



# Private Housing (Tenancies) (Scotland) Act 2016

2016 asp 19

## PART 5 **S**

### TERMINATION

## CHAPTER 1 **S**

### SECURITY OF TENURE

#### 44 No termination by parties except in accordance with this Part **S**

A tenancy which is a private residential tenancy may not be brought to an end by the landlord, the tenant, nor by any agreement between them, except in accordance with this Part.

#### Commencement Information

**II** S. 44 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### 45 Landlord's interest transfers with ownership of property **S**

When ownership of a property let under a private residential tenancy is transferred, the landlord's interest under the tenancy transfers with it.

#### Commencement Information

**I2** S. 45 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### 46 Protection for sub-tenants **S**

(1) Subsection (2) applies (subject to section 47) where—

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

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- (a) a lawfully granted sub-tenancy is terminated by the termination of the tenancy of the person who was the landlord under the sub-tenancy, and
  - (b) immediately before it terminated, the sub-tenancy was a private residential tenancy.
- (2) On the termination of the sub-tenancy, the person who was the tenant under the sub-tenancy becomes the tenant under a new tenancy which—
- (a) has the same terms as the sub-tenancy had immediately before it was terminated, and
  - (b) is deemed to have been granted at the time that the sub-tenancy terminated by whoever was entitled to grant a tenancy in those terms at that time.
- (3) A sub-tenancy is not lawfully granted for the purpose of subsection (1) if—
- (a) sub-letting the let property is precluded by a term of—
    - (i) the tenancy of the person who granted the sub-tenancy (“the mid-landlord”), or
    - (ii) the tenancy of a tenant from whom the mid-landlord's tenancy is held (directly or indirectly), and
  - (b) the person entitled to enforce the term mentioned in paragraph (a) has not expressly or impliedly consented to the sub-tenancy being granted or continuing.

#### Commencement Information

**I3** S. 46 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

## 47 Qualification of sub-tenant protection **S**

- (1) Section 46(2) does not apply where the tenancy of the person who was the landlord under the sub-tenancy was brought to an end by an eviction order and either—
- (a) the order was issued (exclusively or not) on the basis of an eviction ground mentioned in subsection (2), or
  - (b) the order states that section 46(2) does not apply.
- (2) The eviction grounds referred to in subsection (1)(a) are—
- (a) that the landlord intends to sell the let property,
  - (b) that a lender intends to sell the let property,
  - (c) that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property,
  - (d) that the landlord intends to live in the let property,
  - (e) that a member of the landlord's family intends to live in the let property,
  - (f) that the landlord intends to use the let property for a purpose other than housing,
  - (g) that the let property is required for use in connection with the purposes of a religion,
  - (h) that the tenancy was entered into to provide an employee with a home and the tenant is not a qualifying employee,
  - (i) that the tenancy was entered into on account of the tenant having an assessed need for community care and the tenant has since been assessed as no longer having that need,

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- (j) that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004,
- (k) that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006,
- (l) that an overcrowding statutory notice has been served on the landlord.

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**Commencement Information**

**14** S. 47 in force at 1.12.2017 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, CHAPTER 1.