

POLICY NOTE

THE PRIVATE RESIDENTIAL TENANCIES (PRESCRIBED NOTICES AND FORMS) (SCOTLAND) REGULATIONS 2017

SSI 2017/297

The above instrument was made in exercise of the powers conferred by sections 17(3), 22(2)(b), 24(4), 43(1)(a), 61(3)(b), 62(1)(d) and 77(2) of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). The instrument is subject to negative procedure.

Policy Objectives

The Act will introduce a new type of tenancy for all future lets in the private rented sector. The purpose of the new private residential tenancy is to improve security, stability and predictability for tenants and provide appropriate safeguards for landlords, lenders and investors.

This instrument prescribes certain notices and application forms to be used in connection with a private residential tenancy.

Under the Act, if a landlord fails to provide a tenant with the written terms of their tenancy or any other specified information, a tenant can make an application to the First-tier Tribunal Housing and Property Chamber (the Tribunal) asking it to draw up the terms of the tenancy and sanction the landlord for failing to provide these items. Before applying to the Tribunal, a tenant must give their landlord 28 days' notice of their intention to make an application to the Tribunal. Regulation 2 prescribes the notice that a tenant must use to notify the landlord of their intention to make a referral to the Tribunal.

Section 22 of the Act specifies that if a landlord wants to increase the rent they must give the tenant a rent-increase notice. The rent-increase notice must specify the rent that will be payable once the increase is to take effect and the day when the increase is to take effect. Regulation 3 prescribes the form the rent-increase notice must take.

The Act provides that within 21 days of receiving a rent-increase notice, a tenant can refer a case to a Rent Officer for adjudication if they consider the rent increase unreasonable. Regulation 4 prescribes the application form to be used when a tenant is making such a referral to a Rent Officer.

Section 37 of the Act enables Scottish Ministers, on application from a local authority, to designate an area as a rent pressure zone. If designated, rent increases will be capped in that area for existing tenants who have a private residential tenancy. The cap set by Ministers allows an increase in rent to reflect any improvements made to the property. A Rent Officer will decide any additional amount that a landlord can charge in respect of improvements and Regulation 5 prescribes the form to be used by a landlord when asking a Rent Officer to determine that additional amount.

In order to bring a tenancy to an end, a landlord must serve a tenant or sub-tenant with a notice to leave. Regulation 6 prescribes the form of the notice to leave which a landlord must

use when serving notice on a tenant to leave the property and regulation 7 prescribes the form of the notice to leave which a landlord must use when serving notice on a sub-tenant.

In terms of the methods for delivery for the notices in these regulations, section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 will apply, which means that a notice or application form can be served validly on a recipient only in the following ways:-

- a. by hand delivery
- b. by sending it by recorded delivery; or
- c. if electronic means have previously been agreed as the preferred correspondence method, by emailing the notice to the recipient.

Unless delivered personally, the sender must allow 48 hours for the recipient to receive the notice.

In relation to applications made to the Rent Officer, these may be made by post or electronically.

Consultation

The Scottish Government publically consulted on the content of the notices and application forms contained in these regulations in its consultation titled '*Proposals for regulations and policy supporting the Private Housing (Tenancies) (Scotland) Act 2016*'. A total of 70 responses to that consultation were received. The comments received were considered carefully and helped shape the notices and application forms included in these regulations. The consultation document, analysis paper and a full list of those who responded and who also agreed to the release of their response are available on the Scottish Government's website at <https://consult.scotland.gov.uk/private-rented-sector-policy/regulations-and-policy-private-housing/>.

Impact Assessments

An Equality Impact Assessment and a Children's Rights and Welfare Impact Assessment were undertaken in relation to the provisions in Private Housing (Tenancies) (Scotland) Bill prior to its introduction to the Scottish Parliament. The findings were:

Equality Impact Assessment

The Scottish Government found that none of the proposals are discriminatory and that there are no significant issues that we consider would impact negatively upon the various groups.

Children's Rights and Welfare Impact Assessment

The Scottish Government has found that none of the proposals impinge upon articles on the UNCRC or the indicators of wellbeing (SHANARRI) and that there are no issues that will impact negatively upon children and young people in the PRS.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) was undertaken in relation to the provisions in Private Housing (Tenancies) (Scotland) Bill prior to its introduction to the Scottish Parliament.

The Scottish Government does not consider that these Regulations will impose additional costs on tenants or landlords.

Scottish Government
Directorate for Housing and Social Justice

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