

These notes relate to the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19) which received Royal Assent on 22 April 2016

PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 1 – Private Residential Tenancy

Writing not required to constitute private residential tenancy

10. Under the Requirements of Writing (Scotland) Act 1995, a written document is required to constitute certain tenancies. Section 3 displaces this rule, meaning that a private residential tenancy can arise from an oral agreement to create a tenancy.
11. Although writing is not required in order to bring a private residential tenancy into existence, once a tenancy becomes a private residential tenancy, section 10 of the Act will apply to the tenancy. Section 10 places landlords under a duty to provide written terms of the tenancy if all of the terms of the tenancy have not already been set out in writing.
12. Relatedly, paragraph 6 of schedule 4 amends the Requirements of Writing Act so that an agreement to transfer, vary or extinguish a private residential tenancy does not need to be in writing (although, by virtue of Part 5, certain notices to terminate must be in writing).