



# Private Housing (Tenancies) (Scotland) Act 2016

2016 asp 19

## PART 6

### DEATH OF THE TENANT

#### 65 Termination of tenancy on tenant's death

A tenancy which is a private residential tenancy comes to an end if—

- (a) the sole tenant under the tenancy dies, and
- (b) nobody inherits the tenancy under section 67, 68 or 69.

#### Commencement Information

**II** [S. 65](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### 66 Termination of joint tenant's interest on death

- (1) If, immediately before a person's death, the person was a joint tenant under a private residential tenancy, the person's interest as a tenant under the tenancy is extinguished on the person's death.
- (2) A person is a joint tenant under a tenancy for the purposes of subsection (1) if the person is the tenant under the tenancy jointly with one or more other persons.

#### Commencement Information

**I2** [S. 66](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### 67 Partner's entitlement to inherit

- (1) When the sole tenant under a private residential tenancy dies, the tenant's bereaved partner becomes the tenant under the tenancy if—

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*Changes to legislation:* There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, PART 6. (See end of Document for details)

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- (a) the conditions set out in subsection (2) are met, and
  - (b) in a case where the tenant and bereaved partner were neither married to, nor in a civil partnership with, one another immediately before the tenant's death, the condition set out in subsection (3) is also met.
- (2) The conditions are—
- (a) that the tenant's interest under the tenancy was not inherited by the tenant,
  - (b) that the tenant told the landlord, in writing, that the let property was being occupied by the bereaved partner as the bereaved partner's only or principal home,
  - (c) that the bereaved partner was in a qualifying relationship with the tenant immediately before the tenant's death, and
  - (d) that the let property is occupied as the bereaved partner's only or principal home at the time of the tenant's death.
- (3) The condition is that for a continuous period of at least 12 months, ending with the tenant's death, the let property was occupied as the bereaved partner's only or principal home.
- (4) In determining whether the condition set out in subsection (3) is met, no account is to be taken of any time during which the bereaved partner was occupying the let property if and so far as it pre-dates the tenant telling the landlord, in writing, that the let property was being occupied as the bereaved partner's only or principal home.

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**Commencement Information**

**I3** [S. 67](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

## 68 Other family member's entitlement to inherit

- (1) When—
- (a) the sole tenant under a private residential tenancy dies,
  - (b) the tenant's interest under the tenancy was not inherited by the tenant, and
  - (c) nobody inherits the tenancy under section 67,
- any member of the tenant's family who meets the conditions set out in subsection (2) becomes the tenant under the tenancy.
- (2) The conditions are—
- (a) that the family member is at least 16 years of age at the time of the tenant's death, and
  - (b) that the family member—
    - (i) is occupying the let property as the family member's only or principal home at the time of the tenant's death, and
    - (ii) has done so for a continuous period of at least 12 months ending with the tenant's death.
- (3) In determining whether the condition set out in subsection (2)(b)(ii) is met, no account is to be taken of any time during which the family member was occupying the let property if and so far as it pre-dates the tenant telling the landlord, in writing, that the let property was being occupied as the family member's only or principal home.

- (4) If more than one person is eligible to become the tenant by virtue of subsection (1), each becomes the tenant under the tenancy jointly with the others.

#### Commencement Information

**I4** [S. 68](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

## 69 Carer's entitlement to inherit

- (1) When—
- (a) the sole tenant under a private residential tenancy dies,
  - (b) the tenant's interest under the tenancy was not inherited by the tenant, and
  - (c) nobody inherits the tenancy under section 67 or 68,
- a resident carer who meets the conditions set out in subsection (2) becomes the tenant under the tenancy.
- (2) The conditions are—
- (a) that the resident carer is at least 16 years of age at the time of the tenant's death,
  - (b) that the resident carer—
    - (i) is occupying the let property as the resident carer's only or principal home at the time of the tenant's death, and
    - (ii) has done so for a continuous period of at least 12 months ending with the tenant's death, and
  - (c) that the resident carer had a previous only or principal home which was given up.
- (3) In determining whether the condition set out in subsection (2)(b)(ii) is met, no account is to be taken of any time during which the resident carer was occupying the let property if and so far as it pre-dates the tenant telling the landlord, in writing, that the let property was being occupied as the resident carer's only or principal home.
- (4) If more than one person is eligible to become the tenant by virtue of subsection (1), each becomes the tenant under the tenancy jointly with the others.
- (5) In this section, “a resident carer” means a person who provides, or has provided, care for—
- (a) the tenant, or
  - (b) a member of the tenant's family.

#### Commencement Information

**I5** [S. 69](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

## 70 Interpretation of Part

- (1) For the purposes of this Part—
- (a) two people are in a qualifying relationship with one another if they are—
    - (i) married to each other,
    - (ii) in a civil partnership with each other, or

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- (iii) living together as though they were married,
- (b) a person is a member of a tenant's family if the person is—
  - (i) a qualifying relative of the tenant,
  - (ii) a qualifying relative of a person who was in a qualifying relationship with the tenant immediately before the tenant's death, or
  - (iii) in a qualifying relationship with a qualifying relative of the tenant.
- (2) In subsection (1)(b), “a qualifying relative” means a parent, grandparent, child, grandchild, brother or sister.
- (3) For the purposes of this section—
  - (a) a relationship of the half blood is to be regarded as a relationship of the whole blood,
  - (b) a person's stepchild is to be regarded as the person's child,
  - (c) a person (“A”) is to be regarded as the child of another person (“B”), if A is being or has been treated by B as B's child.

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**Commencement Information**

**16** [S. 70](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

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