



# 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—
- the tenancy is one under which a property is let to an individual (“the tenant”) as a separate dwelling,
  - the tenant occupies the property (or any part of it) as the tenant's only or principal home, and
  - 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.

#### Commencement Information

II S. 1 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

#### 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.

*Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, PART 1. (See end of Document for details)*

- (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.

**Commencement Information**

**I2** [S. 2](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

**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).

**Commencement Information**

**I3** [S. 3](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

**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.

**Commencement Information**

**I4** [S. 4](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

**5 Extended meaning of tenancy and related expressions in other enactments**

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

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**Changes to legislation:** There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, PART 1. (See end of Document for details)

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- (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.

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**Commencement Information**

**I5** S. 5 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

**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.

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**Commencement Information**

**I6** S. 6 in force at 1.12.2017 in so far as not already in force by S.S.I. 2017/346, reg. 2, sch.

**Changes to legislation:**

There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, PART 1.