

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

Extended meaning of tenancy in the Act

13. [Section 4](#) provides that private residential tenancies are tenancies, despite the lack of an “ish” (i.e. a termination date) — at common law, a tenancy must have an ish.
14. Section 4 also provides that once a tenancy has become a private residential tenancy, it continues to be one even if it is subsequently agreed that the tenant no longer has to pay rent. At common law, a tenancy agreement must include a requirement for rent of some form or other to be paid. And for there to be a private residential tenancy, there must be an underlying tenancy. Dropping the requirement for the payment of rent from a lease would, but for section 4, mean that there would no longer be a tenancy per se and therefore the Act’s provisions would cease to apply to the arrangement.