
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 293 (C. 21)

HOUSING

**The Private Housing (Tenancies) (Scotland) Act 2016
(Commencement No. 2 and Saving Provision) Regulations 2017**

Made - - - - 12th September 2017
*Laid before the Scottish
Parliament* - - - - 14th September 2017
Coming into force - - 1st December 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 79(2) and (3) of the Private Housing (Tenancies) (Scotland) Act 2016⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No. 2 and Saving Provision) Regulations 2017 and come into force on 1st December 2017.

(2) In these Regulations “the Act” means the Private Housing (Tenancies) (Scotland) Act 2016.

Appointed day

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the schedule (the subject matter of which is specified in column 2 of that table) is 1st December 2017.

(2) Where a purpose is specified in column 3 of the table in the schedule in relation to any provision, that provision comes into force in accordance with paragraph (1) for that purpose only.

Saving provision

3. Despite the amendment of sections 32 and 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”)⁽²⁾ by section 75 and paragraph 2 of schedule 5 of the Act, those sections have effect on and after 1st December 2017 as they had effect immediately before that date but only in relation to—

(1) [2016 asp 19](#).

(2) [1988 c.43](#). Section 32 is amended by schedule 5, Part 1, paragraph 2(2) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). Section 33 is amended by section 34 of the Private Rented Housing (Scotland) Act 2011 ([asp 14](#)), schedule 1, Part 1, paragraph 44 of the Housing (Scotland) Act 2014 ([asp 14](#)) and schedule 5, Part 1, paragraph 2(3) of the 2016 Act.

- (a) a short assured tenancy (within the meaning given in section 32(1) of the 1988 Act) which was created before 1st December 2017 and continues in existence on that date;
- (b) a new contractual tenancy (within the meaning given in section 32(3)(b) of the 1988 Act) which came into being before 1st December 2017 and continues in existence on that date; and
- (c) a new contractual tenancy (within the meaning given in section 32(3)(b) of the 1988 Act) which comes into being after 1st December 2017 at the ish of a short assured tenancy which is a short assured tenancy in a case mentioned in paragraph (a) or (b).

St Andrew's House,
Edinburgh
12th September 2017

KEVIN STEWART
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st DECEMBER 2017

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|-----------------------------|---|---------------------------------|
| <i>Provision of the Act</i> | <i>Subject matter</i> | <i>Purpose</i> |
| Section 1 | Meaning of private residential tenancy | |
| Section 2 | Interpretation of section 1 (of the Act) | |
| Section 3 | Writing not required to constitute private residential tenancy | |
| Section 4 | Extended meaning of tenancy in the Act | |
| Section 5 | Extended meaning of tenancy and related expressions in other enactments | |
| Section 6 | Power to modify schedule 1 | |
| Section 7 | Statutory terms of tenancy | Insofar as not already in force |
| Section 9 | Protection of terms allowing use of shared living accommodation | |
| Section 10 | Duty to provide written terms of tenancy | |
| Section 13 | Prohibition on charging for information | |
| Section 14 | Application to First-tier Tribunal to draw up terms | |
| Section 15 | First-tier Tribunal's power to draw up terms | |
| Section 16 | First-tier Tribunal's power to sanction failure to provide information | |
| Section 17 | Meaning of notice period in sections 14 and 16 (of the Act) | Insofar as not already in force |
| Section 18 | Method by which rent may be increased | |
| Section 19 | Frequency with which rent may be increased | |
| Section 20 | No premiums, advance payments, etc. | |
| Section 21 | Restriction on diligence | |
| Section 22 | Landlord's power to increase rent | Insofar as not already in force |
| Section 23 | Modification of rent-increase notice by parties | |
| Section 24 | Tenant's right to refer increase to rent officer | Insofar as not already in force |
| Section 25 | Rent officer's power to set rent | |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|-----------------------------|---|---------------------------------|
| <i>Provision of the Act</i> | <i>Subject matter</i> | <i>Purpose</i> |
| Section 26 | Rent officer’s duty to issue provisional order | |
| Section 27 | Rent officer’s power to correct final order | |
| Section 28 | Right of appeal to First-tier Tribunal | |
| Section 29 | First-tier Tribunal’s power to set rent | |
| Section 30 | Finality of First-tier Tribunal’s decision | |
| Section 31 | Liability of over or under paid rent | |
| Section 32 | Determination of open market rent | |
| Section 33 | Withdrawal of referral or appeal | |
| Section 34(1) | Duty to make information available | |
| Section 35 | Request by local authority that a zone be designated | |
| Section 36 | Scottish Ministers’ duty to react to request | |
| Section 37 | Power to designate a zone | |
| Section 38 | Restriction on rent increases within a zone | |
| Section 39 | Limits on power to designate a zone | |
| Section 40 | Procedure for designating a zone: consultation and information | |
| Section 41 | Power to change inflation index | |
| Section 42 | Rent officer’s power to allow rent rise in consequence of improvement | |
| Section 43 | Further provision about making and determining an application under section 42 (of the Act) | Insofar as not already in force |
| Section 44 | No termination by parties except in accordance with Part 5 of the Act | |
| Section 45 | Landlord’s interest transfers with ownership of property | |
| Section 46 | Protection for sub-tenants | |
| Section 47 | Qualification of sub-tenant protection | |
| Section 48 | Tenant’s ability to bring tenancy to an end | |
| Section 49 | Requirements for notice to be given by tenant | |
| Section 50 | Termination by notice to leave and tenant leaving | |

