Private Housing (Tenancies) (Scotland) Act 2016

2016 asp 19

PART 1

PRIVATE RESIDENTIAL TENANCY

1 Meaning of private residential tenancy

(1) A tenancy is a private residential tenancy where—

(a) the tenancy is one under which a property is let to an individual ("the tenant") as a separate dwelling,

(b) the tenant occupies the property (or any part of it) as the tenant's only or principal home, and

(c) the tenancy is not one which schedule 1 states cannot be a private residential tenancy.

(2) A tenancy which is a private residential tenancy does not cease to be one by reason only of the fact that subsection (1)(b) is no longer satisfied.

2 Interpretation of section 1

(1) This section makes provision about the interpretation of section 1.

(2) A tenancy is to be regarded as one under which a property is let to an individual notwithstanding that it is let jointly to an individual, or individuals, and another person.

(3) A tenancy is to be regarded as one under which a property is let as a separate dwelling, despite the let property including other land, where the main purpose for letting the property is to provide the tenant with a home.

(4) A tenancy is to be regarded as one under which a property is let as a separate dwelling if, despite the let property lacking certain features or facilities—

(a) the terms of the tenancy entitle the tenant to use property in common with another person ("shared accommodation"), and

(b) the let property would be regarded as a separate dwelling were it to include some or all of the shared accommodation.

(5) In a case where two or more persons jointly are the tenant under a tenancy, references to the tenant in section 1(1)(b) and in subsection (3) are to any one of those persons.

3 Writing not required to constitute private residential tenancy

(1) A purported contract becomes lawfully constituted, despite not being constituted in a written document as required by section 1(2) of the Requirements of Writing (Scotland) Act 1995, when—

(a) a person occupies a property as the person's only or principal home in pursuance of the purported contract's terms, and

(b) the tenancy which the purported contract would create, were it lawfully constituted, would satisfy the conditions in paragraphs (a) and (c) of section 1(1).

(2) Any term of a purported contract which is unrelated to a private residential tenancy is not to be regarded as a term of the contract for the purpose of subsection (1).

4 Extended meaning of tenancy in this Act

For the purposes of this Act—

(a) if an agreement would give rise to a tenancy but for the fact that it does not specify an ish, it is to be regarded as giving rise to a tenancy,

(b) once an agreement has given rise to a private residential tenancy, it is to continue to be regarded as giving rise to a tenancy despite the term of the agreement requiring the tenant to pay rent subsequently being removed from the agreement or otherwise ceasing to have effect.

5 Extended meaning of tenancy and related expressions in other enactments

Unless the contrary intention appears, a reference in any enactment to—

(a) a tenancy includes a private residential tenancy,

(b) a landlord or tenant includes a landlord or tenant under a private residential tenancy,

(c) property being let includes property being let under a private residential tenancy,

(d) a lease includes an agreement giving rise to a private residential tenancy.

6 Power to modify schedule 1

(1) The Scottish Ministers may by regulations modify schedule 1.

(2) Before making regulations under subsection (1), the Scottish Ministers must consult such persons representing the interests of tenants and landlords under private residential tenancies as they think fit.

PART 2

TENANCY TERMS

7 Statutory terms of tenancy

(1) The Scottish Ministers may by regulations prescribe terms (referred to in this Act as "statutory terms").

(2) Statutory terms are terms of every private residential tenancy to which the regulations prescribing them apply, subject to any provision made under subsection (3).

(3) The Scottish Ministers may by regulations provide that—

(a) in some circumstances, a statutory term is not a term of a private residential tenancy,

(b) in some or all circumstances, a statutory term applies as a term of a private residential tenancy subject to any modification of the term agreed between the landlord and tenant under the tenancy.

8 Regulations under section 7

(1) Regulations may not be made under section 7(1) unless—

(a) they prescribe, in relation to the tenancies to which the regulations are to apply, the terms set out in schedule 2, or

(b) those terms are prescribed in relation to those tenancies already.

(2) Regulations made under section 7 may not be revoked in exercise of the power conferred by that section to the extent that their revocation would result in terms set out in schedule 2 not applying in relation to some or all private residential tenancies.

(3) Nothing in this section prevents provision being made under section 7(3) so that—

(a) in some circumstances, a term set out in schedule 2 is not a term of a private residential tenancy,

(b) in some or all circumstances, a term set out in schedule 2 applies subject to modification.

(4) Before making regulations under section 7, the Scottish Ministers must consult such persons representing the interests of tenants and landlords under private residential tenancies as they think fit.

(5) Where regulations are made under section 7 before section 1 comes into force, the reference in subsection (4) to tenants and landlords under private residential tenancies is to be read as a reference to persons who are likely to be affected by the regulations.

9 Protection of terms allowing use of shared living accommodation

(1) A term of a private residential tenancy which entitles the tenant to use shared living accommodation may not be terminated or modified so as to reduce the entitlement which the tenant had at the commencement of the private residential tenancy, unless the tenant agrees to the termination or modification of the term after the tenancy commences.

(2) Subsection (1) does not affect the operation of any term of the tenancy which allows the identity or number of persons in common with whom the tenant is entitled to use the shared living accommodation to change.

(3) In this section, "shared living accommodation" means property—
   (a) which the terms of the tenancy entitle the tenant to use in common with another person, and
   (b) which is of such a nature that any let property must include it, or be treated as including it, in order to be regarded as a separate dwelling.

PART 3

TENANCY INFORMATION

Landlord's duties to provide information

10 Duty to provide written terms of tenancy

(1) Where the terms of a private residential tenancy are not set out in writing between the parties, the landlord must, before the end of the day specified in subsection (2) or (as the case may be) (3), provide the tenant with a document which sets out all of the terms of the tenancy.

(2) The day referred to in subsection (1) is—
   (a) the day on which the tenancy commences, if the tenancy is a private residential tenancy on that day, or
   (b) the day falling 28 days after the day on which the tenancy became a private residential tenancy, if it became one after the day on which the tenancy commenced.

(3) If, as a result of a subsequent change to its terms, all of the terms of a private residential tenancy are no longer set out in writing—
   (a) subsection (2) does not apply, and
   (b) the day referred to in subsection (1) is the day falling 28 days after the change to the tenancy's terms takes effect.

11 Duty to provide specified information

(1) The Scottish Ministers may by regulations impose a duty on any person who is, or is to be, the landlord under a private residential tenancy to provide the person who is, or is to be, the tenant—
   (a) with information specified in the regulations,
   (b) by a deadline specified in the regulations.

(2) The power to specify information under subsection (1)(a) includes the power to specify the form in which the information is to be provided.

(3) Before making regulations under subsection (1), the Scottish Ministers must consult such persons representing the interests of tenants and landlords under private residential tenancies as they think fit.

