**Business and Regulatory Impact Assessment**

**THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020 (SUSPENSION: TERMINATION OF STUDENT RESIDENTIAL TENANCY) REGULATIONS 2022**

**Purpose and intended effect**

* **Background**

Paragraphs 1 – 3 of part 1 of Schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 (the 2020 Act) allows students who enter into a student residential tenancy to give 28 days’ notice to their accommodation provider to terminate their lease for a reason related to coronavirus. The measures have been subject to regular review.

At that time the measures were introduced (May 2020) they were necessary to ensure that students were not financially disadvantaged because of restrictions on face to face teaching, the move to on line learning and travel restrictions to mitigate against the spread of Covid-19. This meant that students could be paying for accommodation they did not require to use.

* **Objective**

The measure now seeks to suspend the operation of the 28 day notice provisions from 1st July 2022.

* **Rationale for Government intervention**

The clinical considerations, which were pertinent when the Act came into force in May 2020, have changed significantly and informed the decision to suspend the measures. Most of the remaining restrictions in place in relation to Covid-19 have now been removed, the successful vaccination programme ongoing and updated COVID-19 Guiding Principles for Further Education, Higher Education and Community Learning and Development providers published March 2022. The combined effect of these is to significantly reduce the need for students to leave accommodation due to Covid-19.

**Consultation**

* **Within Government**

Consultation with the Directorate for Local Government and Housing Better Homes.

* **Public Consultation**

At the outset of the pandemic the Scottish Government established a Student Accommodation Group and has consulted with stakeholders through that Group at key decision points with regard to the extension of the provisions of the 2020 Act in relation to student accommodation in halls and PBSA. Membership of the Group includes Universities Scotland, Colleges Scotland, Colleges and Universities Business Officers (CUBO), NUS Scotland and the Association for Student Residential Accommodation (ASRA).

Initial consultation had been held with the Student Accommodation Group in January 2022 concerning extending the measures to September 2022. Views expressed, at that time, included fully supporting an extension to the end of September 2022 (for example, NUS Scotland), to having a lesser extension period to July or August to the end of the university term), to not supporting any extension beyond the end of March 2022.

In March 2022, a further consultation was held with the halls of residence and PBSA stakeholders through the Group in relation to the proposed extension of the provisions to the end of September 2022. Other stakeholders on the Group were aware of that. Stakeholders were asked to complete a survey detailing the impact of the provisions. The consultation highlighted the significant economic impact of the measures in 2020/21 and 21/22. Of particular concern was the provisions continuing into the new Academic Year and the challenges this would create. Providers also highlighted that students can state the reason for notice is coronavirus related but do not need to produce evidence to confirm this.

A further informal consultation was carried out with Universities Scotland, NUS Scotland and CUBO and ASRA in May 2022. Universities Scotland, CUBO and ASRA advised that they were supportive of suspension and that it was important to be clear on the start date for this. NUS Scotland expressed the need for a permanent basis for student tenancy rights going forward, and were, therefore, reluctant to see the temporary legislation expire.

**Business**

Consultation with the businesses was carried out in March 2022 via the Student Accommodation Group.

Stakeholders were asked to complete a survey. This highlighted a number of issues in relation to the use of the provisions by students. Providers highlighted that there is not necessity to prove a Covid-19 related reason when submitting a notice to leave. Providers also highlighted the operational impacts going forward into 22/23.

Concern was also expressed about the potential for considerable loss of income for providers. Accommodation income losses could also potentially impact on employment associated with the provision of accommodation, the wider local economy and, as income from university accommodation can contribute to wider university income, the wider development of the university. It was also expressed that loss of income may result in that loss being transferred to students in the form of higher rents. Students giving notice could result in voids which would be challenging to fill.

**Options**

From this consultation there were three options:

* Do nothing and let the provisions expire at the end of September 2022 as currently laid out;
* expire the provisions at the end of the current academic year (end of July 2022); or
* suspend the provisions at the end of the current academic year (end of July 2022).

**Sectors and groups affected**

The following sectors and groups are affected:

* Institutional and Purpose Built Student Accommodation Providers (PBSA); and
* Students who are living in or who may in future live in institutional accommodation and PBSA.

For Institutional and Purpose Built Student Accommodation Providers (PBSA), the do nothing option will result in a potential ongoing loss of income and operational uncertainty around the start of the new Academic Year in September 2022. Given the Scottish Government’s cautious approach moving through and out of the pandemic simply expiring the provisions would not be prudent.   
  
Suspending the provisions, however, would reduce possible loss of income as it provides clarity on tenancies and rights in relation thereto at the start of the new Academic Year.

For students living in institutional accommodation and PBSA, doing nothing would mean that the notice to leave periods would continue until the end of September, although many, mainly undergraduates, will be leaving their accommodation at the end of the Academic Year. For potential students, doing nothing would add confusion to the tenancy arrangements for Academic Year 22/23 in that there would be rights under the existing legislation which would expire after the start of the Academic Year. Doing nothing would enable students to submit a 28 day notice for a coronavirus reason (up to the end of September) going in to the new Academic Year.

A suspension rather than expiry of the provisions, in line with Government’s cautious approach moving through and out the pandemic, would bring clarity to tenancy arrangements going in to the new Academic Year. It would, however, mean that students cannot give notice after 30 June 2022 citing coronavirus as a reason.

