, the rent officer must make an order stating that from the effective date the rent under the assured tenancy is the rent determined by the rent officer.
- (4) In determining the rent under [subsection \(3\)](#), the rent officer must determine that the rent is an amount that would be an increase to the existing rent under the assured tenancy of the permitted rate.
- (5) For the purpose of subsection (2) and (3), the effective date is—
 - (a) where the rent officer makes the order 14 days or more before the original effective date, the original effective date,
 - (b) otherwise, the first payment date falling at least 14 days after the day on which the rent officer makes the order.
- (6) In subsection (5)—

“original effective date” means the date on which the rent would have been increased in accordance with section 24(2) had a referral to the rent officer not been made, and

“payment date” means a date on which a rent payment falls to be made in accordance with the terms of the assured tenancy.

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

24B Right of appeal to First-tier Tribunal against order of rent officer

- (1) Where a rent officer has made an order under [section 24A\(2\)](#) or (3) in relation to the rent under an assured tenancy, the landlord or the tenant may appeal against the order to the First-tier Tribunal.
- (2) An order under [section 24A\(2\)](#) or (3) may not be appealed against—
 - (a) more than 14 days after the order is made,
 - (b) where the order is made by virtue of [section 24D\(2\)](#).
- (3) Making an appeal under subsection (1) renders the order being appealed against of no effect.

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

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24C First-tier Tribunal’s power to set rent subject to permitted rate

- (1) Where an appeal is made to the First-tier Tribunal under [section 24B\(1\)](#), the First-tier Tribunal must make an order stating that from the effective date the rent under the assured tenancy is the rent determined by the First-tier Tribunal.
- (2) In determining the rent under [subsection \(1\)](#), the First-tier Tribunal must determine that the rent is an amount that would be an increase to the existing rent under the assured tenancy of the permitted rate.
- (3) For the purpose of [subsection \(1\)](#), the effective date is—
 - (a) where the First-tier Tribunal makes its order on or before the original effective date, the original effective date,
 - (b) otherwise, the first payment date falling on or after the day on which the First-tier Tribunal makes its order.
- (4) In [subsection \(3\)](#)—

“original effective date” means the date on which the rent would have been increased in accordance with [section 24\(2\)](#) had a referral to the rent officer not been made, and

“payment date” means a date on which a rent payment falls to be made in accordance with the terms of the assured tenancy.

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

24D Withdrawal of referral or appeal

- (1) This section applies—
 - (a) where a referral made under [section 24\(3\)\(a\)](#) is withdrawn by the tenant, or
 - (b) where—
 - (i) an appeal made under [section 24B\(1\)](#) is withdrawn by one party, and
 - (ii) the other party has not made an appeal in respect of the tenancy in question, or any appeal made by the other party has been withdrawn.
- (2) The order maker must make an order under [section 24A\(2\)](#) or [\(3\)](#) or (as the case may be) [24C\(1\)](#) stating that from the effective date the rent under the assured tenancy is—
 - (a) the new rent specified in the notice under [section 24\(1\)](#), or
 - (b) if that amount would be an increase to the rent under the tenancy of more than the permitted rate, the rent determined by the order maker.
- (3) In determining the rent under [subsection \(2\)\(b\)](#), the order maker must determine that the rent is an amount that would be an increase to the rent payable under the assured tenancy of the permitted rate.
- (4) Where the order maker is the First-tier Tribunal, an order may not be made by virtue of [subsection \(2\)](#) until the earlier of—
 - (a) the expiry of the period within which an appeal under [section 24B\(1\)](#) may be made, or

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- (b) the date on which both parties become ineligible to make an appeal (whether by withdrawing an appeal or by waiving the right to appeal).