(4) But subsection (3) does not apply in any case in which consultation has been carried out by the Scottish Ministers more generally, without specific reference to such tenants and landlords.

12 Regulations about providing information

The Scottish Ministers may by regulations make provision about how a duty arising by virtue of section 10 or 11 is to be performed (including when the duty is to be deemed to have been performed).

13 Prohibition on charging for information

The person who is, or is to be, the tenant under a private residential tenancy may not be charged for being provided by the landlord with—

(a) a document which sets out the terms, or any term, of the tenancy, or

(b) information in performance of a duty arising by virtue of section 11.

First-tier Tribunal's powers

14 Application to First-tier Tribunal to draw up terms

(1) The tenant under a private residential tenancy may (subject to subsection (3)) apply to the First-tier Tribunal asking it to draw up the terms of the tenancy under section 15 if the landlord—

(a) has a duty under section 10 to provide the tenant with a document which sets out all of the terms of the tenancy, and

(b) the landlord has not provided that document to the tenant.

(2) Either the tenant or the landlord under a private residential tenancy may apply to the First-tier Tribunal asking it to draw up the terms of the tenancy under section 15 if the tenant or landlord thinks that the written terms of the tenancy purport to displace a statutory term in an unlawful manner.

(3) The tenant may not make an application under subsection (1) unless the tenant has given the landlord notice of the tenant's intention to make the application and the notice period described in section 17 has expired.

(4) For the purpose of subsection (2), written terms of a tenancy purport to displace a statutory term in an unlawful manner if—

(a) the statutory term is not included in the written terms of the tenancy but is a term of the tenancy because regulations under section 7(3)(a) do not provide otherwise, or

(b) the statutory term, as expressed in the written terms of the tenancy, bears to be subject to a modification which is not permitted by regulations under section 7(3)(b).

(5) In a case where two or more persons jointly are the tenant under a tenancy, references to the tenant in this section are to any one of those persons.

(6) In a case where two or more persons jointly are the landlord under a tenancy, references to the landlord in this section are to any one of those persons.

15 First-tier Tribunal's power to draw up terms

(1) On an application under section 14, the First-tier Tribunal may—

(a) draw up a document which accurately reflects all of the terms of the tenancy, or

(b) if there are already written terms of the tenancy and the Tribunal is satisfied that they accurately reflect all of the terms of the tenancy, make a declaration to that effect.

(2) A document that is drawn up by the Tribunal under subsection (1)(a) or is the subject of a declaration under subsection (1)(b) is to be regarded as setting out all of the terms of the tenancy at that time.

16 First-tier Tribunal's power to sanction failure to provide information

(1) On an application by the tenant under a private residential tenancy, the First-tier Tribunal may make an order under subsection (2) where—

(a) the landlord has failed to perform a duty arising by virtue of section 10 or 11 to provide the tenant with information,

(b) at the time the First-tier Tribunal considers the application, the landlord has still not provided the tenant with the information, and

(c) the landlord does not have a reasonable excuse for failing to perform the duty.

(2) An order under this subsection is one requiring the landlord to pay the person who made the application an amount not exceeding—

(a) three months' rent, if the order is in respect of a failure by the landlord to perform—

(i) a duty arising by virtue of section 10, or

(ii) one or more duties arising by virtue of section 11,

(b) six months' rent, if the order is in respect of a failure by the landlord to perform—

(i) a duty arising by virtue of section 10, and

(ii) one or more duties arising by virtue of section 11.

(3) An application under subsection (1)—

(a) may be made only during the course of the tenancy in question,

(b) where the application relates to a failure to perform a duty arising by virtue of section 10, may be made only as part of an application under section 14(1), and

(c) may not be made unless the tenant has given the landlord notice of the tenant's intention to make the application and the notice period described in section 17 has expired.

(4) If—

(a) an application has been made under subsection (1) in respect of a failure to perform a duty arising by virtue of section 11, and

(b) at the time the application was made, an application could have been made in respect of a failure to perform another duty arising by virtue of section 11,

no application may be made in respect of that other duty.

(5) Where two or more persons jointly are the landlord under the tenancy in question, an order by the First-tier Tribunal under subsection (2) may—

(a) be made against all, some or only one of the joint landlords,

(b) state that each person against whom the order is made is liable to pay a specified amount, but the cumulative total of each of the specified amounts must not exceed the maximum set by subsection (2),

(c) state that each person against whom the order is made is jointly and severally liable for the whole amount to be paid.

(6) In a case where two or more persons jointly are the tenant under a tenancy, references to the tenant in this section are to any one of those persons.

(7) In subsection (2), "rent" means—

(a) the amount that was payable in rent under the tenancy at the time that notice of the application was given to the landlord, and

(b) in a case where two or more persons jointly are the tenant under the tenancy, the amount mentioned in paragraph (a) divided by the number of those persons.

17 Meaning of notice period in sections 14 and 16

(1) For the purposes of sections 14(3) and 16(3)(c), a notice period—

(a) begins on the later of—

(i) the day that the landlord receives notice from the tenant of the tenant's intention to make the application in question, or

(ii) the day after the deadline by which the landlord should have performed the duty to which the application in question relates, and

(b) expires on the day falling 28 days after it begins.

(2) Where the application in question relates to a failure by the landlord to perform more than one duty, the reference to the duty in subsection (1)(a)(ii) is to be read as a reference to the duty with the latest deadline for performance.

(3) A notice of a tenant's intention to make an application under section 14(1) or 16(1) must fulfil any requirements prescribed by the Scottish Ministers in regulations.

PART 4

RENT

CHAPTER 1

RESTRICTIONS IN RELATION TO RENT, OTHER CHARGES AND DILIGENCE

Restrictions on rent increases

18 Method by which rent may be increased

The rent payable under a private residential tenancy may be increased only in accordance with Chapter 2.

19 Frequency with which rent may be increased

(1) The rent payable under a private residential tenancy may not be increased more than once in a 12 month period.

(2) For the purpose of subsection (1), in a case where the last rent increase resulted from an order of the rent officer or the First-tier Tribunal, the 12 month period is to be regarded as commencing on the date on which the rent would have been increased in accordance with section 22(4) had a referral to a rent officer not been made.

Restrictions on other charges and diligence

20 No premiums, advance payments, etc.

(1) Sections 82, 83 and 86 to 90 of the Rent (Scotland) Act 1984 apply in relation to a private residential tenancy as they apply in relation to a tenancy of the kind to which those sections refer.

(2) But—

(a) section 83(5) of that Act is to be ignored,

(b) the date mentioned in section 88(1) of that Act is to be read as if it were the date on which this section comes into force.

