



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Assured tenancies—security of tenure

17 Fixing of terms of statutory assured tenancy.

- (1) In this section, in relation to a statutory assured tenancy “the former tenancy” means the tenancy on the termination of which the statutory assured tenancy arises.
- (2) Not later than the first anniversary of the termination of the former tenancy, the landlord may serve on the tenant, or the tenant may serve on the landlord, a notice in the prescribed form—
 - (a) proposing terms of the statutory assured tenancy other than as to the amount of the rent different from those which have effect by virtue of section 16(1) (b) above; and
 - (b) proposing, if appropriate, an adjustment of the rent to take account of the proposed terms.
- (3) Where a notice has been served under subsection (2) above—
 - (a) within the period of three months beginning on the date on which the notice was served on him, the landlord or the tenant, as the case may be, may refer the notice to [^{F1}the First-tier Tribunal] under subsection (4) below in the prescribed form; and
 - (b) if the notice is not so referred, then, with effect from such date, not falling within the period of three months referred to in paragraph (a) above, as may be specified in the notice, the terms proposed in the notice shall become terms of the tenancy in substitution for any other terms dealing with the same subject matter and the amount of the rent shall be varied in accordance with any adjustment so proposed.

Status: Point in time view as at 01/10/2022.

Changes to legislation: Housing (Scotland) Act 1988, Section 17 is up to date with all changes known to be in force on or before 06 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Where a notice under subsection (2) above is referred to [^{F2}the First-tier Tribunal], the [^{F3}First-tier Tribunal] shall consider the terms proposed in the notice and shall determine whether those terms, or some other terms (dealing with the same subject matter as the proposed terms), are such as, in the [^{F4}First-tier Tribunal's] opinion, might reasonably be expected to be found in a contractual assured tenancy of the house concerned, being a tenancy—
- (a) which begins at the termination of the former tenancy; and
 - (b) which is granted by a willing landlord on terms which, except in so far as they relate to the subject matter of the proposed terms, are those of the statutory assured tenancy at the time of the [^{F4}First-tier Tribunal's] consideration.
- (5) Whether or not a notice under subsection (2) above proposes an adjustment of the amount of the rent under the statutory assured tenancy, where [^{F5}the First-tier Tribunal determines] any terms under subsection (4) above, [^{F6}it shall, if it considers] it appropriate, specify such an adjustment to take account of the terms so determined.
- (6) In making a determination under subsection (4) above, or specifying an adjustment of an amount of rent under subsection (5) above, there shall be disregarded any effect on the terms or the amount of the rent attributable to the granting of a tenancy to a sitting tenant.
- (7) Where a notice under subsection (2) above is referred to [^{F7}the First-tier Tribunal], then, unless the landlord and the tenant otherwise agree, with effect from such date as the [^{F8}First-tier Tribunal] may direct—
- (a) the terms determined by the [^{F8}First-tier Tribunal] shall become terms of the statutory assured tenancy in substitution for any other terms dealing with the same subject matter; and
 - (b) the amount of the rent under the statutory assured tenancy shall be altered to accord with any adjustment specified by the [^{F8}First-tier Tribunal],
- but for the purposes of paragraph (b) above, the [^{F8}First-tier Tribunal] shall not direct a date earlier than the date on which the notice in question was referred to them.
- (8) Nothing in this section requires [^{F9}the First-tier Tribunal] to continue with a determination under subsection (4) above if the tenancy has been brought to an end by order of the [^{F10}First-tier Tribunal] under this Part of this Act or if the landlord and tenant give notice in writing that they no longer require such a determination.

Textual Amendments

- F1** Words in s. 17(3)(a) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [Sch. 2 para. 2\(2\)\(a\)](#) (with Sch. 1)
- F2** Words in s. 17(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [Sch. 2 para. 2\(2\)\(b\)\(i\)](#) (with Sch. 1)
- F3** Words in s. 17(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [Sch. 2 para. 2\(2\)\(b\)\(ii\)](#) (with Sch. 1)
- F4** Words in s. 17(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [Sch. 2 para. 2\(2\)\(c\)](#) (with Sch. 1)

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- F5** Words in s. 17(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(2)(d)(i)** (with Sch. 1)
- F6** Words in s. 17(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(2)(d)(ii)** (with Sch. 1)
- F7** Words in s. 17(7) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(2)(e)(i)** (with Sch. 1)
- F8** Words in s. 17(7) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(2)(e)(ii)** (with Sch. 1)
- F9** Words in s. 17(8) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(2)(f)** (with Sch. 1)
- F10** Words in s. 17(8) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 34**; S.S.I. 2017/330, art. 3, sch.

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