

## SCOTTISH STATUTORY INSTRUMENTS

### 2017 No. 293 (C. 21)

### HOUSING

#### The Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No. 2 and Saving Provision) Regulations 2017

Made	- - - -	12th September 2017
Laid before the Scottish Parliament	- - - -	14th September 2017
Coming into force	- -	1st December 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 79(2) and (3) of the Private Housing (Tenancies) (Scotland) Act 2016<sup>(1)</sup> and all other powers enabling them to do so.

PROSPECTIVE

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No. 2 and Saving Provision) Regulations 2017 and come into force on 1st December 2017.

(2) In these Regulations “the Act” means the Private Housing (Tenancies) (Scotland) Act 2016.

#### Commencement Information

**II** Reg. 1 in force at 1.12.2017, see [reg. 1\(1\)](#)

#### Appointed day

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the schedule (the subject matter of which is specified in column 2 of that table) is 1st December 2017.

(2) Where a purpose is specified in column 3 of the table in the schedule in relation to any provision, that provision comes into force in accordance with paragraph (1) for that purpose only.

<sup>(1)</sup> 2016 asp 19.

**Status:** Point in time view as at 12/09/2017. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Private Housing (Tenancies) (Scotland) Act 2016 (Commencement No. 2 and Saving Provision) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I2** Reg. 2 in force at 1.12.2017, see [reg. 1\(1\)](#)

#### Saving provision

**3.** Despite the amendment of sections 32 and 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”)(2) by section 75 and paragraph 2 of schedule 5 of the Act, those sections have effect on and after 1st December 2017 as they had effect immediately before that date but only in relation to—

- (a) a short assured tenancy (within the meaning given in section 32(1) of the 1988 Act) which was created before 1st December 2017 and continues in existence on that date;
- (b) a new contractual tenancy (within the meaning given in section 32(3)(b) of the 1988 Act) which came into being before 1st December 2017 and continues in existence on that date; and
- (c) a new contractual tenancy (within the meaning given in section 32(3)(b) of the 1988 Act) which comes into being after 1st December 2017 at the end of a short assured tenancy which is a short assured tenancy in a case mentioned in paragraph (a) or (b).

#### Commencement Information

**I3** Reg. 3 in force at 1.12.2017, see [reg. 1\(1\)](#)

St Andrew’s House,  
Edinburgh  
12th September 2017

*KEVIN STEWART*  
Authorised to sign by the Scottish Ministers

(2) [1988 c.43](#). Section 32 is amended by schedule 5, Part 1, paragraph 2(2) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). Section 33 is amended by section 34 of the Private Rented Housing (Scotland) Act 2011 ([asp 14](#)), schedule 1, Part 1, paragraph 44 of the Housing (Scotland) Act 2014 ([asp 14](#)) and schedule 5, Part 1, paragraph 2(3) of the 2016 Act.

## PROSPECTIVE

## SCHEDULE

Regulation 2

## PROVISIONS OF THE ACT COMING INTO FORCE ON 1st DECEMBER 2017

**Commencement Information****I4** Sch. in force at 1.12.2017, see [reg. 1\(1\)](#)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 1	Meaning of private residential tenancy	
Section 2	Interpretation of section 1 (of the Act)	
Section 3	Writing not required to constitute private residential tenancy	
Section 4	Extended meaning of tenancy in the Act	
Section 5	Extended meaning of tenancy and related expressions in other enactments	
Section 6	Power to modify schedule 1	
Section 7	Statutory terms of tenancy	Insofar as not already in force
Section 9	Protection of terms allowing use of shared living accommodation	
Section 10	Duty to provide written terms of tenancy	
Section 13	Prohibition on charging for information	
Section 14	Application to First-tier Tribunal to draw up terms	
Section 15	First-tier Tribunal's power to draw up terms	
Section 16	First-tier Tribunal's power to sanction failure to provide information	
Section 17	Meaning of notice period in sections 14 and 16 (of the Act)	Insofar as not already in force
Section 18	Method by which rent may be increased	
Section 19	Frequency with which rent may be increased	
Section 20	No premiums, advance payments, etc.	