21 Restriction on diligence

Except with the leave of the First-tier Tribunal, no diligence is to be done in respect of—

(a) the rent due by a tenant or former tenant under a private residential tenancy,

(b) any liability of a tenant or former tenant arising under section 31.

CHAPTER 2

RENT VARIATION INSTIGATED BY LANDLORD'S NOTICE

Process by which rent may be varied

22 Landlord's power to increase rent

(1) The landlord under a private residential tenancy may increase the rent payable under the tenancy by giving the tenant a notice in accordance with this section ("a rent-increase notice").

(2) The notice must—

(a) specify—

(i) the rent that will be payable once the increase takes effect,

(ii) the day on which the increase is to take effect, and

(b) fulfil any other requirements prescribed by the Scottish Ministers in regulations.

(3) The rent increase takes effect on the effective date, unless before that date—

(a) the landlord intimates to the tenant that the notice is rescinded, or
(b) the tenant makes a referral to a rent officer under section 24.

(4) For the purpose of subsection (3), the effective date is the date of the later of—
(a) the day specified in the notice in accordance with subsection (2)(a)(ii), or
(b) the day after the day on which the minimum notice period ends.

(5) In subsection (4)(b), "the minimum notice period" means a period which—
(a) begins on the day the notice is received by the tenant, and
(b) ends on the day falling—
(i) three months after it began, or
(ii) whatever longer period after it began as the landlord and tenant have agreed between them.

(6) In subsection (5), the reference to a period of three months is to a period which ends in the month which falls three months after the month in which it began, either—
(a) on the same day of the month as it began, or
(b) if the month in which the period ends has no such day, on the final day of that month.

23 Modification of rent-increase notice by parties

(1) Anything specified in a rent-increase notice in accordance with section 22(2)(a) may be modified by agreement between the landlord and tenant concerned.

(2) A modification made to a rent-increase notice by virtue of subsection (1) ceases to have effect if the notice subsequently prompts a referral to a rent officer under section 24(1).

24 Tenant's right to refer increase to rent officer

(1) Having received a rent-increase notice, a tenant may make a referral to a rent officer for the area in which the let property is situated seeking an order under section 25.

(2) But, a tenant may not make a referral under subsection (1) if the let property is in a rent pressure zone.

(3) A referral to a rent officer under subsection (1) must be—
(a) in the prescribed form,
(b) accompanied by the prescribed fee (if any),
(c) intimated by the tenant to the landlord in the prescribed manner, and
(d) made before the end of the day falling 21 days after the tenant receives the notice.

(4) In subsection (3), "prescribed" means prescribed by the Scottish Ministers by regulations.

25 Rent officer's power to set rent

(1) Where a rent officer receives a referral under section 24(1), the rent officer must make an order stating that from the effective date the rent payable under the tenancy is the rent determined by the rent officer in accordance with section 32.

(2) For the purpose of subsection (1), the effective date is—

(a) where the rent officer makes the order 14 days or more before the original effective date, the original effective date,

(b) otherwise, the first payment date falling at least 14 days after the day on which the rent officer makes the order.

(3) In an order made under subsection (1), the rent officer must record the amount of the rent that is fairly attributable to the provision of services, unless the amount is negligible or no amount is so attributable.

(4) In subsection (2)—

"original effective date" means the date on which the rent would have been increased in accordance with section 22(4) had the referral to the rent officer not been made, and

"payment date" means a date on which a rent payment falls to be made in accordance with the terms of the tenancy.

26 Rent officer's duty to issue provisional order

(1) Before making an order under subsection (1) of section 25, a rent officer must issue a provisional order stating—

(a) the rent which the rent officer proposes to specify under that section, and

(b) the amount which the rent officer proposes to record for the purpose of subsection (3) of that section.

(2) Where a rent officer has issued a provisional order under subsection (1), the landlord or the tenant may ask the rent officer to reconsider the proposed amounts.

(3) A request under subsection (2) may not be made more than 14 days after the provisional order is issued.

(4) If a request is made under subsection (2), the rent officer must reconsider the proposed amounts prior to making an order under section 25(1).

27 Rent officer's power to correct final order

(1) A rent officer may, within 14 days of making an order under section 25(1), re-make the order for the purpose of curing an error in the original order.

(2) The effective date of the re-made order is to be specified in accordance with subsection (2) of section 25 as though it were an order made under that section.

(3) Where an order has been re-made under this section—

(a) the original order is of no effect,

(b) references in this Chapter to an order made under section 25(1) are to be read as references to the re-made order,

(c) if the original order has been appealed against under section 28(1), the appeal is to be regarded as having been made against the re-made order.

(4) Subsection (3)(b) does not apply in relation to—

(a) subsection (1),

(b) section 26.

28 Right of appeal to First-tier Tribunal

(1) Where a rent officer has made an order under section 25(1) in relation to the rent payable under a private residential tenancy, the landlord or the tenant may appeal against the order to the First-tier Tribunal.

(2) An order under section 25(1) may not be appealed against—
  (a) more than 14 days after the order is made, or
  (b) where the order is made by virtue of section 33(2).

(3) Making an appeal under subsection (1) renders the order being appealed against of no effect.

29 First-tier Tribunal's power to set rent

(1) Where an appeal is made to the First-tier Tribunal under section 28(1), the First-tier Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the rent determined by the First-tier Tribunal in accordance with section 32.

(2) For the purpose of subsection (1), the effective date is—
  (a) where the First-tier Tribunal makes its order on or before the original effective date, the original effective date,
  (b) otherwise, the first payment date falling on or after the day on which the First-tier Tribunal makes its order.

(3) In an order made under subsection (1), the First-tier Tribunal must record the amount of the rent that is fairly attributable to the provision of services, unless the amount is negligible or no amount is so attributable.

(4) In subsection (2)—

"original effective date" means the date on which the rent would have been increased in accordance with section 22(4) had a referral to the rent officer not been made, and

"payment date" means a date on which a rent payment falls to be made in accordance with the terms of the tenancy.

30 Finality of First-tier Tribunal's decision

(1) An order under section 29(1) may be reviewed in accordance with this section only.

(2) Accordingly (and without prejudice to the generality of subsection (1)), a decision of the First-tier Tribunal to make an order under section 29(1) may be neither—
  (a) reviewed under section 43 of the Tribunals (Scotland) Act 2014, nor
  (b) appealed against under section 46 of that Act.

(3) The First-tier Tribunal may review an order under section 29(1)—
  (a) at its own instance, or
  (b) at the request of the landlord or the tenant under the tenancy to which the order relates.

(4) In a review under subsection (3), the First-tier Tribunal may—
  (a) take no action, or

(b) correct a minor error contained in the order.

