

*Draft Regulations laid before the Scottish Parliament under section 77(3) of the Private Housing (Tenancies) (Scotland) Act 2016, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2017 No.**

**HOUSING**

**The Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017**

*Made* - - - - 2017  
*Coming into force* - - 1st December 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(1) and (3) and 8(3) of the Private Housing (Tenancies) (Scotland) Act 2016<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 8(4) and (5) of that Act, the Scottish Ministers have consulted such persons who are likely to be affected by these Regulations.

In accordance with section 77(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 and come into force on 1st December 2017.

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

**Statutory terms**

2. The statutory terms of every private residential tenancy are set out in the schedule.

**Modification of statutory term by agreement**

3. The statutory terms set out in paragraphs 4 and 5 of the schedule apply in relation to a tenancy subject to any modification of the terms agreed between the landlord and the tenant, where the person mentioned in paragraphs 4 and 5 is not—

- (a) in a qualifying relationship with the tenant as defined in section 70(1)(a) of the Act;
- (b) a member of the tenant’s family as defined in section 70(1)(b) of the Act; or

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(1) 2016 asp 19.

(c) a resident carer as defined in section 69(5) of the Act.

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## SCHEDULE

Regulation 2

### Statutory terms

#### *Rent receipts*

1. Where any payment of rent is made in cash, the landlord must provide the tenant with a written receipt for the payment stating—
  - (a) the date of payment;
  - (b) the amount paid; and
  - (c) either (as the case may be)—
    - (i) the amount which remains outstanding; or
    - (ii) confirmation that no further amount remains outstanding.

#### *Rent increases*

2. The rent may be increased only in accordance with Chapter 2 of Part 4 of the Act.

#### *Subletting etc.*

3. The tenant may not, without the written agreement of the landlord—
  - (a) sublet the let property (or any part of it);
  - (b) take in a lodger;
  - (c) assign the tenant's interest in the let property (or any part of it); or
  - (d) otherwise part with, or give up to another person, possession of the let property (or any part of it).

#### *Notification about other residents*

4. If a person aged 16 or over (who is not a joint tenant) occupies the let property with the tenant as that person's only or principal home, the tenant must tell the landlord in writing—
  - (a) that person's name; and
  - (b) the person's relationship to the tenant.
5. If—
  - (a) in accordance with the term specified in paragraph 4, the landlord has been told about a person occupying the let property; and
  - (b) that person has ceased to occupy the let property as that person's only or principal home,the tenant must tell the landlord that.

#### *Access for repairs etc.*

6. The tenant is to allow reasonable access to the let property for an authorised purpose where—
  - (a) the tenant has been given at least 48 hours' notice; or
  - (b) access is required urgently for the purpose of—
    - (i) carrying out work on the let property; or

- (ii) inspecting the let property in order to determine what work of a type mentioned in paragraph 7(1)(a) (if any) to carry out.

7.—(1) The following are authorised purposes under paragraph 6:—

- (a) carrying out any work on the let property which the landlord has an entitlement or obligation to carry out;
- (b) inspecting the let property—
  - (i) in order to determine what work of a type mentioned in head (a) (if any) to carry out;
  - (ii) in pursuance of any entitlement or obligation which the landlord has to carry out an inspection;
- (c) valuing the let property (or any part of it).

(2) References in sub-paragraph (1) to the landlord having an entitlement or obligation to do something are to the landlord having an entitlement or obligation to do the thing by virtue of—

- (a) an enactment; or
- (b) the terms of any agreement between the landlord and the tenant.

8. The tenant is to allow reasonable use of facilities within the let property in connection with anything done or to be done under the term specified in paragraph 6.

#### *Termination*

9. The tenancy may not be brought to an end by the landlord, the tenant, nor any agreement between them except in accordance with Part 5 of the Act.

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### **EXPLANATORY NOTE**

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

These Regulations prescribe the statutory terms which apply to all private residential tenancies created by virtue of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). These Regulations prescribe the terms set out in schedule 2 of the Act, subject to certain modifications.

Regulation 2 introduces the schedule within which the statutory terms are set out. Regulation 3 permits the landlord and tenant to agree a modification of the statutory terms set out in paragraphs 4 and 5 of the schedule, in the circumstances where the person (about whom the tenant must notify the landlord) is not a person who can succeed to the tenancy.

Paragraph 1 of the schedule sets out the requirements for a written receipt for rent paid in cash. This term differs from that set out in schedule 2 of the Act by requiring a rent receipt to include the date of payment.

Paragraph 2 provides for rent increases.

Paragraph 3 provides that the tenant must have the landlord’s consent for subletting or otherwise sharing or parting with possession of the let property.

Paragraphs 4 and 5 set out the requirements for the tenant to notify the landlord about other adults living in the let property.

Paragraphs 6 to 8 set out the requirements for the tenant to permit access to the property for authorised purposes.

Paragraph 9 provides for termination. This statutory term did not form part of schedule 2 of the Act.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.