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

24E Landlord application to rent officer to increase rent above permitted rate

- (1) A landlord under an assured tenancy may make an application to the relevant rent officer to increase the rent under the tenancy by more than the permitted rate in order to recover up to 50% of the increase in any prescribed property costs that the landlord has incurred during the relevant period.
- (2) An application under [subsection \(1\)](#) must include—
- (a) evidence of an increase in any prescribed property costs of the landlord incurred during the relevant period, and
 - (b) a statement of—
 - (i) the rent under the tenancy, and
 - (ii) what the new rent under the tenancy would be if the proposed rent increase took effect (“the proposed rent”).
- (3) The landlord must give notice in writing to the tenant under an assured tenancy of any application under [subsection \(1\)](#) which must include—
- (a) a statement of the proposed rent,
 - (b) a statement that the proposed rent would be an increase to the rent under the tenancy of more than the permitted rate,
 - (c) a statement that the rent payable under the tenancy is not increased unless and until—
 - (i) the relevant rent officer makes an order determining the rent payable under the tenancy, or
 - (ii) if the order is appealed to the First-tier Tribunal, the Tribunal makes an order determining the rent payable under the tenancy,
 - (d) a description of the prescribed property costs of the landlord that have increased during the relevant period prompting the proposed rent, and
 - (e) where an increase mentioned in [paragraph \(d\)](#) includes an increase in the landlord’s service costs, details of the nature of the increase in the service costs and the amount.
- (4) In this Part, “prescribed property costs”, in relation to a landlord, are—
- (a) interest payable in respect of a mortgage or standard security relating to the house that is let,
 - (b) a premium payable in respect of insurance (other than building and contents insurance) relating to the house that is let and the offering of the house for let,
 - (c) service charges relating to the house that is let that are paid for by the landlord but the payment of which the tenant is responsible for (in whole or in part) in accordance with the terms of the tenancy.

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- (5) The Scottish Ministers may by regulations modify the list in [subsection \(4\)](#) so as to amend, remove or add to the matters for the time being mentioned in the list.
- (6) Regulations under [subsection \(5\)](#) are subject to the affirmative procedure.
- (7) In this Part—
 - “proposed rent” has the meaning given in [subsection \(2\)\(b\)\(ii\)](#),
 - “relevant period” means the period of 6 months occurring immediately before the day on which the application is made under [subsection \(1\)](#).

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

24F Rent officer’s power to apply rent increase above permitted rate

- (1) Where a rent officer receives an application under [section 24E\(1\)](#), the rent officer must decide whether the following conditions are met—
 - (a) the rent officer is satisfied that the landlord’s prescribed property costs that are specified in the application have increased during the relevant period, and
 - (b) the rent officer is satisfied that the amount of the proposed increase to the rent under the assured tenancy represents no more than 50% of the increase in the landlord’s prescribed property costs incurred during the relevant period as specified in the application.
- (2) If both conditions mentioned in [subsection \(1\)](#) are met, the rent officer must make an order stating that from the effective date the rent under the assured tenancy is the lower of—
 - (a) the proposed rent, or
 - (b) the existing rent under the tenancy as increased by [^{F13}6%].
- (3) If either or both of the conditions mentioned in [subsection \(1\)](#) is or are not met, the rent officer may make an order stating that from the effective date the rent under the assured tenancy is the rent determined by the rent officer.
- (4) In determining the rent under [subsection \(3\)](#), the rent officer—
 - (a) may not determine that the rent under the assured tenancy from the effective date is an amount that would be an increase to the existing rent under the tenancy of more than an amount representing 50% of the increase in the landlord’s prescribed property costs incurred during the relevant period as specified in the application under [section 24E\(1\)](#), and
 - (b) in any event, may not determine that the rent under the tenancy from the effective date is more than the existing rent under the tenancy as increased by [^{F14}6%].
- (5) For the purpose of [subsection \(2\)](#) or (3), the effective date is—
 - (a) where the rent officer makes the order under either of those subsections 14 days or more before the original effective date, the original effective date,

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- (b) otherwise, the first payment date falling at least 14 days after the day on which the rent officer makes the order.
- (6) A rent officer may, within 14 days of making an order under subsection (2) or (3), re-make the order for the purpose of curing an error in the original order.
- (7) The effective date of the re-made order is to be specified in accordance with subsection (5) as though it were an order made under subsection (2) or (3).
- (8) Where an order has been re-made under subsection (6)—
- (a) the original order is of no effect,
 - (b) references in this Part to an order made under subsection (2) or (3) are to be read as references to the re-made order,
 - (c) if the original order has been appealed against under section 24G(1), the appeal is to be regarded as having been made against the re-made order.
- (9) Subsection (8)(b) does not apply in relation to subsection (6).
- (10) In this section—
- “original effective date” is the day after the expiry of the period of three months beginning with the day on which notice is given to the tenant under section 24E(3),
- “payment date” means a date on which a rent payment falls to be made in accordance with the terms of the assured tenancy.