31 Liability for over or under paid rent

(1) This section applies where—

(a) the rent payable under a private residential tenancy has been changed by an order made under section 25(1) or 29(1),

(b) the effective date stated in the order ("the actual effective date") falls later than the date on which the rent would have been increased in accordance with section 22(4) had a referral to a rent officer not been made ("the originally proposed effective date"), and

(c) the rent payable from the actual effective date ("the new rent") differs from the rent payable immediately before that date ("the old rent").

(2) If the new rent is less than the old rent, on the date the order is made the landlord becomes liable under this subsection to pay the tenant the difference between—

(a) the amount actually paid in rent between the originally proposed effective date and the actual effective date, and

(b) the amount that would have been payable in rent during the same period had the new rent been the rent payable from the originally proposed effective date.

(3) If the new rent is more than the old rent, on the date the order is made the tenant becomes liable under this subsection to pay the landlord the difference between—

(a) the amount that would have been payable in rent between the originally proposed effective date and the actual effective date had the new rent been the rent payable from the originally proposed effective date, and

(b) the amount that should have been paid in rent during the same period (whether or not it was actually paid).

(4) Subsection (5) applies if, at the end of the day falling 28 days after a tenant's liability under subsection (3) arose, that liability is (in whole or in part) still outstanding.

(5) For the purposes of paragraph 12 of schedule 3, the liability mentioned in subsection (4) is to be regarded as a sum that fell to be paid by way of rent on the day the liability arose.

(6) In this section, a reference to a period between two dates includes both of those dates.

32 Determination of open market rent

(1) Where an order maker is to determine the rent under section 25(1) or (as the case may be) 29(1), the determination is to be made on the basis that the property in question would be let by a willing landlord to a hypothetical willing tenant under a new tenancy which would—

(a) be a private residential tenancy,

(b) begin on the date on which the rent would have been increased in accordance with section 22(4) had a referral to a rent officer not been made,

(c) have the same terms as the tenancy to which the referral or (as the case may be) appeal relates.

(2) In determining the open market rent of the property under subsection (1), the order maker is to disregard—

(a) any positive effect on the rental value of the property that is attributable to work paid for or carried out by the tenant or a previous tenant under the same tenancy, unless the work was paid for or carried out pursuant to a requirement under the terms of the tenancy,

(b) any negative effect on the rental value that is attributable to a failure by the tenant or a previous tenant under the same tenancy to comply with the terms of the tenancy.

(3) In a case where two or more persons jointly are the tenant under a tenancy, a reference to the tenant in subsection (2) includes any one of them.

33 Withdrawal of referral or appeal

(1) This section applies—

(a) where a referral made under section 24(1) is withdrawn by the tenant, or

(b) where—

(i) an appeal made under section 28(1) is withdrawn by one party, and

(ii) the other party has not made an appeal in respect of the tenancy in question, or any appeal made by the other party has been withdrawn.

(2) The order maker must make an order under section 25(1) or (as the case may be) 29(1) stating that from the effective date the rent payable under the tenancy is—

(a) the rent specified in the rent-increase notice, or

(b) an amount which the parties have asked the order maker to state in the order.

(3) Where the order maker is the First-tier Tribunal, an order may not be made by virtue of subsection (2) until the earlier of—

(a) the expiry of the period within which an appeal under section 28(1) may be made, or

(b) the date on which both parties become ineligible to make an appeal (whether by withdrawing an appeal or by waiving the right to appeal).

(4) The following do not apply in relation to an order made by virtue of subsection (2)—

(a) the requirement to record in the order an amount in accordance with section 25(3) or (as the case may be) 29(3),

(b) the duty to issue a provisional order under section 26.

(5) In subsection (2), "the rent-increase notice" means the rent-increase notice which prompted the referral or (as the case may be) led to the appeal.

Information about open market rent determinations

34 Duty to make information available

(1) Rent officers and the First-tier Tribunal collectively must make publicly available information about—

(a) the rents they have taken into account in determining the open market rents for let properties under section 32, and

(b) what rents they have determined to be payable in accordance with that section.

(2) The Scottish Ministers may by regulations—

(a) specify—
(i) the information that is to be made available under subsection (1),
(ii) the manner in which it is to be made available,
(b) prescribe the fees (if any) which may be charged for supplying the information.

CHAPTER 3

RENT PRESSURE ZONES

Designation and effect of rent pressure zone

35 Request by local authority that a zone be designated

(1) A local authority may make an application to the Scottish Ministers asking that all or part of the authority's area be designated as a rent pressure zone.

(2) An application under subsection (1) is valid only if it fulfils any requirements which, prior to the application being made, the Scottish Ministers told the local authorities in Scotland an application must fulfil in order for it to be valid.

36 Scottish Ministers' duty to react to request

Within 18 weeks of receiving a valid application under section 35, the Scottish Ministers must lay before the Scottish Parliament either—
(a) a draft of a Scottish statutory instrument containing regulations under section 37 designating the area specified in the application as a rent pressure zone, or
(b) a document explaining why the Ministers have not laid before the Parliament the draft instrument described in paragraph (a).

37 Power to designate a zone

(1) After receiving an application under section 35, the Scottish Ministers may by regulations—
(a) designate an area as a rent pressure zone, and
(b) prescribe in relation to that zone a number of percentage points as the value of X for the purposes of section 38(1).

(2) In subsection (1)(b), "a number"—
(a) includes zero and fractional parts of a whole number, but
(b) does not include negative numbers.

38 Restriction on rent increases within a zone

(1) A rent-increase notice may not increase the rent payable under a private residential tenancy where the let property is in a rent pressure zone to an amount greater than—

$$R\,x\left(1+\frac{CPI+1+X}{100}\right)+Y$$

where—

R is the rent payable under the tenancy immediately before the rent-increase notice in question takes effect,

CPI is the percentage increase in the consumer prices index over the period—

(a) from—

(i) the day of the last increase in the rent payable under the tenancy, or

(ii) if the rent payable under the tenancy has not previously been increased, the day on which the tenancy was granted,

(b) to the day that the rent-increase notice in question is given to the tenant,

X is the number of percentage points prescribed in relation to the rent pressure zone under section 37(1)(b),

Y is the amount (if any) by which the rent may be increased by virtue of a rent officer's determination under section 42.

(2) In subsection (1), "the consumer prices index" means the all consumer prices index published by the Office of National Statistics.

39 Limits on power to designate a zone

(1) An area may not be designated as a rent pressure zone unless it is an area which the Scottish Ministers have been asked to designate as a rent pressure zone in an application under section 35.

(2) An area may not be designated as a rent pressure zone more than once on the basis of the same application under section 35.

