



Private Landlord Registration - Landlord Guide Private Housing (Tenancies) (Scotland) Act 2016

New 'Private Residential Tenancy' came into force on 1 December 2017

The introduction of the new Private Residential Tenancy means that within the private rented sector it will no longer be possible to create an assured or short assured tenancy from 1 December 2017 onwards (existing tenancies that were taken out before 1 December 2017 will continue to operate as they do currently until they come to an end or are renewed by the landlord).

The Scottish Government has launched a new website to allow landlords to create their own tenancy agreement.

The website will allow landlords to create tenancy agreements which contain clauses "required" under the new legislation as well as allow them to add or remove correctly drafted "optional" clauses as required. This will ensure that all new tenancies created with the website are fully compliant with the new rules.

Mandatory clauses cover matters such as tenancy deposits, repairing standard compliance and how to end a tenancy, with discretionary clauses ranging from utilities to common parts. The Scottish Government has developed a model tenancy and an online tool for generating it that can be used by private landlords. If a landlord chooses to use this tenancy, they must provide their tenant with accompanying easy read notes. Alternatively, landlords can develop their own PRT but they must ensure that all of the standard clauses that are legally required have been included. Landlords must also provide their tenant with a guide to the standard clauses.

The PRT changes the way that tenancies can be ended. Under the old regime, landlords were able to give tenants notice to leave after the tenancy came to a natural end without having to give a specific reason. Under the new Private Residential Tenancy, landlords will have to state at least one of 18 grounds for eviction. If the tenant does not agree to leave or disputes the reason given, the case will go to the Housing and Property Chamber of the First-tier Tribunal (the Tribunal). Some of the grounds are mandatory, some are discretionary and some have mandatory and discretionary elements.

Tenants will be able to end the tenancy by giving their landlord at least 28 days' notice. The Scottish Government has produced handy guidance on the Private Residential Tenancy for landlords and tenants.

Rent increases

Under the Private Residential Tenancy, landlords can only increase rent once in any 12 month period and must give tenants at least three month's notice. In general cases, there is no limit on the amount that rent can be increased by but tenants can appeal to the Tribunal if they think that the proposed increase is unreasonable.

Local authorities have also been given powers to apply to have a particular area designated as a Rent Pressure Zone (RPZ) if they can provide Scottish Ministers with evidence that rents are rising too much, causing problems for tenants in the area and creating pressure on affordable housing. If an RPZ is designated, rent increases in that area will be capped at CPI plus 1% plus an additional amount set by Ministers (the additional amount could be zero or any increment of 0.5%).

What does this all mean?

The intention behind the changes is to make the PRS more secure for private renters while ensuring that landlords can still run viable businesses and continue to invest in the sector. A fine balancing act.

While local authorities will play a part in enforcing the new rules, the new regime will rely heavily on landlords and tenants knowing about the changes and how they should be applied. Tenants should be empowered to challenge poor landlords safe in the knowledge that they will not face arbitrary evictions. This however relies on the assumption that tenants will be aware of their rights and have the confidence, skills and time to be able to take a case to the Tribunal.

Tenancy Agreement - www.mygov.scot/tenancy-agreement-scotland

Model Tenancy – <https://beta.gov.scot/publications/scottish-government-model-private-residential-tenancy-agreement/>

Create a tenancy agreement - www.mygov.scot/tenancy-agreement-scotland/?_ga=2.9160501.1863070676.1511266403-370590802.1504514488

Easy read notes - <https://beta.gov.scot/publications/easy-read-notes-scottish-government-model-private-residential-tenancy-agreement>

Standard Clauses - <http://www.legislation.gov.uk/asp/2016/19/schedule/2/enacted>

Guide to standard clauses - <https://beta.gov.scot/publications/private-residential-tenancy-statutory-terms-supporting-notes/>

Grounds for Eviction - <http://www.legislation.gov.uk/asp/2016/19/schedule/3/enacted>

Housing & Property Chamber - <https://www.housingandpropertychamber.scot/>

Landlords Guidance - <https://beta.gov.scot/publications/private-residential-tenancies-landlords-guide/>

Tenants Guidance - <https://beta.gov.scot/publications/private-residential-tenancies-tenants-guide/>

Rent Pressure Zone - <https://beta.gov.scot/policies/private-renting/rent-pressure-zones/>

Should you require any further information or guidance please contact
Fife Councils Landlord Registration Team by telephone on 01592 583397
Or email landlords.registration@fife.gov.uk
Fife Councils Houses of Multiple Occupancy Team by telephone on 01592 583162
Or email HMO.licensing@fife.gov.uk