



Briefing
Private residential tenancies:
Your essential guide

Private residential tenancies: Your essential guide

The Private Housing (Tenancies) (Scotland) Act 2016 introduced a new type of residential tenancy to Scotland and since 1 December 2017, all new tenancies of residential property (that is not exempt) to individuals must be a 'private residential tenancy' (PRT).

Pre-existing tenancies

The PRT replaced the previous types of tenancies: assured tenancies and short assured tenancies. There is no equivalent to the short assured tenancy under the 2016 Act, and in fact a PRT does not have a fixed duration but is open-ended. It lasts until a tenant wishes to leave the let property, or a landlord successfully uses one (or more) of 18 grounds for eviction (please see Table C).

Any short assured or assured tenancy (and also statutory and protected tenancies) that was in place before 1 December 2017 can continue until either the tenant or the landlord brings it to an end by serving notice to quit the let property. Any short assured tenancy that is renewing on a rolling basis can continue until either the landlord or the tenant bring it to an end or it can be renewed at the expiry date by the same parties.

A landlord and tenant under an assured or short assured tenancy can agree to convert it to a PRT, but there is no compulsion to do so, nor any automatic conversion, and it is difficult to see how conversion would be attractive to either landlords or tenants.

What is a PRT?

A residential tenancy will be a PRT if:

- The property is let to a person as a separate dwelling (this includes lets where there are shared facilities)
- The tenant lives in the property as their main or only home
- The rent payable is more than £6 per week, not including any services, repairs, maintenance or insurance
- The property is not an excluded premises (please see Table A)

If the tenancy meets these requirements, it will be a PRT; if it does not, and is not an excluded property, it may fall into another category such as a contractual tenancy, holiday let or licence to occupy.

The tenancy will not be a PRT if:

- It is a shop, licensed premises, or property which includes two or more acres of agricultural land.
- It is an agricultural tenancy (including a 1991 Act tenancy, an SLDT, LDT, MLDT or a repairing tenancy) and is occupied by the person responsible for the control of the farming of the let property.
- It is a student let granted while the tenant is a student AND the landlord is a university, college or other further education body.
- It is a student let where the landlord is an institutional provider of student accommodation (meaning they can let other properties in the same building or complex, which has at least 30 bedrooms) and other properties in that building or complex are predominantly used for student housing. Planning permission for the building or complex must have required that it would be used predominantly for housing students.
- It is let for the purposes of a holiday.
- The landlord also lives there.
- The landlord is either a registered social landlord, a local authority, a co-operative housing association, the Scottish Police Authority, the Secretary of State for Defence, or Scottish Water.
- It is granted on a temporary basis to provide accommodation to homeless people.
- It is for less than six months and granted in connection with the supervision and care of someone on probation or released from prison.
- The tenant is an asylum seeker or a displaced person.
- It is a 'shared ownership agreement'.
- The landlord is a charity providing accommodation to veterans or care leavers.

How to create a PRT

There must be a written agreement between the landlord and the tenant, but there is no requirement (as there was with short assured tenancies) to issue a pre-tenancy notice. However, a PRT can still be created where there is no written document when a person occupies a property as their only or main home on the basis of a purported contract to do so, provided the conditions for a PRT stated above apply.

Landlords must give tenants written terms and conditions, which can be in electronic form, before the tenancy starts (or within 28 days of an existing assured tenancy converting to a PRT or terms of the tenancy changing).

A style [Model Tenancy Agreement](#), produced by the Scottish Government, is available but the landlord can use any other form of tenancy agreement it chooses. If using the Model Tenancy Agreement:

- It contains mandatory clauses, which must be used
- Other clauses are optional
- Additional clauses may be added
- It must be accompanied by explanatory 'Easy read' notes produced by the government

If using another style of tenancy agreement:

- It must contain at least the prescribed statutory terms (please see Table B)
- It must be accompanied by a copy of the government's 'Private Residential Tenancy Statutory Terms Supporting Notes'

The terms of the Model Tenancy Agreement are suitable for typical urban tenancies. For PRTs for more rural locations, the model agreement will need to be adapted to deal with issues such as private access rights, septic tanks and private water supplies.