(3) Regulations designating a rent pressure zone cease to have effect 5 years after they come into force, unless—

(a) they provide, or another enactment provides, that they cease to have effect sooner, or

(b) they are revoked.

40 Procedure for designating a zone: consultation and information

(1) This section applies in relation to the making of regulations under section 37 which designate an area as a rent pressure zone.

(2) Before laying a draft of a Scottish statutory instrument containing the regulations before the Scottish Parliament, the Scottish Ministers must consult—

(a) persons appearing to the Ministers to represent the interests of persons who offer residential property for let within the area mentioned in subsection (4), and

(b) persons appearing to the Ministers to represent the interests of persons who are tenants of residential property within the area mentioned in subsection (4).

(3) Along with a draft of a Scottish statutory instrument containing the regulations, the Scottish Ministers must also lay before the Scottish Parliament a document which—

(a) sets out the evidence which leads them to believe that—

(i) rents payable within the proposed rent pressure zone are rising by too much,

(ii) the rent rises within the proposed zone are causing undue hardship to tenants, and

(iii) the local authority within whose area the proposed zone lies is coming under increasing pressure to provide housing or subsidise the cost of housing as a consequence of the rent rises within the proposed zone,

(b) summarises the responses they received to the consultation carried out in accordance with subsection (2).

(4) The area referred to in subsection (2) is that of the local authority within whose area the proposed rent pressure zone lies.

41 Power to change inflation index

The Scottish Ministers may by regulations amend section 38 to replace references in that section to one prices index with references to another.

Improvements to let property

42 Rent officer's power to allow rent rise in consequence of improvement

(1) On an application by the landlord under a private residential tenancy, a rent officer is to determine the amount (if any) by which the rent payable under the tenancy may be increased in consequence of an improvement made to the let property.

(2) The rent payable under a tenancy may not be increased by virtue of a determination made in respect of an improvement which was completed before—

(a) the tenancy was granted, or

(b) if the rent payable under the tenancy has changed previously, the day on which it last changed.

(3) The rent payable under a tenancy may not be increased more than once by virtue of a single determination.

(4) In subsection (1), "improvement" does not include anything done to the let property—

(a) which is paid for in whole or in part by the tenant, or

(b) by way of repair, maintenance or decoration.

(5) In a case where two or more persons jointly are the tenant under a tenancy, the reference to the tenant in subsection (4)(a) includes any one of them.

43 Further provision about making and determining an application under section 42

(1) An application under section 42(1) must be made—

(a) in such form as may be prescribed by the Scottish Ministers in regulations,

(b) to a rent officer for the area in which the let property in question is situated.

(2) On receiving an application under section 42(1), a rent officer must send a copy of it to the tenant concerned.

(3) Before making a final determination under section 42, a rent officer must send—

(a) to both the landlord and tenant concerned a draft of the determination which the rent officer proposes to make,

(b) to the tenant a copy of any timeous representations received from the landlord in relation to the draft determination.

(4) In making a determination under section 42, a rent officer must—

(a) follow any guidance published by the Scottish Ministers which sets out for the purposes of that section—

(i) what does, and does not, constitute an improvement made to a let property, and

(ii) the amount by which the rent payable under a tenancy may be increased in consequence of a particular improvement, or the methodology by which the assessment of that amount is to be made, and

(b) have regard to any timeous representations received from the landlord or tenant concerned.

(5) For the purposes of subsections (3)(b) and (4)(b), representations are timeous if they are sent to the rent officer by—

(a) the landlord within 14 days of the landlord receiving the draft determination sent in accordance with subsection (3)(a),

(b) the tenant—

(i) within 14 days of the tenant receiving the copy of the application for a determination in accordance with subsection (2), or

(ii) if the rent officer sends to the tenant a copy of representations received from the landlord in accordance with subsection (3)(b), not more than 14 days after the tenant received the copy of the landlord's representations.

(6) In a case where two or more persons jointly are the landlord under the tenancy, references to the landlord in section 42 and this section are to any one of those persons.

PART 5

TERMINATION

CHAPTER 1

SECURITY OF TENURE

44 No termination by parties except in accordance with this Part

A tenancy which is a private residential tenancy may not be brought to an end by the landlord, the tenant, nor by any agreement between them, except in accordance with this Part.

45 Landlord's interest transfers with ownership of property

When ownership of a property let under a private residential tenancy is transferred, the landlord's interest under the tenancy transfers with it.

46 Protection for sub-tenants

(1) Subsection (2) applies (subject to section 47) where—

(a) a lawfully granted sub-tenancy is terminated by the termination of the tenancy of the person who was the landlord under the sub-tenancy, and

(b) immediately before it terminated, the sub-tenancy was a private residential tenancy.

(2) On the termination of the sub-tenancy, the person who was the tenant under the sub-tenancy becomes the tenant under a new tenancy which—

(a) has the same terms as the sub-tenancy had immediately before it was terminated, and

(b) is deemed to have been granted at the time that the sub-tenancy terminated by whoever was entitled to grant a tenancy in those terms at that time.

(3) A sub-tenancy is not lawfully granted for the purpose of subsection (1) if—

(a) sub-letting the let property is precluded by a term of—

(i) the tenancy of the person who granted the sub-tenancy ("the mid-landlord"), or

(ii) the tenancy of a tenant from whom the mid-landlord's tenancy is held (directly or indirectly), and

(b) the person entitled to enforce the term mentioned in paragraph (a) has not expressly or impliedly consented to the sub-tenancy being granted or continuing.

47 Qualification of sub-tenant protection

(1) Section 46(2) does not apply where the tenancy of the person who was the landlord under the sub-tenancy was brought to an end by an eviction order and either—

(a) the order was issued (exclusively or not) on the basis of an eviction ground mentioned in subsection (2), or

(b) the order states that section 46(2) does not apply.

(2) The eviction grounds referred to in subsection (1)(a) are—

(a) that the landlord intends to sell the let property,

(b) that a lender intends to sell the let property,

(c) that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property,

(d) that the landlord intends to live in the let property,

(e) that a member of the landlord's family intends to live in the let property,

(f) that the landlord intends to use the let property for a purpose other than housing,

(g) that the let property is required for use in connection with the purposes of a religion,

(h) that the tenancy was entered into to provide an employee with a home and the tenant is not a qualifying employee,

(i) that the tenancy was entered into on account of the tenant having an assessed need for community care and the tenant has since been assessed as no longer having that need,

(j) that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004,

(k) that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006,

(l) that an overcrowding statutory notice has been served on the landlord.

CHAPTER 2

TERMINATION BY TENANT

48 Tenant's ability to bring tenancy to an end

(1) A tenant may bring to an end a tenancy which is a private residential tenancy by giving the landlord a notice which fulfils the requirements described in section 49.

