

Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, Cross Heading: Resident landlord. (See end of Document for details)

SCHEDULE 1 TENANCIES WHICH CANNOT BE PRIVATE RESIDENTIAL TENANCIES

Resident landlord

7 A tenancy cannot be a private residential tenancy if paragraph 8 or 9 applies to it.

Commencement Information

I1 Sch. 1 para. 7 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

8 This paragraph applies to a tenancy if—

- (a) the let property would not be regarded as a separate dwelling were it not for the terms of the tenancy entitling the tenant to use property in common with another person (“shared accommodation”), and
- (b) from the time the tenancy was granted, the person (or one of the persons) in common with whom the tenant has a right to use the shared accommodation is a person who—
 - (i) has the interest of the landlord under the tenancy, and
 - (ii) has a right to use the shared accommodation in the course of occupying that person's home.

Commencement Information

I2 Sch. 1 para. 8 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

9 (1) This paragraph applies to a tenancy if sub-paragraphs (2) and (3) apply to it.

(2) This sub-paragraph applies to a tenancy if, from the time it was granted, a dwelling within the same building as the let property has been occupied as the only or principal home of a person who, at the time of occupying it, has the interest of the landlord under the tenancy.

(3) This sub-paragraph applies to a tenancy if, at the time it was granted, there was an ordinary means of access—

- (a) through the let property to the dwelling occupied by the person who is, or is to be, the landlord, or
- (b) through the dwelling occupied by the person who is, or is to be, the landlord to the let property (whether or not that access was available to the tenant as of right).

(4) For the purpose of this paragraph, in determining whether a dwelling is occupied as the only or principal home of the person having the interest of the landlord, no account is to be taken of—

- (a) any period beginning with the date on which the interest of the landlord is transferred (other than on death) and ending—
 - (i) 28 days later, or
 - (ii) 6 months later if, within 28 days of the period beginning, the person to whom the interest is transferred notifies the tenant of the person's intention to occupy a dwelling within the same building as the let property,

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- (b) any period of up to 24 months beginning with the date of the person's death and ending with the person's interest in the tenancy being vested in another person (otherwise than as the person's executor).

Commencement Information

I3 Sch. 1 para. 9 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

- 10 If, at any time, the landlord holds the landlord's interest as a trustee under a trust, a reference in paragraph 8 or 9 to a landlord or the person having the interest of the landlord includes a person who is a beneficiary under the trust.

Commencement Information

I4 Sch. 1 para. 10 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

- 11 In a case where two or more persons jointly are the landlord under a tenancy, references to the landlord in paragraphs 8 to 10 are to any one of those persons.

Commencement Information

I5 Sch. 1 para. 11 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

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