



Private Housing (Tenancies) (Scotland) Act 2016

2016 asp 19

PART 4 **S**

RENT

CHAPTER 2 **S**

RENT VARIATION INSTIGATED BY LANDLORD'S NOTICE

Process by which rent may be varied

32 Determination of open market rent **S**

- (1) Where an order maker is to determine the rent under section 25(1) or (as the case may be) 29(1), the determination is to be made on the basis that the property in question would be let by a willing landlord to a hypothetical willing tenant under a new tenancy which would—
 - (a) be a private residential tenancy,
 - (b) begin on the date on which the rent would have been increased in accordance with section 22(4) had a referral to a rent officer not been made,
 - (c) have the same terms as the tenancy to which the referral or (as the case may be) appeal relates.
- (2) In determining the open market rent of the property under subsection (1), the order maker is to disregard—
 - (a) any positive effect on the rental value of the property that is attributable to work paid for or carried out by the tenant or a previous tenant under the same tenancy, unless the work was paid for or carried out pursuant to a requirement under the terms of the tenancy,
 - (b) any negative effect on the rental value that is attributable to a failure by the tenant or a previous tenant under the same tenancy to comply with the terms of the tenancy.

Status: Point in time view as at 27/09/2023. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, Section 32. (See end of Document for details)

- (3) In a case where two or more persons jointly are the tenant under a tenancy, a reference to the tenant in subsection (2) includes any one of them.

Modifications etc. (not altering text)

- C1** S. 32 modified (temp.) (28.10.2022) by [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 1 para. 1\(1\)\(15\)](#) (with ss. 1(2), 6, 7, 8) (as amended: (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#))

Commencement Information

- II** S. 32 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

Status:

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