(2) A tenancy comes to an end in accordance with subsection (1) on the day on which the notice states (in whatever terms) that it is to come to an end.

(3) But a tenancy does not come to an end in accordance with subsection (1) if—

(a) before the day mentioned in subsection (2), the tenant makes a request to the landlord to continue the tenancy after that day, and

(b) the landlord agrees to the request.

(4) In subsections (1) and (3), in a case where two or more persons jointly are the landlord under the tenancy, references to the landlord are to any of those persons.

49 Requirements for notice to be given by tenant

(1) A notice fulfils the requirements referred to in section 48(1) if—

(a) it is given—

(i) freely and without coercion of any kind,

(ii) after the tenant begins occupying the let property,

(b) it is in writing, and

(c) it states as the day on which the tenancy is to end a day that is after the last day of the minimum notice period.

(2) A notice is to be regarded as fulfilling the requirements referred to in section 48(1), despite its not complying with the requirement described by subsection (1)(c), if the landlord agrees in writing to the tenancy ending on the day stated in the notice.

(3) In subsection (1)(c), "the minimum notice period" means a period which—

(a) begins on the day the notice is received by the landlord, and

(b) ends on the day falling—

(i) such number of days after it begins as the landlord and tenant have validly agreed between them, or

(ii) if there is no such valid agreement, 28 days after it begins.

(4) An agreement as to the number of days after which a minimum notice period ends is invalid for the purpose of subsection (3)(b)(i) if the agreement—

(a) is not in writing, or

(b) was entered into before the tenancy became a private residential tenancy.

(5) In a case where two or more persons jointly are the landlord under the tenancy, references in this section to the landlord are to any one of those persons.

CHAPTER 3

TERMINATION AT LANDLORD'S INSTIGATION

Consensual termination

50 Termination by notice to leave and tenant leaving

(1) A tenancy which is a private residential tenancy comes to an end if—
  (a) the tenant has received a notice to leave from the landlord, and
  (b) the tenant has ceased to occupy the let property.

(2) A tenancy comes to an end under subsection (1) on the later of—
  (a) the day specified in the notice to leave in accordance with section 62(1)(b), or
  (b) the day on which the tenant ceases to occupy the let property.

(3) For the avoidance of doubt, a tenancy which is to come to an end under subsection (1) may be brought to an end earlier in accordance with section 48.

Eviction order

51 First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may or must find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

52 Applications for eviction orders and consideration of them

(1) In a case where two or more persons jointly are the landlord under a tenancy, an application for an eviction order may be made by any one of those persons.

(2) The Tribunal is not to entertain an application for an eviction order if it is made in breach of—
  (a) subsection (3), or
  (b) any of sections 54 to 56 (but see subsection (4)).

(3) An application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.

(4) Despite subsection (2)(b), the Tribunal may entertain an application made in breach of section 54 if the Tribunal considers that it is reasonable to do so.

(5) The Tribunal may not consider whether an eviction ground applies unless it is a ground which—

(a) is stated in the notice to leave accompanying the landlord's application in accordance with subsection (3), or

(b) has been included with the Tribunal's permission in the landlord's application as a stated basis on which an eviction order is sought.

53 First-tier Tribunal's power to disapply protection for sub-tenants

(1) This section applies in a case where a sub-tenant would become a tenant by virtue of section 46(2) were the First-tier Tribunal to issue an eviction order against the sub-tenant's landlord.

(2) If the First-tier Tribunal considers it is reasonable to do so, it may state in an eviction order that section 46(2) is not to apply when the tenancy of the sub-tenant's landlord is brought to an end by the order.

(3) The First-tier Tribunal may not include in an eviction order the statement mentioned in subsection (2) unless it has afforded the sub-tenant an opportunity to make representations.

Restrictions on applying for eviction order

54 Restriction on applying during the notice period

(1) A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice.

(2) The relevant period in relation to a notice to leave—

(a) begins on the day the tenant receives the notice to leave from the landlord, and

(b) expires on the day falling—

(i) 28 days after it begins if subsection (3) applies,

(ii) 84 days after it begins if subsection (3) does not apply.

(3) This subsection applies if—

(a) on the day the tenant receives the notice to leave, the tenant has been entitled to occupy the let property for not more than six months, or

(b) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—

(i) that the tenant is not occupying the let property as the tenant's home,

(ii) that the tenant has failed to comply with an obligation under the tenancy,

(iii) that the tenant has been in rent arrears for three or more consecutive months,

(iv) that the tenant has a relevant conviction,

(v) that the tenant has engaged in relevant anti-social behaviour,

(vi) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.

(4) The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

55 Restriction on applying 6 months after the notice period expires

(1) A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave more than six months after the day on which the relevant period in relation to that notice expired.

(2) In subsection (1), "the relevant period" has the meaning given in section 54(2).

(3) The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

56 Restriction on applying without notifying local authority

(1) A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant unless the landlord has given notice of the landlord's intention to do so to the local authority in whose area the let property is situated.

(2) Notice under subsection (1) is to be given in the manner and form prescribed under section 11(3) of the Homelessness etc. (Scotland) Act 2003.

(3) In a case where two or more persons jointly are the landlord under a tenancy, references in subsection (1) to the landlord are to any one of those persons.

Wrongful termination

57 Wrongful termination by eviction order

(1) This section applies where a private residential tenancy has been brought to an end by an eviction order.

(2) An application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was, immediately before the tenancy ended, either the tenant or a joint tenant under the tenancy.

(3) The Tribunal may make a wrongful-termination order if it finds that it was misled into issuing the eviction order by the person who was, immediately before the tenancy ended, the landlord under the tenancy.

(4) In a case where two or more persons jointly were the landlord under the tenancy immediately before it ended, the reference to the landlord in subsection (3) is to any one of those persons.

58 Wrongful termination without eviction order

(1) This section applies where a private residential tenancy has been brought to an end in accordance with section 50.

(2) An application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was immediately before the tenancy ended either the tenant or a joint tenant under the tenancy ("the former tenant").

(3) The Tribunal may make a wrongful-termination order if it finds that the former tenant was misled into ceasing to occupy the let property by the person who was the landlord under the tenancy immediately before it was brought to an end.

(4) In a case where two or more persons jointly were the landlord under the tenancy immediately before it ended, the reference to the landlord in subsection (3) is to any one of those persons.

59 Wrongful-termination order

(1) In this section and in sections 57, 58 and 60, "a wrongful-termination order" means an order requiring the person who was the landlord under the tenancy immediately before it ended to pay the person who made the application for the wrongful-termination order an amount not exceeding six months' rent.