A PRT tenancy agreement must provide that:

- Receipts must be given for any payment of rent made in cash.
- Any increase in the rent may only be made in accordance with the 2016 Act.
- No subletting or assignment of the tenancy is allowed and no lodgers are permitted without the written agreement of the landlord.
- The tenant must tell the landlord in writing, if anyone aged 16 or over (who is not a joint tenant) occupies the property with the tenant, as their only or principal home.
- The tenant must tell the landlord in writing, when anyone aged 16 or over stops occupying the property as their only or principal home.
- The tenant is to allow reasonable access to the property for the landlord to carry out any works, such as repairs they are entitled to do, or inspect or value the property, on 48 hours' notice unless access is required urgently.
- The tenant is to allow reasonable use of facilities within the property in connection with anything done or to be done in the exercise of such access.
- The tenancy may not be brought to an end by the landlord, the tenant, nor any agreement between them except in accordance with the 2016 Act

The penalty for failing to provide one of these documents could be the equivalent of up to three months' rent, or six months' rent for failure to provide both.

What else goes in a PRT?

There is **no requirement for a termination (ish) date**, since the ability to repossess the property at the end of the agreed duration is no longer available.

The **maximum amount of rent** that can be demanded in advance is six months'.

Any **deposit** taken cannot exceed the equivalent of **two months' rent**.

There is no requirement for a landlord or tenant to physically **sign** the document. It is sufficient for landlords and tenants simply to type their names into the document. This will facilitate electronic exchange of the agreement. In practice we would recommend that the parties physically sign the agreement, to avoid the possibility of fraud, or misunderstanding the implications of entering your details onto the form, although many letting agents now use digital platforms to complete letting agreements.

New arrangements that are not yet in force will allow tenants in a PRT to keep pets. They must ask the landlord in writing for consent to do, and the landlord must respond in writing either refusing or consenting, and may impose reasonable conditions on any consent given. If the tenant thinks that the refusal or the conditions imposed are unreasonable, they can appeal to the First-tier Tribunal. Arrangements regarding the keeping of pets could be included in the tenancy agreement. A 'pet' is defined as "an animal kept by a person mainly for (a) personal interest (including as regards its welfare, treatment or training), (b) companionship, (c) ornamental purposes" or any combination of these attributes. Dangerous wild animals will not be permitted.

A further new provision will allow tenants to **make certain changes** to the property, to be able to personalise their home. There will be two distinct categories of changes: Category 1 changes which will not need landlord's consent, such as putting up pictures, and Category 2 changes for which the tenant will need to seek approval from the landlord in writing. More details on these categories will be provided by Regulations in due course.

Choice of Tenant

Anti-discriminatory provisions regarding the choice of tenant are introduced into the 2016 Act by the UK-wide Renters Rights Act 2025. When these provisions come into force, it will be an offence (liable to a fine of up to £1,000) to discriminate on who a property is let to on the basis that a child or children would live there with, or visit, the tenant, or because the prospective tenant claims or may claim benefits. Terms in existing residential tenancies that discriminate in this way will be unenforceable.

Rent Increases

A landlord may not increase rent more than once in each 12 month period. The tenant must be given at least 3 months' notice before any rent increase can take place. There is a statutory rent-increase notice which must be used for this purpose.

Within 21 days of receiving the rent-increase notice, the tenant can refer the proposed increase to a Rent Officer if the tenant thinks the increase is unreasonable. The landlord or tenant can appeal the Rent Officer's decision as to the open market rent to the First-tier Tribunal – the decision of the Tribunal is then final.

Rent Pressure Zones

The provisions in the 2016 Act on Rent Pressure Zones were designed to address the problem of rents rising by too much in hot-spot areas and allowed a local authority to apply to the Scottish Ministers to have a part of their area designated as a Rent Pressure Zone, if it considered that rents were rising by too much in the proposed area and causing undue hardship to tenants. However, the provisions were never used and are to be repealed by the Housing (Scotland) Act 2025 and replaced by Rent Control Areas.

Rent Control Areas

Building on both the rent pressure zone arrangements and the temporary arrangements for rent caps provided for in the Cost of Living (Tenant Protection) (Scotland) Act 2022, provisions for Rent Control Areas are to be introduced under which local authorities will have a duty to carry out periodic assessments of the level of rent payable under PRTs and any assured tenancies of properties in the local authority area, together with the rate of increase in rent payable under such tenancies, and the impact that these levels and rates of increase in rent payable under relevant tenancies of properties has on properties, tenants and landlords in rural areas within the local authority where applicable. Following the assessment a report has to be submitted to Scottish Ministers. The first of these reports have to be submitted by 31 May 2027, and then at five-yearly intervals.

