

These notes relate to the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19) which received Royal Assent on 22 April 2016

PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 5 – Termination

Chapter 1 – Security of tenure

71. [Section 44](#) provides that a landlord and tenant can only bring a private residential tenancy to an end in accordance with Part 5 of the Act.
72. [Section 45](#) ensures that a private residential tenancy is not ended when the original landlord transfers his or her interest in the let property. If, for example, the original landlord sells the let property without first obtaining vacant possession, the purchaser will automatically become the landlord under the lease. Where the landlord's interest transfers, section 328 of the Housing (Scotland) Act 1987 requires the person to whom it has been transferred to tell the tenant.
73. [Section 46](#) provides that, subject to section 47, a lawful sub-tenant with a private residential tenancy will be protected from eviction where his or her landlord's tenancy has been brought to an end. The sub-tenant then becomes the tenant under a new tenancy which has the same terms as the sub-tenancy. Subsection (3) defines the concept of lawful sub-tenancy. It explains that a person is lawfully a sub-tenant if either the sub-tenancy has been granted in accordance with the terms of the granter's tenancy, or if the sub-tenancy was granted in breach of the terms of the granter's tenancy but has nevertheless been tolerated by a person who could have taken action as a result of it being granted in breach of the granter's tenancy (e.g. the granter's landlord).
74. [Section 47](#) provides that the sub-tenant protection provided by section 46 does not apply if the First-tier Tribunal expressly disapplies it or if the tenancy of the person who was the sub-tenant's landlord was brought to an end by an eviction order issued on the basis of one of the eviction grounds listed in subsection (2).