

Status: Point in time view as at 01/12/2017.

Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, SCHEDULE 5. (See end of Document for details)

SCHEDULE 5

(introduced by section 75)

TRANSITION FROM REGIMES UNDER EARLIER ENACTMENTS

PART 1

NO NEW ASSURED TENANCIES

No new assured tenancies

- 1 (1) Section 12 of the Housing (Scotland) Act 1988 is amended as follows.
 - (2) In subsection (1), after the word “subsection” there is inserted “ (1A) or ”.
 - (3) After subsection (1) there is inserted—

“(1A) A tenancy cannot be an assured tenancy if it is granted on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force.”.
 - (4) In schedule 4, after paragraph 13(3) there is inserted—

“(4) A tenancy which is a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

Commencement Information

11 Sch. 5 para. 1 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch. (with reg. 6)

No new short assured tenancies

- 2 (1) The Housing (Scotland) Act 1988 is amended as follows.
 - (2) In section 32—
 - (a) in subsection (3)—
 - (i) paragraph (b) and the word “or” immediately preceding it are repealed,
 - (ii) the words “or, as the case may be, the new contractual tenancy” are repealed,
 - (b) in subsection (4)—
 - (i) the words “or, as the case may be, before the beginning of the new tenancy” are repealed,
 - (ii) the words “or new” are repealed.
 - (3) In section 33(1)—
 - (a) the word “ and ” is inserted at the end of paragraph (b),
 - (b) paragraph (c), including the word “and” at the end of it, is repealed.

Commencement Information

12 Sch. 5 para. 2 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch. (with reg. 6)

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PART 2

CONVERSION OF TENANCIES UNDER PREVIOUS REGIMES

Change of tenancy status by agreement

- 3 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) After section 12(2) there is inserted—
- “(3) Subsection (1) is subject to section 46A.”.
- (3) After section 46 there is inserted—

“Phasing out of assured tenancies

46A Change to private residential tenancy by agreement

- (1) The landlord and the tenant under an assured tenancy may agree that on a day specified by them, the tenancy will cease to be an assured tenancy.
- (2) On the day specified by the landlord and the tenant under subsection (1), the tenancy—
- (a) ceases to be an assured tenancy, and
 - (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).
- (3) But an agreement under subsection (1) is of no effect if, for a reason other than the tenancy being an assured tenancy, it is one which schedule 1 of the 2016 Act states cannot be a private residential tenancy.”.

Commencement Information

I3 [Sch. 5 para. 3](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#) (with [reg. 6](#))

Change of tenancy status on succession

- 4 After section 3A of the Rent (Scotland) Act 1984 there is inserted—

“3B Succession after the Private Housing (Tenancies) (Scotland) Act 2016 comes into force

- (1) Subsection (2) applies where—
- (a) the sole tenant of a dwelling-house under a protected tenancy or a statutory tenancy dies on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force, and
 - (b) as a result of that death, an individual becomes the tenant of the dwelling-house by virtue of section 3(1)(b) or 3A above.
- (2) As soon as the individual becomes the tenant, the individual's tenancy of the dwelling-house—
- (a) ceases to be a statutory tenancy or a statutory assured tenancy (as the case may be), and

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- (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

Commencement Information

I4 Sch. 5 para. 4 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

5 After section 31 of the Housing (Scotland) Act 1988 there is inserted—

“31A Succession after the Private Housing (Tenancies) (Scotland) Act 2016 comes into force

- (1) Subsection (2) applies where—
- (a) a sole tenant under an assured tenancy dies on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force, and
 - (b) an individual succeeds to the tenancy.
- (2) As soon as the individual becomes the tenant, the tenancy—
- (a) ceases to be an assured tenancy (if, but for this section, it would have been one), and
 - (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

Commencement Information

I5 Sch. 5 para. 5 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

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