(2) Subsection (3) applies where—

(a) the First-tier Tribunal intends to make a wrongful-termination order under section 57 or 58, and

(b) two or more persons jointly were the landlord under the tenancy in question immediately before it was brought to an end.

(3) The Tribunal may make a wrongful-termination order—

(a) against all, some, or only one of the former joint landlords,

(b) stating that each person against whom the order is made is liable to pay a specified amount, but the cumulative total of each of the specified amounts must not exceed six months' rent,

(c) stating that each person against whom the order is made is jointly and severally liable for the whole amount to be paid.

(4) In subsections (1) and (3)(b), "rent" means—

(a) the amount that was payable in rent under the tenancy immediately before it ended, or

(b) in a case where two or more persons jointly were the tenant under the tenancy immediately before it ended, the amount mentioned in paragraph (a) divided by the number of persons who were at that time joint tenants under the tenancy.

60 Notice to local authority of wrongful-termination order

(1) When the First-tier Tribunal makes a wrongful-termination order against a person, the Tribunal must send a copy of it to any local authority with which the person is registered as a landlord.

(2) For the purposes of subsection (1)—

(a) the reference to a person against whom a wrongful-termination order is made is a reference to the person who is liable to make a payment under the order,

(b) a person is registered as a landlord with a local authority if the person is entered in the register prepared and maintained by the local authority for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.

Sub-tenancies

61 Sub-tenancy notice to leave

(1) In addition to giving a tenant a notice to leave, a landlord ("the superior landlord") may give to anyone who holds a tenancy directly or indirectly from the superior landlord's tenant a sub-tenancy notice to leave.

(2) In the event that a person to whom a sub-tenancy notice to leave has been given becomes a tenant of the superior landlord by virtue of section 46(2), references in this Part to a notice to leave are to be read as references to the copy of the notice to leave which, in accordance with subsection (3), forms part of the sub-tenancy notice to leave.

(3) A sub-tenancy notice to leave is a notice which—
- (a) incorporates the notice to leave given to the superior landlord's tenant, and
- (b) fulfils any other requirements prescribed by the Scottish Ministers in regulations.

(4) In a case where two or more persons jointly are the landlord under a tenancy, a sub-tenancy notice to leave may be given by any one of those persons.

CHAPTER 4

INTERPRETATION OF PART

62 Meaning of notice to leave and stated eviction ground

(1) References in this Part to a notice to leave are to a notice which—
- (a) is in writing,
- (b) specifies the day on which the landlord under the tenancy in question expects to become entitled to make an application for an eviction order to the First-tier Tribunal,
- (c) states the eviction ground, or grounds, on the basis of which the landlord proposes to seek an eviction order in the event that the tenant does not vacate the let property before the end of the day specified in accordance with paragraph (b), and
- (d) fulfils any other requirements prescribed by the Scottish Ministers in regulations.

(2) In a case where two or more persons jointly are the landlord under a tenancy, references in this Part to the tenant receiving a notice to leave from the landlord are to the tenant receiving one from any of those persons.

(3) References in this Part to the eviction ground, or grounds, stated in a notice to leave are to the ground, or grounds, stated in it in accordance with subsection (1)(c).

(4) The day to be specified in accordance with subsection (1)(b) is the day falling after the day on which the notice period defined in section 54(2) will expire.

(5) For the purpose of subsection (4), it is to be assumed that the tenant will receive the notice to leave 48 hours after it is sent.

63 Landlord includes lender in some cases

In—

(a) sections 50 to 56, and

(b) sections 61 and 62,

references to the landlord under a private residential tenancy include a creditor in a heritable security over the let property who is entitled to sell the property.

64 Six month periods

(1) A reference in this Part to a period of six months (however expressed) is to a period which ends in the month which falls six months after the month in which it began, either—

(a) on the same day of the month as it began, or

(b) if the month in which the period ends has no such day, on the final day of that month.

(2) Subsection (1) does not apply in relation to the references to six months in section 59.

PART 6

DEATH OF THE TENANT

65 Termination of tenancy on tenant's death

A tenancy which is a private residential tenancy comes to an end if—

(a) the sole tenant under the tenancy dies, and

(b) nobody inherits the tenancy under section 67, 68 or 69.

66 Termination of joint tenant's interest on death

(1) If, immediately before a person's death, the person was a joint tenant under a private residential tenancy, the person's interest as a tenant under the tenancy is extinguished on the person's death.

(2) A person is a joint tenant under a tenancy for the purposes of subsection (1) if the person is the tenant under the tenancy jointly with one or more other persons.

67 Partner's entitlement to inherit

(1) When the sole tenant under a private residential tenancy dies, the tenant's bereaved partner becomes the tenant under the tenancy if—

(a) the conditions set out in subsection (2) are met, and

(b) in a case where the tenant and bereaved partner were neither married to, nor in a civil partnership with, one another immediately before the tenant's death, the condition set out in subsection (3) is also met.

(2) The conditions are—

(a) that the tenant's interest under the tenancy was not inherited by the tenant,

(b) that the tenant told the landlord, in writing, that the let property was being occupied by the bereaved partner as the bereaved partner's only or principal home,

(c) that the bereaved partner was in a qualifying relationship with the tenant immediately before the tenant's death, and

(d) that the let property is occupied as the bereaved partner's only or principal home at the time of the tenant's death.

(3) The condition is that for a continuous period of at least 12 months, ending with the tenant's death, the let property was occupied as the bereaved partner's only or principal home.

(4) In determining whether the condition set out in subsection (3) is met, no account is to be taken of any time during which the bereaved partner was occupying the let property if and so far as it pre-dates the tenant telling the landlord, in writing, that the let property was being occupied as the bereaved partner's only or principal home.

68 Other family member's entitlement to inherit

(1) When—

(a) the sole tenant under a private residential tenancy dies,

(b) the tenant's interest under the tenancy was not inherited by the tenant, and

(c) nobody inherits the tenancy under section 67,

any member of the tenant's family who meets the conditions set out in subsection (2) becomes the tenant under the tenancy.

(2) The conditions are—

(a) that the family member is at least 16 years of age at the time of the tenant's death, and

(b) that the family member—

(i) is occupying the let property as the family member's only or principal home at the time of the tenant's death, and

(ii) has done so for a continuous period of at least 12 months ending with the tenant's death.

(3) In determining whether the condition set out in subsection (2)(b)(ii) is met, no account is to be taken of any time during which the family member was occupying the let property if and so far as it pre-dates the tenant telling the landlord, in writing, that the let property was being occupied as the family member's only or principal home.

(4) If more than one person is eligible to become the tenant by virtue of subsection (1), each becomes the tenant under the tenancy jointly with the others.