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 21	Restriction on diligence	
Section 22	Landlord's power to increase rent	Insofar as not already in force
Section 23	Modification of rent-increase notice by parties	
Section 24	Tenant's right to refer increase to rent officer	Insofar as not already in force
Section 25	Rent officer's power to set rent	
Section 26	Rent officer's duty to issue provisional order	
Section 27	Rent officer's power to correct final order	
Section 28	Right of appeal to First-tier Tribunal	
Section 29	First-tier Tribunal's power to set rent	
Section 30	Finality of First-tier Tribunal's decision	
Section 31	Liability of over or under paid rent	
Section 32	Determination of open market rent	
Section 33	Withdrawal of referral or appeal	
Section 34(1)	Duty to make information available	
Section 35	Request by local authority that a zone be designated	
Section 36	Scottish Ministers' duty to react to request	
Section 37	Power to designate a zone	
Section 38	Restriction on rent increases within a zone	
Section 39	Limits on power to designate a zone	
Section 40	Procedure for designating a zone: consultation and information	
Section 41	Power to change inflation index	
Section 42	Rent officer's power to allow rent rise in consequence of improvement	
Section 43	Further provision about making and determining an application under section 42 (of the Act)	Insofar as not already in force
Section 44	No termination by parties except in accordance with Part 5 of the Act	
Section 45	Landlord's interest transfers with ownership of property	

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 46	Protection for sub-tenants	
Section 47	Qualification of sub-tenant protection	
Section 48	Tenant's ability to bring tenancy to an end	
Section 49	Requirements for notice to be given by tenant	
Section 50	Termination by notice to leave and tenant leaving	
Section 51	First-tier Tribunal's power to issue an eviction order	
Section 52	Applications for eviction orders and consideration of them	
Section 53	First-tier Tribunal's power to disapply protection for sub-tenants	
Section 54	Restriction on applying during the notice period	
Section 55	Restriction on applying 6 months after the notice period expires	
Section 56	Restriction on applying without notifying local authority	
Section 57	Wrongful termination by eviction order	
Section 58	Wrongful termination without eviction order	
Section 59	Wrongful-termination order	
Section 60	Notice to local authority of wrongful-termination order	
Section 61	(Requirements of) Sub-tenancy notice to leave	Insofar as not already in force
Section 62	Requirements of notice to leave and stated eviction ground	Insofar as not already in force
Section 63	Landlord includes lender in some cases	
Section 64	Six month periods	
Section 65	Termination of tenancy on tenant's death	
Section 66	Termination of joint tenant's interest on death	
Section 67	Partner's entitlement to inherit	
Section 68	Other family member's entitlement to inherit	

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 69	Carer's entitlement to inherit	
Section 70	Interpretation of Part 6 of the Act	
Section 71	First-tier Tribunal's jurisdiction	
Section 72	First-tier Tribunal's duty to report unregistered landlords	
Section 73	Minor errors in documents	
Section 74	Consequential modifications	For the purpose of commencing paragraphs 1 to 4 and 6 to 11 of schedule 4
Section 75	Transitional provision	
Schedule 1	Tenancies which cannot be private residential tenancies	
Schedule 3	Eviction grounds	
Schedule 4, paragraphs 1 to 4 and 6 to 11	Consequential modifications	
Schedule 5	Transition from regimes under earlier enactments	

PROSPECTIVE

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations bring into force particular sections of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act").

Regulation 2(1) and the schedule bring into force on 1st December 2017, sections 1 to 6, 9 and 10, 13 to 16, 18 to 21, 23, 25 to 33, 34(1), 35 to 42, 44 to 60, 63 to 75. Sections 7, 17, 22, 24, 43, 61 and 62 are commenced insofar as not already in force. Schedules 1, 3 and 5 are commenced. Schedule 4 is commenced under exception of paragraph 5. Paragraph 5 is not being commenced as it is a consequential amendment to section 130B of the Social Security Contributions and Benefits Act 1992 (which ceased to have effect on 1st April 2013) which is not required.

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Regulation 3 is a saving provision in relation to short assured tenancies which have been entered into prior to 1st December 2017 and, in certain circumstances, entered into on or after 1st December 2017.

The Bill for the Private Housing (Tenancies) (Scotland) Act 2016 received Royal Assent on 22nd April 2016. Section 79(1) of the Act brought into force sections 76, 77, 78, 79 and 80 on the following day.

PROSPECTIVE

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Private Housing (Tenancies) (Scotland) Act 2016 have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 7 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 8	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 11	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 12	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 17 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 22 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 24 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 34(2)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 43 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 61 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Section 62 (partially)	31st October 2016	<a href="#">S.S.I. 2016/298</a>
Schedule 2	31st October 2016	<a href="#">S.S.I. 2016/298</a>

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