



# Private Housing (Tenancies) (Scotland) Act 2016

2016 asp 19

## PART 3

### TENANCY INFORMATION

#### *First-tier Tribunal's powers*

#### **16 First-tier Tribunal's power to sanction failure to provide information**

- (1) On an application by the tenant under a private residential tenancy, the First-tier Tribunal may make an order under subsection (2) where—
  - (a) the landlord has failed to perform a duty arising by virtue of section 10 or 11 to provide the tenant with information,
  - (b) at the time the First-tier Tribunal considers the application, the landlord has still not provided the tenant with the information, and
  - (c) the landlord does not have a reasonable excuse for failing to perform the duty.
- (2) An order under this subsection is one requiring the landlord to pay the person who made the application an amount not exceeding—
  - (a) three months' rent, if the order is in respect of a failure by the landlord to perform—
    - (i) a duty arising by virtue of section 10, or
    - (ii) one or more duties arising by virtue of section 11,
  - (b) six months' rent, if the order is in respect of a failure by the landlord to perform—
    - (i) a duty arising by virtue of section 10, and
    - (ii) one or more duties arising by virtue of section 11.
- (3) An application under subsection (1)—
  - (a) may be made only during the course of the tenancy in question,
  - (b) where the application relates to a failure to perform a duty arising by virtue of section 10, may be made only as part of an application under section 14(1), and

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*Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, Section 16. (See end of Document for details)*

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- (c) may not be made unless the tenant has given the landlord notice of the tenant's intention to make the application and the notice period described in section 17 has expired.
- (4) If—
- (a) an application has been made under subsection (1) in respect of a failure to perform a duty arising by virtue of section 11, and
  - (b) at the time the application was made, an application could have been made in respect of a failure to perform another duty arising by virtue of section 11,
- no application may be made in respect of that other duty.
- (5) Where two or more persons jointly are the landlord under the tenancy in question, an order by the First-tier Tribunal under subsection (2) may—
- (a) be made against all, some or only one of the joint landlords,
  - (b) state that each person against whom the order is made is liable to pay a specified amount, but the cumulative total of each of the specified amounts must not exceed the maximum set by subsection (2),
  - (c) state that each person against whom the order is made is jointly and severally liable for the whole amount to be paid.
- (6) In a case where two or more persons jointly are the tenant under a tenancy, references to the tenant in this section are to any one of those persons.
- (7) In subsection (2), “rent” means—
- (a) the amount that was payable in rent under the tenancy at the time that notice of the application was given to the landlord, and
  - (b) in a case where two or more persons jointly are the tenant under the tenancy, the amount mentioned in paragraph (a) divided by the number of those persons.

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**Commencement Information**

**II** S. 16 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, Section 16.