69 Carer's entitlement to inherit

(1) When—

(a) the sole tenant under a private residential tenancy dies,

(b) the tenant's interest under the tenancy was not inherited by the tenant, and

(c) nobody inherits the tenancy under section 67 or 68,

a resident carer who meets the conditions set out in subsection (2) becomes the tenant under the tenancy.

(2) The conditions are—
- (a) that the resident carer is at least 16 years of age at the time of the tenant's death,
- (b) that the resident carer—
  - (i) is occupying the let property as the resident carer's only or principal home at the time of the tenant's death, and
  - (ii) has done so for a continuous period of at least 12 months ending with the tenant's death, and
- (c) that the resident carer had a previous only or principal home which was given up.

(3) In determining whether the condition set out in subsection (2)(b)(ii) is met, no account is to be taken of any time during which the resident carer was occupying the let property if and so far as it pre-dates the tenant telling the landlord, in writing, that the let property was being occupied as the resident carer's only or principal home.

(4) If more than one person is eligible to become the tenant by virtue of subsection (1), each becomes the tenant under the tenancy jointly with the others.

(5) In this section, "a resident carer" means a person who provides, or has provided, care for—
- (a) the tenant, or
- (b) a member of the tenant's family.

70 Interpretation of Part

(1) For the purposes of this Part—
- (a) two people are in a qualifying relationship with one another if they are—
  - (i) married to each other,
  - (ii) in a civil partnership with each other, or
  - (iii) living together as though they were married,
- (b) a person is a member of a tenant's family if the person is—
  - (i) a qualifying relative of the tenant,
  - (ii) a qualifying relative of a person who was in a qualifying relationship with the tenant immediately before the tenant's death, or
  - (iii) in a qualifying relationship with a qualifying relative of the tenant.

(2) In subsection (1)(b), "a qualifying relative" means a parent, grandparent, child, grandchild, brother or sister.

(3) For the purposes of this section—
- (a) a relationship of the half blood is to be regarded as a relationship of the whole blood,
- (b) a person's stepchild is to be regarded as the person's child,
- (c) a person ("A") is to be regarded as the child of another person ("B"), if A is being or has been treated by B as B's child.

PART 7

MISCELLANEOUS PROVISIONS

71 First-tier Tribunal's jurisdiction

(1) In relation to civil proceedings arising from a private residential tenancy—
- (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
- (b) a sheriff does not have competence or jurisdiction.

(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
- (a) the prosecution of a criminal offence,
- (b) any proceedings related to such a prosecution.

72 First-tier Tribunal's duty to report unregistered landlords

(1) The First-tier Tribunal must notify the local authority in whose area a property is being let if, in the course of relevant proceedings before it, the Tribunal learns or is given cause to suspect that the landlord under the tenancy is not registered as a landlord with the local authority.

(2) In notifying a local authority under subsection (1), the Tribunal must tell the local authority—
- (a) the landlord's name and address, and
- (b) the address of the property mentioned in that subsection.

(3) For the purposes of subsection (1)—
- (a) proceedings are "relevant proceedings" if—
  - (i) they arise from a private residential tenancy under which the property mentioned in that subsection is or was let, and
  - (ii) the landlord is a party to them,
- (b) a person is not registered as a landlord with a local authority if the person is not entered in the register prepared and maintained by the local authority for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.

73 Minor errors in documents

(1) An error in the completion of a document to which this section applies does not make the document invalid unless the error materially affects the effect of the document.

(2) This section applies to—
- (a) a notice under section 14(3), 16(3)(c), 22(1) or 61(1),
- (b) the document by which a referral is made to a rent officer under section 24(1),
- (c) the document by which an application is made to a rent officer under section 42(1), and
- (d) a notice to leave (as defined by section 62(1)).

PART 8

CONSEQUENTIAL AND TRANSITIONAL PROVISION

74 Consequential modifications

Schedule 4 modifies other enactments in consequence of this Act.

75 Transitional provision

Schedule 5 makes provision about tenancies which are assured tenancies within the meaning of the Housing (Scotland) Act 1988 on the day that section 1 comes into force.

PART 9

FINAL PROVISIONS

76 Ancillary regulations

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with, or for giving full effect to this Act or any provision made under it.

(2) Regulations under this section—
  (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act (including this Act),
  (b) otherwise, are subject to the negative procedure.

77 Regulation-making powers

(1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes.

(2) Regulations under section 17(3), 22(2)(b), 61(3)(b) or 62(1)(d) prescribing requirements which must be fulfilled by a notice may in particular require that a notice—
  (a) contain information specified in the regulations,
  (b) be in a form specified in the regulations,
  (c) be given in a manner specified in the regulations.

(3) Regulations under sections 6, 7, 11, 12, 37 and 41 are subject to the affirmative procedure.

(4) Regulations under sections 17, 22, 24, 34, 43, 61 and 62 are subject to the negative procedure.

78 Interpretation

(1) In this Act—

"eviction ground" means a ground named in schedule 3 on the basis of which an eviction order may be issued,

"eviction order" means an order issued under section 51,

"First-tier Tribunal" means the First-tier Tribunal for Scotland,

"private residential tenancy" means a tenancy which is a private residential tenancy by virtue of section 1,

"rent" means any sums payable periodically by the tenant to the landlord in connection with the tenancy (and includes, for the avoidance of doubt, any sums payable in respect of services, repairs, maintenance or insurance),

"rent-increase notice" has the meaning given by section 22(1),

"rent officer" has the meaning given by section 43 of the Rent (Scotland) Act 1984,

"statutory term" has the meaning given by section 7(1),

"tenancy" (the meaning of which is extended by section 4) includes sub-tenancy,

"tenant" includes sub-tenant.

(2) In a case where two or more persons jointly are the landlord under a tenancy, references in this Act to the landlord are to all of those persons unless stated otherwise.

(3) In a case where two or more persons jointly are the tenant under a tenancy, references in this Act to the tenant are to all of those persons unless stated otherwise.

79 Commencement

(1) This Part comes into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

(3) Regulations under subsection (2) may include transitional, transitory or saving provision.

(4) Regulations under subsection (2) appointing the day that section 1 is to come into force may—

(a) amend the following enactments so that, instead of referring to the day on which section 1 comes into force, they specify the date that section 1 actually comes into force—

(i) section 12(1A) of the Housing (Scotland) Act 1988,

(ii) section 31A(1)(a) of that Act,

(iii) section 3B(1)(a) of the Rent (Scotland) Act 1984, and

(b) repeal section 8(5) on the day that section 1 comes into force.

80 Short title

The short title of this Act is the Private Housing (Tenancies) (Scotland) Act 2016.