Textual Amendments

- F12** Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))
- F13** Word substituted in s. 24F(2)(b) (in so far as that provision is treated as inserted (temp.) by 2022 asp 10, sch. 1 para. 2(5)) (1.4.2023) by [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Amendment of Expiry Dates and Rent Cap Modification\) Regulations 2023](#) (S.S.I. 2023/82), regs. 1(3), [3\(3\)](#) (with reg. 5(1))
- F14** Word substituted in s. 24F(4)(b) (in so far as that provision is treated as inserted (temp.) by 2022 asp 10, sch. 1 para. 2(5)) (1.4.2023) by [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Amendment of Expiry Dates and Rent Cap Modification\) Regulations 2023](#) (S.S.I. 2023/82), regs. 1(3), [3\(4\)](#) (with reg. 5(1))

24G Appeal to the First-tier Tribunal

- (1) Where a rent officer makes an order under [section 24F\(2\)](#) or (3) in relation to the rent under an assured tenancy, the landlord or the tenant may appeal against the order to the First-tier Tribunal.
- (2) An order under [section 24F\(2\)](#) or (3) may not be appealed against more than 14 days after the order is made.
- (3) Where an appeal is made to the First-tier Tribunal under [subsection \(1\)](#), the First-tier Tribunal may make an order stating that from the effective date the rent under the assured tenancy is the rent determined by the First-tier Tribunal.
- (4) In determining the rent under [subsection \(3\)](#), the First-tier Tribunal—

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- (a) may not determine that the rent under the assured tenancy from the effective date is an amount that would be an increase to the existing rent under the tenancy of more than an amount representing 50% of the increase in the landlord’s prescribed property costs incurred during the relevant period as specified in the application under [section 24E\(1\)](#), and
 - (b) in any event, may not determine that the rent under the tenancy from the effective date is more than the existing rent under the tenancy as increased by [^{F15}6%].
- (5) For the purpose of [subsection \(3\)](#), the effective date is—
- (a) where the First-tier Tribunal makes its order 14 days or more before the original effective date, the original effective date,
 - (b) otherwise, the first payment date falling at least 14 days after the day on which the First-tier Tribunal makes its order.
- (6) Making an appeal under [subsection \(1\)](#) renders the order under [section 24F\(2\)](#) or [\(3\)](#) that is being appealed against of no effect.
- (7) In this section—
- “original effective date” is the day after the expiry of the period of three months beginning with the day on which notice is given to the tenant under [section 24E\(3\)](#),
- “payment date” means a date on which a rent payment falls to be made in accordance with the terms of the tenancy.

Textual Amendments

- F12** Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))
- F15** Word substituted in [s. 24G\(4\)\(b\)](#) (in so far as that provision is treated as inserted (temp.) by 2022 asp 10, sch. 1 para. 2(5)) (1.4.2023) by [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(Amendment of Expiry Dates and Rent Cap Modification\) Regulations 2023 \(S.S.I. 2023/82\)](#), regs. 1(3), [3\(5\)](#) (with [reg. 5\(2\)](#))

24H Withdrawal or dismissal of appeal to the First-tier Tribunal

If an appeal under [section 24G\(1\)](#) is withdrawn or dismissed, [subsection \(6\)](#) of that section ceases to have effect (and the order under [section 24F\(2\)](#) or [\(3\)](#) that was being appealed against is reinstated).

Textual Amendments

- F12** Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

24I Finality of First-tier Tribunal’s decision

- (1) An order under [section 24C\(1\)](#) or [24G\(3\)](#) may be reviewed in accordance with this section only.

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- (2) Accordingly (and without prejudice to the generality of [subsection \(1\)](#)), a decision of the First-tier Tribunal to make an order under [section 24C\(1\)](#) or [24G\(3\)](#) may be neither—
- (a) reviewed under section 43 of the Tribunals (Scotland) Act 2014, nor
 - (b) appealed against under section 46 of that Act.
- (3) The First-tier Tribunal may review an order under [section 24C\(1\)](#) or [24G\(3\)](#)—
- (a) at its own instance, or
 - (b) at the request of the landlord or the tenant under the assured tenancy to which the order relates.
- (4) In a review under [subsection \(3\)](#), the First-tier Tribunal may—
- (a) take no action, or
 - (b) correct a minor error contained in the order.

