

PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 5 – Termination

Chapter 3 – Termination at landlord’s instigation

Wrongful termination

90. **Section 57** provides that where a tenancy has been ended by eviction order and the tenant is not satisfied that the landlord was genuinely entitled to recover possession of the property under one of the specified eviction grounds, meaning that the Tribunal was misled into issuing an eviction order, the tenant can apply to the Tribunal for a wrongful-termination order. In such cases – and in the case of section 58 wrongful termination applications – the test will be whether the landlord genuinely intended to use the property in the way that the eviction ground required (even if, for some reason, that intention has not come to fruition). For example, a landlord might evict his or her tenant because he or she wants to sell the let property. However, after a year on the open market, the property has not sold and the landlord can no longer afford to maintain the mortgage repayments on it, so is forced to withdraw the property from the open market and re-let it to a different tenant. In such a case, if required, it is likely that the landlord could present a strong case to the Tribunal to demonstrate his or her genuine intent to sell.
91. **Section 58** provides that where a tenancy has been brought to an end as a result of the tenant leaving following receipt of a notice to leave from the landlord, the former tenant can apply to the Tribunal for a wrongful-termination order on the basis that he or she was misled into leaving the property by the landlord.
92. **Section 59** provides that the compensation specified in a wrongful-termination order may not exceed six months’ rent. Where a case involves joint landlords, the Tribunal can make the wrongful-termination order against all, some or only one of the landlords.
93. **Section 60** places the Tribunal under a duty to issue a copy of any wrongful- termination order to the local authority or authorities with which the landlord is registered under the Antisocial Behaviour etc. (Scotland) Act 2004. Receiving a wrongful termination order may prompt a local authority to review the landlord’s existing registration.