

Draft Regulations laid before the Scottish Parliament under section 76(2)(a) of the Private Housing (Tenancies) (Scotland) Act 2016, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

HOUSING

**The Private Housing (Tenancies) (Scotland) Act
2016 (Consequential Provisions) Regulations 2017**

Made - - - - 2017
Coming into force - - 1st December 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 76(1) of the Private Housing (Tenancies) (Scotland) Act 2016⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 76(2)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Private Housing (Tenancies) (Scotland) Act 2016 (Consequential Provisions) Regulations 2017 and come into force on 1st December 2017.

Amendment of the Local Government, Planning and Land Act 1980

2.—(1) The Local Government, Planning and Land Act 1980⁽²⁾ is amended in accordance with paragraph (2).

(2) In paragraph 10 (displacement of persons) of schedule 28⁽³⁾—

- (a) the existing text becomes sub-paragraph (1);
- (b) for the words from “the Rent (Agriculture)” to “(Scotland) Act 1988” substitute “an enactment mentioned in sub-paragraph (2)”; and
- (c) after sub-paragraph (1), insert—

“(2) The enactments referred to in sub-paragraph (1) are—

(1) 2016 asp 19.
(2) 1980 c.65. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(3) Paragraph 10 was amended by section 117(1) and Part II of schedule 8 of the Rent (Scotland) Act 1984 (c.58), section 72(2) and paragraph 2 of schedule 9 of the Housing (Scotland) Act 1988 (c.43) and section 140(1) and paragraph 29 of schedule 17 of the Housing Act 1988 (c.50).

- (a) the Rent (Agriculture) Act 1976,
- (b) the Rent Act 1977,
- (c) the Housing Act 1988,
- (d) the Rent (Scotland) Acts 1971 to 1975,
- (e) the Rent (Scotland) Act 1984,
- (f) the Housing (Scotland) Act 1988,
- (g) the Private Housing (Tenancies) (Scotland) Act 2016.”.

Amendment of the Housing (Scotland) Act 2010

- 3.—**(1) The Housing (Scotland) Act 2010(4) is amended in accordance with paragraph (2).
 (2) In section 108(1)(5) (disposals not requiring consent), after paragraph (d) insert—
 “(da) by way of a lease under what would be a private residential tenancy but for—
 (i) any of paragraphs 2 to 6 or 20 of schedule 1 of the Private Housing (Tenancies) (Scotland) Act 2016, and
 (ii) paragraph 14 of that schedule.”.

Amendment of the Bankruptcy (Scotland) Act 2016

- 4.—**(1) The Bankruptcy (Scotland) Act 2016(6) is amended in accordance with paragraph (2).
 (2) In section 79(3) (provision supplementary to section 78 and interpretation of Part 5)—
 (a) at the end of paragraph (b) omit “or”; and
 (b) after paragraph (c) insert—
 “, or
 (d) a private residential tenancy within the meaning of the Private Housing (Tenancies) (Scotland) Act 2016”.

Amendment of the Letting Agent Code of Practice (Scotland) Regulations 2016

- 5.—**(1) The Letting Agent Code of Practice (Scotland) Regulations 2016(7) are amended in accordance with paragraph (2).
 (2) In the schedule (letting agent code of practice)—
 (a) in paragraph 48 (charging fees), after “short assured tenancy” insert “or private residential tenancy”;
 (b) in paragraph 82 (property access and visits), after “must be given” insert “, or 48 hours’ notice where the tenancy is a private residential tenancy,”; and
 (c) in paragraph 92 (carrying out repairs and maintenance), after “here” insert “and paragraph 6 of the schedule of the Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 is relevant in respect of a private residential tenancy”.

(4) 2010 asp 17.

(5) Section 108(1) was amended by section 103 and paragraph 18(1) and (3) of schedule 2 of the Housing (Scotland) Act 2014 (asp 14).

(6) 2016 asp 21.

(7) S.S.I. 2016/133. These Regulations are due to come into force on 31st January 2018.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential provision for the purposes of the Private Housing (Tenancies) (Scotland) Act 2016.

Regulation 2 makes a consequential amendment to the Local Government, Planning and Land Act 1980 to add a private residential tenancy to the list of tenancies which do not prevent an urban development corporation or local highway authority obtaining possession of a house where the Scottish Ministers have certified that the house is required for the purposes of urban development.

Regulation 3 makes a consequential amendment to the Housing (Scotland) Act 2010 to add a disposal by way of a lease under what would be a private residential tenancy, but for the grounds specified in certain paragraphs of schedule 1 of the Private Housing (Tenancies) (Scotland) Act 2016, to the list of disposals for which a landlord does not require the consent of the Scottish Housing Regulator.

Regulation 4 makes a consequential amendment to the Bankruptcy (Scotland) Act 2016 to ensure that the definition of “the whole estate of the debtor” excludes the interest of the debtor as tenant under a private residential tenancy.

Regulation 5 makes consequential amendments to the Letting Agent Code of Practice (Scotland) Regulations 2016 to ensure that the Code of Practice also applies to private residential tenancies.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.