Designation of an area or areas as rent control areas may be included in these reports if the local authority thinks that measures to control the rate at which rents payable under PRTs in the area is increasing are necessary to protect the social and economic interests of tenants in the area. If Scottish Ministers accept the proposals they can produce an order designating the area, provided they are also satisfied that it is necessary for protecting social and economic interests and is also a necessary and proportionate control of landlords' use of their properties, and after having consulted with the local authority and landlord and tenant representatives.

Regulations may be made designating types of property in a Rent Control Area that may be exempt from the restrictions.

Letting property and increasing rents in Rent Control Areas

Anyone who wishes to let a property in a Rent Control Area must include in any advertisement that it is in such an area, the amount of rent payable under any previous tenancy and whether there has been an increase in the rent in the past 12 months. The rent under a new lease must not be more than the rent set under a rent increase within the previous 12-month period, unless the landlord acquired the property when it was vacant. Generally, rents cannot be increased more than once every 12 months.

The amount by which rent can be increased in a rent control area is capped at the "permitted rate" being the lower of (a) the consumer price index percentage increase or decrease plus one percentage point, and (b) 6%. Tenants have the right to refer the increase to a rent officer if they think it exceeds the permitted rate. Tenants may also apply to the First-tier Tribunal for determination of various aspects of rent increases.

Terminating a tenancy – what is required

The PRT has no end date, so the tenancy continues until validly terminated by either party. This must be done in accordance with the 2016 Act – a PRT cannot be brought to an end by the landlord or the tenant, or by any agreement between them that is not in accordance with the 2016 Act. So even if there is a clause in the tenancy agreement that says the tenancy will end on a particular date, this cannot be enforced by the landlord, if the tenant refuses to leave.

Termination by the tenant

If a tenant wants to end the tenancy, it's an easy process. All they need to do is give notice in writing to the landlord stating a date on which the tenancy will end. There is no statutory form of notice for this. The notice must be given freely and without coercion of any kind. The tenant must provide a minimum period of notice before the date the tenancy is to end, being whatever period is specified in the tenancy agreement or, if there is none, 28 days. The tenant can also change their mind before expiry of the notice period, and if the landlord agrees, the tenancy can resume.

Joint tenants

At the moment if a PRT is held jointly by two or more tenants, all of the tenants must agree to end the tenancy: a rule which has been known to cause hardship or difficulty in some cases. This is going to change once a new provision comes into force that will allow one of the tenants to bring the tenancy to an end by serving notice on the other joint tenant or tenants at least two months (and not more than three months) before notice is given to the landlord. When notice is then given to the landlord in these circumstances, the joint tenant must also confirm that pre-notice has been given to the other joint tenant or tenants, and the joint tenant must also provide the other joint tenant or tenants with a copy of the notice given to the landlord and confirm to the landlord that they have done so.

Termination by the landlord

For a landlord to terminate is a more complicated matter. Only one notice is required: the statutorily prescribed 'Notice to Leave'.

As there is no right to terminate a PRT simply because it has come to the end of its term, a landlord must be able to demonstrate that one of the statutory grounds for eviction (please see Table C) applies.

The 2016 Act also provides for '**consensual termination**' – where the parties agree that the tenant will leave, so there is no need for court action to remove them. But the Notice to Leave still has to state the statutory ground for eviction, which is the reason for termination. If the tenant is prepared to leave, then once they have ceased to occupy the property following receipt of notice, the tenancy is legally ended.

However, if the tenant refuses to leave, the landlord has to apply to the First-tier Tribunal for an order to evict the tenant. There are 18 eviction grounds available to the landlord, who must be able to produce evidence of at least one of them. Around half of them are the same as, or similar to the eviction grounds under the old assured tenancy regime, but the 2016 Act introduced a number of new grounds such as where the landlord intends to sell the property.

Originally, some of the grounds were mandatory, meaning that if correct or proved, the First-tier Tribunal had to grant an eviction order. The rest were discretionary, so would depend on the circumstances. All the mandatory grounds were made discretionary on a temporary basis during the Covid-19 pandemic, but that change was made permanent in the post-pandemic recovery legislation. The First-tier Tribunal therefore has discretion in all cases about whether or not to issue an eviction order.