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

24J Powers to adjust maximum amount of increased costs by which rent may be increased

- (1) The Scottish Ministers may by regulations substitute a different percentage for the one for the time being mentioned in each of the following provisions—
- (a) [section 24E\(1\)](#),
 - (b) [section 24F\(1\)\(b\)](#),
 - (c) [section 24F\(4\)\(a\)](#),
 - (d) [section 24G\(4\)\(a\)](#).
- (2) The Scottish Ministers may by regulations substitute a different percentage (which percentage must be no lower than the permitted rate) for the one for the time being mentioned in each of the following provisions—
- (a) [section 24F\(2\)\(b\)](#),
 - (b) [section 24F\(4\)\(b\)](#),
 - (c) [section 24G\(4\)\(b\)](#).
- (3) Regulations under [subsection \(1\)](#) or [\(2\)](#) are subject to the affirmative procedure.

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

24K Liability for underpaid rent

- (1) This section applies where—

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- (a) the rent payable under an assured tenancy has been changed by an order made under any of the following provisions—
 - (i) [section 24A\(2\)](#),
 - (ii) [section 24A\(3\)](#),
 - (iii) [section 24C\(1\)](#),
 - (iv) [section 24F\(2\)](#),
 - (v) [section 24F\(3\)](#),
 - (vi) [section 24G\(3\)](#),
 - (b) the effective date stated in the order (“the actual effective date”) falls later than the originally proposed effective date, and
 - (c) the rent payable from the actual effective date (“the new rent”) is more than the rent payable immediately before that date (“the old rent”).
- (2) For the purpose of subsection (1), “the originally proposed effective date” is—
- (a) in the case of an order under [section 24A\(2\)](#) or (3) or [section 24C\(1\)](#), the date on which the rent would have been increased in accordance with [section 24\(2\)](#) had the referral to the rent officer not been made,
 - (b) in the case of an order under [section 24F\(2\)](#) or (3) or [section 24G\(3\)](#), the day after the expiry of the period of three months beginning with the day on which notice is given to the tenant under [section 24E\(3\)](#).
- (3) On the date the order is made the tenant becomes liable under this subsection to pay the landlord the difference between—
- (a) the amount that would have been payable in rent between the originally proposed effective date and the actual effective date had the new rent been the rent payable from the originally proposed effective date, and
 - (b) the amount that should have been paid in rent during the same period (whether or not it was actually paid).
- (4) [Subsection \(5\)](#) applies if, at the end of the day falling 28 days after a tenant’s liability under [subsection \(3\)](#) arose, that liability is (in whole or in part) still outstanding.
- (5) For the purpose of Grounds 11 and 12 in schedule 5, the liability mentioned in [subsection \(3\)](#) is to be regarded as a sum that fell to be paid by way of rent on the day the liability arose.
- (6) In this section, a reference to a period between two dates includes both of those dates.]

Textual Amendments

F12 Ss. 24A-24K treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(5\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

25 [F16Determination of rent by the First-tier Tribunal]

- (1) Where, under subsection (3)(a) of section 24 above, a tenant refers to [F17the First-tier Tribunal] a notice under subsection (1) of that section, the [F18First-tier Tribunal] shall determine the rent at which, subject to subsections (2) and (3) below, the [F19First-tier Tribunal considers] that the house might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—

