

Private Residential Tenancies in Practice

How is the new type of tenancy working in practice?
One year on, what are the lessons to learn

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Private Residential Tenancy



The aim of the talk is to:

Show the impact of the change to the tenancy regime

Discuss renewals of pre-existing tenancies

Grounds for eviction

Rent Reviews and Rent Pressure Zones

Referrals to the First Tier Tribunal

Private Residential Tenancy



Impact of tenancy regime changes



From 1st December 2017

No new assured or short assured tenancies could be created

Existing tenancies will not change

Regulated tenancies will not change

However the death of a sole tenant under these tenancies and the possibility that succession might exist will mean a PRT is created.

Private Residential Tenancy



The Scottish Government promoted the need for this legislation with the aim to:

provide security, stability and predictability for tenants and appropriate safeguards for landlords, lenders and investors

Private Residential Tenancy



- Tenancy agreement
 - Length of tenancy
 - No ish date
 - Model tenancy
 - Penalties

- Market issues
 - Availability of property
 - Student markets
 - Rural sector employee housing

Grounds for Eviction



Schedule 3 of the Act

PART 1 - LET PROPERTY REQUIRED FOR ANOTHER REASON		
1	Landlord intends to sell	Mandatory
2	Property to be sold by lender	Mandatory
3	Landlord intends to refurbish	Mandatory
4	Landlord intends to live in the property	Mandatory
5	Family member intends to live in the property	Discretionary
6	Landlord intends to use for non-residential purposes	Mandatory
7	Property required for religious purposes	Mandatory
PART 2 - TENANT'S STATUS		
8	Not an employee	Mandatory / Discretionary
9	No longer in need of supported accommodation	Discretionary
PART 3 - TENANT'S CONDUCT		
10	Not occupying let property	Mandatory
11	Breach of tenancy agreement	Discretionary
12	Rent arrears	Mandatory / Discretionary
13	Criminal behaviour	Mandatory
14	Anti-social behaviour	Discretionary
15	Association with person who has relevant conviction or engaged in anti-social behaviour	Discretionary
PART 4 - LEGAL IMPEDIMENT TO LET CONTINUING		
16	Landlord has ceased to be registered	Discretionary
17	HMO licence has been revoked	Discretionary
18	Overcrowding statutory notice	Discretionary

Private Residential Tenancy



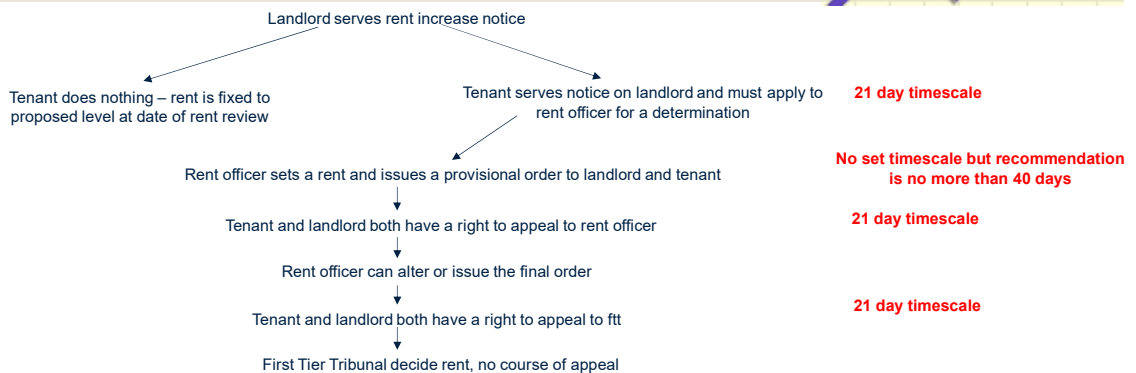
Termination of Tenancy

- Tenant has to give 28 days notice - all notices require time for them to be received
- Landlord has to give either 28 days notice or 84 days notice and notice must include one of the 18 defined grounds for termination
- Notice period in part relates to how long the tenancy has been in existence
 - < 6 months = 28 days
 - > 6 months = 84 days
 - > 6 months but ground is classified as due to Tenant's conduct = 28 days
- Tenant can agree to vacate and leave, but end date of tenancy is always the later of the date on notice period or date vacated
- Tenant does not leave and Landlord applied to First Tier Tribunal for an Eviction Order
- Landlord must still notify the Local Authority if applying for an Eviction Order
- Wrongful termination - if landlord judged to have misled either or both tenant and First Tier Tribunal can impose a fine not exceeding 6 months rent.
- If issued with a Wrongful Termination Order FTT must notify Landlord Registration in any Local Authority area where Landlord is registered

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Rent Reviews



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Rent Pressure Zones



None currently exist
Can only last maximum of 5 years
Local Authority must apply to Scottish Minister with evidence of the need
Rents can only rise using this formula, so no rent review process as previously described
Only apply to Private Residential Tenancies so would not affect Assured / Short Assured tenancies
Similarly Local Authority can only use PRT rent increases with their evidence

The magic formula for a rent review:

$$R \times \left(1 + \frac{\text{CPI} + 1 + X}{100} \right) + Y$$

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Death of a Tenant

If a joint tenant dies, tenancy just continues

If a sole tenant and no one able to succeed the tenancy ends

If a sole tenant dies and has a partner then they could inherit

If the sole tenant is living with a family member the family member could inherit

If the sole tenant is living with a carer could inherit

If the sole tenant inherited the tenancy then no one can succeed to the tenancy

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First Tier Tribunal

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www.housingandpropertychamber.scot



A free to use service, with a number of responsibilities relating to repair issues, access issues, eviction, rent referrals in certain situations, property factors, letting agents

Tribunal consists of a number of lawyers and lay people who usually have some form of surveying qualification or links to the housing industry

Website gives guidance on all the procedures and ability to download all the necessary forms that must be submitted depending on the type of application being made.

Website also shows all their decisions so it is a useful source of information, to see how and what decisions they are making.