



Private Housing (Tenancies) (Scotland) Act 2016

2016 asp 19

PART 1 **S**

PRIVATE RESIDENTIAL TENANCY

1 **Meaning of private residential tenancy **S****

- (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 **S****

- (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.

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- (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 S

- (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 S

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 S

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

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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.

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 **S**

- (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.

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:

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Changes and effects yet to be applied to :

- specified provision(s) coming into force by [S.S.I. 2017/293 reg. 2Sch.](#) (This amendment not applied to legislation.gov.uk. S.S.I. 2017/293 is revoked and superseded by S.S.I. 2017/346)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31A inserted (temp.) by [S.S.I. 2024/89 reg. 2\(1\)\(4\)](#)