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- (a) which begins at the beginning of the period to which the new rent specified in the notice relates;
 - (b) the terms of which (other than those relating to rent) are the same as those of the tenancy to which the notice relates; and
 - (c) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 5 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded any effect on the rent attributable to—
- (a) the granting of a tenancy to a sitting tenant;
 - (b) an improvement carried out by the tenant or a predecessor in title of his unless the improvement was carried out in pursuance of the terms of the tenancy; and
 - (c) a failure by the tenant to comply with any terms of the tenancy.
- (3) In this section “rent” includes any sums payable by the tenant to the landlord on account of the use of furniture or for services [^{F20}or in respect of council tax], whether or not those sums are separate from the sums payable for the occupation of the house concerned or are payable under separate agreements.
- (4) Where any rates in respect of the house concerned are borne by the landlord or a superior landlord, the [^{F21}First-tier Tribunal is to make its] determination under this section as if the rates were not so borne.
- (5) In any case where—
- (a) [^{F22}the First-tier Tribunal has before it] at the same time the reference of a notice under section 17(2) above relating to a tenancy (in this subsection referred to as “the section 17 reference”) and the reference of a notice under section 24(1) above relating to the same tenancy (in this subsection referred to as “the section 24 reference”); and
 - (b) the date specified in the notice under section 17(2) above is not later than the first day of the new period specified in the notice under section 24(1) above; and
 - (c) the [^{F23}First-tier Tribunal proposes] to hear the two references together,
- the [^{F24}the First-tier Tribunal] shall make a determination in relation to the section 17 reference before making [^{F24}its] determination in relation to the section 24 reference and, accordingly, in such a case the reference in subsection (1)(b) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 17 reference.
- (6) Where a notice under section 24(1) above has been referred to [^{F25}the First-tier Tribunal], then, unless the landlord and the tenant otherwise agree, the rent determined by the [^{F26}First-tier Tribunal] (together with, in a case where subsection (4) above applies, the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the period to which the new rent specified in the notice relates or, if it appears to the [^{F27}First-tier Tribunal] that that would cause undue hardship to the tenant, with effect from such date as the [^{F26}First-tier Tribunal] may direct (being a date after the beginning of that period but not after the date when the [^{F26}First-tier Tribunal] determined the rent).
- (7) Nothing in this section requires [^{F28}the First-tier Tribunal to continue with its] determination of a rent for a house if the tenancy has been brought to an end by order

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of the [F29First-tier Tribunal] under this Part of this Act or if the landlord and tenant give notice in writing that they no longer require such a determination.

- (8) Nothing in this section or section 24 above affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

Textual Amendments

- F16** S. 25 heading substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(5)** (with Sch. 1)
- F17** Words in s. 25(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(a)(i)** (with Sch. 1)
- F18** Words in s. 25(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(a)(ii)** (with Sch. 1)
- F19** Words in s. 25(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(a)(iii)** (with Sch. 1)
- F20** Words in s. 25(3) inserted (1.4.1993) by S.I. 1993/658, art. 2, **Sch. 1 para.9**
- F21** Words in s. 25(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(b)** (with Sch. 1)
- F22** Words in s. 25(5)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(c)(i)** (with Sch. 1)
- F23** Words in s. 25(5)(c) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(c)(ii)** (with Sch. 1)
- F24** Words in s. 25(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(c)(iii)** (with Sch. 1)
- F25** Words in s. 25(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(d)(i)** (with Sch. 1)
- F26** Words in s. 25(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(d)(ii)** (with Sch. 1)
- F27** Words in s. 25(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(d)(iii)** (with Sch. 1)
- F28** Words in s. 25(7) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(e)** (with Sch. 1)
- F29** Words in s. 25(7) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 40**; S.S.I. 2017/330, art. 3, sch.

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Modifications etc. (not altering text)

- C3** S. 25 modified (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(6\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#))

[^{F30}25ZA Power to modify this Part

- (1) On or in anticipation of the expiry or suspension of [paragraph 2](#) of [schedule 1](#) of the [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#), the Scottish Ministers may by regulations amend or repeal the provisions of this Part in connection the determination of the rent payable under an assured tenancy or a short assured tenancy by the First-tier Tribunal.
- (2) Regulations under subsection (1) may in particular make provision—
 - (a) about the basis on which the rent is to be determined by the First-tier Tribunal which may include—
 - (i) matters to be taken into account in determining the rent,
 - (ii) matters to be disregarded in determining the rent,
 - (iii) assumptions to be made in determining the rent,
 - (b) limiting the rent that may be determined to an amount that is no more than the rent proposed in accordance with section 24(1) leading to the referral to the First-tier Tribunal,
 - (c) about the procedure relating to referral to the First-tier Tribunal.
- (3) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers—
 - (a) must consult such persons as appear to them to represent the interests of tenants and landlords under assured tenancies and short assured tenancies, and
 - (b) may consult any other person they consider appropriate.
- (4) Regulations under subsection (1) are subject to the affirmative procedure.]