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|-----------------------------|--|---------------------------------|
| <i>Provision of the Act</i> | <i>Subject matter</i> | <i>Purpose</i> |
| Section 51 | First-tier Tribunal's power to issue an eviction order | |
| Section 52 | Applications for eviction orders and consideration of them | |
| Section 53 | First-tier Tribunal's power to disapply protection for sub-tenants | |
| Section 54 | Restriction on applying during the notice period | |
| Section 55 | Restriction on applying 6 months after the notice period expires | |
| Section 56 | Restriction on applying without notifying local authority | |
| Section 57 | Wrongful termination by eviction order | |
| Section 58 | Wrongful termination without eviction order | |
| Section 59 | Wrongful-termination order | |
| Section 60 | Notice to local authority of wrongful-termination order | |
| Section 61 | (Requirements of) Sub-tenancy notice to leave | Insofar as not already in force |
| Section 62 | Requirements of notice to leave and stated eviction ground | Insofar as not already in force |
| Section 63 | Landlord includes lender in some cases | |
| Section 64 | Six month periods | |
| Section 65 | Termination of tenancy on tenant's death | |
| Section 66 | Termination of joint tenant's interest on death | |
| Section 67 | Partner's entitlement to inherit | |
| Section 68 | Other family member's entitlement to inherit | |
| Section 69 | Carer's entitlement to inherit | |
| Section 70 | Interpretation of Part 6 of the Act | |
| Section 71 | First-tier Tribunal's jurisdiction | |
| Section 72 | First-tier Tribunal's duty to report unregistered landlords | |
| Section 73 | Minor errors in documents | |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|---|---|---|
| <i>Provision of the Act</i> | <i>Subject matter</i> | <i>Purpose</i> |
| Section 74 | Consequential modifications | For the purpose of commencing paragraphs 1 to 4 and 6 to 11 of schedule 4 |
| Section 75 | Transitional provision | |
| Schedule 1 | Tenancies which cannot be private residential tenancies | |
| Schedule 3 | Eviction grounds | |
| Schedule 4, paragraphs 1 to 4 and 6 to 11 | Consequential modifications | |
| Schedule 5 | Transition from regimes under earlier enactments | |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force particular sections of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”).

Regulation 2(1) and the schedule bring into force on 1st December 2017, sections 1 to 6, 9 and 10, 13 to 16, 18 to 21, 23, 25 to 33, 34(1), 35 to 42, 44 to 60, 63 to 75. Sections 7, 17, 22, 24, 43, 61 and 62 are commenced insofar as not already in force. Schedules 1, 3 and 5 are commenced. Schedule 4 is commenced under exception of paragraph 5. Paragraph 5 is not being commenced as it is a consequential amendment to section 130B of the Social Security Contributions and Benefits Act 1992 (which ceased to have effect on 1st April 2013) which is not required.

Regulation 3 is a saving provision in relation to short assured tenancies which have been entered into prior to 1st December 2017 and, in certain circumstances, entered into on or after 1st December 2017.

The Bill for the Private Housing (Tenancies) (Scotland) Act 2016 received Royal Assent on 22nd April 2016. Section 79(1) of the Act brought into force sections 76, 77, 78, 79 and 80 on the following day.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Private Housing (Tenancies) (Scotland) Act 2016 have been brought into force by commencement regulations made before the date of these Regulations.

| <i>Provision</i> | <i>Date of Commencement</i> | <i>Instrument No.</i> |
|------------------------|-----------------------------|-----------------------|
| Section 7 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Section 8 | 31st October 2016 | S.S.I. 2016/298 |
| Section 11 | 31st October 2016 | S.S.I. 2016/298 |
| Section 12 | 31st October 2016 | S.S.I. 2016/298 |
| Section 17 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Section 22 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Section 24 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Section 34(2) | 31st October 2016 | S.S.I. 2016/298 |
| Section 43 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Section 61 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Section 62 (partially) | 31st October 2016 | S.S.I. 2016/298 |
| Schedule 2 | 31st October 2016 | S.S.I. 2016/298 |