**Benefits**

Given the evidence from landlords on potential loss of income and operational issues and the clinical evidence regarding the current position on Covid-19, there are no benefits to doing nothing.

Suspending the measures at the end of the current Academic Year would bring clarity for providers and students.

**Costs**

The do nothing option could have a potential cost impact on providers in excess of £10 million going in to Academic Year 2022/23. Suspending the provisions would have a possible cost saving of around this sum. In addition, suspension of the measures would bring about clarity on student tenancy arrangements at the start of the new Academic Year in September.

For students a do nothing option would allow them to continue to exercise their right to terminate tenancies into the start of Academic Year 22/23 citing coronavirus as a reason. While a do nothing option may on face value attract no costs for students, there is the possibility of student rents being increased by providers to attempt to recover the costs of the continuation of the provisions.

It can be argued that the cost of suspending the provisions in advance of Academic Year 22/23 may increase the financial outlay for any individual students not wishing to take up their accommodation, however the likelihood of that option being pursued for its intended purpose (reasons relating to Covid-19) are significantly reduced. Further suspension of the provision means that the provision could be reinstated if Covid-19 related issues became prevalent. It is, therefore, difficult to estimate costs for students of a suspension of the measures.

**Scottish Firms Impact Test**

A Scottish Firms Impact Test was not undertaken. That said, information from survey of providers undertaken in March 2022 through the Student Accommodation Group was helpful in making a decision to suspend the provisions.

The Association of Student Residential Accommodation, which covers around 70% to 75% of providers helped facilitate the survey. ASRA members include:

* Universities (14): University of the Highlands and Islands, Robert Gordon University, University of St Andrews, University of Abertay, University of Dundee , University of Aberdeen, University of Edinburgh, Edinburgh Napier University, Queen Margaret University, University of Glasgow, University of Strathclyde, SRUC and University of the West of Scotland[[1]](#footnote-1).
* PBSA (17): Unite Students/Liberty Living, IQ, Student Roost, Fresh Student Living, Host, Nido, Homes for Students, Hello Students, Downing’s, Ardmuir, True Student, Boohoo, Sanctuary, Student Housing Company, GSA, GSH, Aparto.

Seventeen returns were received and to these two were added from emails received from stakeholders prior to the survey relating to cost impacts. They were included as they are pertinent to looking at the impact of the Notice to Leave periods. The total response was, therefore, nineteen. Of these returns - one return was from a college, twelve were from universities/HIE and six from PBSA.

The survey highlighted the significant economic impact of the 28 day notice provisions in 20/21 and 21/22.

Concerns were also expressed about potential confusion for students and landlords at the start of the Academic Year as the current provisions would expire after the start of the year.

**Competition Assessment**

The suspension of the provisions will apply equally to all providers of purpose built student accommodation and halls of residence. They are unlikely to have any impact on competition within the halls and PBSA sector.

That said, the return of the notice to leave situation prior to that before the 2020 Act could put landlords in the Private Rented Sector at a disadvantage as halls and PBSA providers will again be able to hold student tenants for a fixed term.

**Consumer Assessment**

A Consumer Assessment has not been undertaken with regard to the proposed suspension of the provisions in relation to student notice to leave periods. The measures revert the rights of student and landlords to the position before the 2020 Act came in to force.

That said, the Scottish Government is undertaking a Review of Purpose Built Student Accommodation which will look at a wide range of issues and make recommendations to Ministers later in the year.

**Test run of business forms**

N/A

**Digital Impact Test**

N/A

**Legal Aid Impact Test**

The Scottish Government does not expect the suspension of the provisions enabling students to give their landlord 28 days’ notice to leave to have implications for legal aid.

**Enforcement, sanctions and monitoring**

N/A

**Implementation and delivery plan**

N/A

**Summary and recommendation**

To suspend the provisions based on the Government’s cautious move through and out of the pandemic and the evidence set out above,

**Summary costs and benefits table**

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| --- | --- | --- |
| **Option** | **Total benefit per annum: - economic, environmental, social** | **Total cost per annum: - economic, environmental, social - policy and administrative** |
| 1 | It is difficult to quantify potential benefits for students as during August and September, it is anticipated that many will be looking for accommodation. | Providers have estimated potential loss of income in excess £10 million going into AY 22/23. |
| 2 | Providers have estimated potential savings in excess £10 million going into AY 22/23. | It is difficult to quantify potential benefits for students as during August and September, it is anticipated that many will be looking for accommodation. |
| 3 | Providers have estimated potential savings in excess £10 million going into AY 22/23. | It is difficult to quantify potential benefits for students as during August and September, it is anticipated that many will be looking for accommodation. |
| 4 |  |  |

**Declaration and publication**

**Sign-off for Final BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: Jamie Hepburn**

**Date: 30th May 2022**

**Minister's name: Mr Jamie Hepburn**

**Minister's title: Minister for Higher Education, Further Education, Youth Employment and Training**

1. This excludes Edinburgh College (2) (1 college run, 1 private and college contracted to fill rooms), Newbattle Abbey (1) and City of Glasgow College (2). [↑](#footnote-ref-1)