Textual Amendments

- F30** S. 25ZA inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 3 para. 2\(2\)](#) (with s. 11)

[^{F31}25A Assured tenancies: transitional provisions

- (1) This section applies in the case where an assured tenancy to which section 24 above applies, or an agreement relating to the tenancy, provides for the payment by the tenant to the landlord of sums in respect of council tax; and
 - (a) the first anniversary of the date on which the rent has previously been increased (whether by agreement or by virtue of a notice under section 24(1) above or a determination under section 25) has not occurred; or
 - (b) a notice is served before 1st April 1993 under section 24(1) above for the purpose of securing an increase in the rent but the new rent has not yet taken effect either by virtue of the notice or a determination under section 25 above.
- (2) At any time before—

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- (a) 1st April 1994; or
 - (b) the first anniversary of the date when the existing rent took effect,whichever is the earlier, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take account of any sums payable by the tenant to the landlord in respect of council tax and specifying a date when the new rent shall take effect.
- (3) The date specified in subsection (2) above shall, unless either of the conditions mentioned in subsection (4) below applies, be a date not earlier than one month after the date of service of the notice under this section.
- (4) The conditions referred to in subsection (3) above are that before the date specified in the notice—
 - (a) the tenant by an application in the prescribed form refers the notice to [^{F32}the First-tier Tribunal]; or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (5) Nothing in this section or section 25B affects the right of the landlord and tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).
- (6) No more than one notice in respect of any tenancy may be served under this section.]

Textual Amendments

- F31** S. 25A inserted (1.4.1993) by S.I. 1993/658, art. 2, **Sch. 2 para.5**
- F32** Words in s. 25A(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), Sch. 2 para. 2\(6\)](#) (with Sch. 1)

[^{F33}25B [^{F34}Determination of rent by the First-tier Tribunal where section 25A applies]

- (1) Where a tenant refers to [^{F35}the First-tier Tribunal] a notice under section 25A, the [^{F36}First-tier Tribunal] shall determine the amount by which the existing rent might reasonably be increased to take into account the tenant's liability to make payments to the landlord in respect of council tax.
- (2) A determination under subsection (1) above shall, unless the landlord and tenant otherwise agree, have effect—
 - (a) from the date specified in the notice under section 25A(2); or
 - (b) if it appears to the [^{F37}First-tier Tribunal] that such effect would cause undue hardship to the tenant, from such later date (being not later than the date of the determination) as the [^{F37}First-tier Tribunal] may direct.
- (3) In any case where—
 - (a) [^{F38}the First-tier Tribunal has before it] at the same time a section 24 reference and a section 25A reference relating to the same tenancy; and
 - (b) the date specified in the notice under section 24(1) is not later than the date specified in the notice under section 25A; and
 - (c) the [^{F39}First-tier Tribunal proposes] to hear the two references together,

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the [F40First-tier Tribunal] shall make a determination in relation to the section 24 reference before making their determination in relation to the section 25A reference.

- (4) In any case where paragraphs (a) and (c), but not paragraph (b), of subsection (3) above are satisfied—
- (a) the [F41First-tier Tribunal] shall make a determination in relation to the section 24 reference before the section 25A reference; and
 - (b) the rent determined for the purposes of the section 25A reference shall take effect from the date specified in the notice given under that section.
- (5) In this section—
- (a) “section 24 reference” means the reference of a notice under section 24(1);
 - (b) “section 25A reference” means the reference of a notice under section 25A; and
 - (c) “rent” has the same meaning as in section 25.
- (6) Section 25(2) applies to a determination under this section as it applies to a determination under that section.]

Textual Amendments

- F33** S. 25B inserted (1.4.1993) by S.I. 1993/658, art. 2, **Sch. 2 para.5**
- F34** S. 25B heading substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(8)** (with Sch. 1)
- F35** Words in s. 25B(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(a)(i)** (with Sch. 1)
- F36** Words in s. 25B(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(a)(ii)** (with Sch. 1)
- F37** Words in s. 25B(2)(b) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(b)** (with Sch. 1)
- F38** Words in s. 25B(3)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(c)(i)** (with Sch. 1)
- F39** Words in s. 25B(3)(c) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(c)(ii)** (with Sch. 1)
- F40** Words in s. 25B(3) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(c)(iii)** (with Sch. 1)
- F41** Words in s. 25B(4)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(7)(d)** (with Sch. 1)

26 Access for repairs.

It shall be an implied term of every assured tenancy that the tenant shall afford to the landlord reasonable access to the house let on the tenancy and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

Changes to legislation:

Housing (Scotland) Act 1988, Cross Heading: Assured tenancies—rents and other terms is up to date with all changes known to be in force on or before 14 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)