Eviction Grounds

1. Landlord intends to sell the let property
2. Let property is to be sold by a lender
3. Landlord intends to refurbish the let property
4. Landlord intends to live in let property
5. Landlord's family member intends to live in the let property
6. Landlord intends to use the let property for non-residential purpose
7. Let property required for religious workers, as a residence from which their duties are to be performed
8. Tenant has stopped being – or has failed to become – an employee
9. Tenant no longer needs supported accommodation
10. Tenant is no longer occupying the let property
11. Tenant has breached a term of the tenancy agreement
12. Tenant is in rent arrears three or more consecutive months
13. Tenant has a relevant criminal conviction
14. The tenant has engaged in relevant antisocial behaviour
15. Tenant has associated in the let property with someone who has a criminal conviction or is antisocial
16. Landlord has had their registration refused or revoked
17. Landlord's HMO licence has been revoked
18. An overcrowding statutory notice has been served on the landlord

Period of notice

For notice by the tenant, the minimum period of notice to be given is either: a number of days for notice that the landlord and the tenant have validly agreed between them, or if no agreement, then **28 days**. The date of termination is to be a day that is **after** the last day of the notice period.

The notice period that the landlord has to give is **28 days** if the tenant has occupied for less than six months, or if the ground of eviction is one of the 'fault' grounds, fault of the tenant that is – such as the tenant being in arrears or no longer occupying the property.

In all other cases the period of notice to be given by the landlord before they can apply to the First-tier Tribunal for an eviction order is **84 days**.

The number of days is calculated:

- Beginning with the day on which the notice is **received** by the recipient
- Ending however many days (e.g. 28) **after** the notice period begins

This means including in the notice period a number of days from sending the notice until it is received if sending by post or by email. Email is not regarded as received the same day: a document sent by registered post or the equivalent of recorded delivery or sent 'using electronic communications' is taken to have been received 48 hours after it is sent, unless the contrary is shown. This means having to add on an extra two days.

The termination date has to be the requisite period **after** the notice period begins. Where something must be done **after** a stipulated date, the date itself is disregarded and time runs from the beginning of the following day. This means another day for the actual date of receipt. And the termination date has to be a date occurring after the last day of the notice period, so that's at least another day that has to be added, meaning the specified termination date needs to be a total of at least 32 days from the date of sending the notice.

The landlord and the tenant can agree an alternative minimum notice period, but it must be in writing.

Delaying eviction

Another new provision that is not yet in force is the duty of the First-tier Tribunal, in dealing with an application for eviction, to consider whether it would be reasonable to delay bringing the tenancy to an end, if for example eviction would cause financial hardship to the tenant or a member of their household, or would have a detrimental effect on the health of the tenant or a member of their household, or another detrimental effect due to that person having a disability or terminal illness. 'Seasonal' factors may also be taken into account, and while there is no definition of what such factors may be, the Policy Memorandum for the 2025 Act when it was a Bill suggests "seasonal pressures, periods of religious significance, exam periods or where more time is required to access suitable alternative accommodation".

Similar considerations apply in the case of the landlord.

Succession rights

This is something of a departure from the succession position under assured tenancies, where the landlord could use the fact that the tenant inherited the tenancy as a ground for repossession, unless they inherited it from a spouse or civil partner, and they had not themselves inherited the tenancy. The 2016 Act provides for a wider class of individuals to inherit.

A spouse or civil partner or someone living with the tenant as though they were married, (not being a joint tenant) can inherit the tenancy, provided that:

- The original tenant has told the landlord in writing that the property was being occupied by the spouse etc.
- They must have still been in that relationship immediately before the tenant died
- The property must be their only or principal home, also at the time of death, and, in the case of a cohabitant, has been for a continuous period of at least 12 months

Notification to the landlord is accordingly crucial for succession rights. A widow could not inherit, for example, even if she had lived at the property with her husband for years, if the husband had not told the landlord, or had only told the landlord about it six months before he died.

If there is no partner, then a **family member** over the age of 16 (at the time of death) can inherit the tenancy. Family member means a parent, grandparent, child, grandchild, brother or sister, either of the tenant, or a relative of the person who was a partner of the tenant or is a partner of a relative of the tenant. Again it must be their only or principal home, for at least 12 months before the date of death and written notification must have been given to the landlord. This underlines the importance of advising the landlord of any persons over 16 living at the property. If more than one person is eligible to become the tenant under these provisions, then each becomes the tenant under the tenancy jointly with the others.

If there is no surviving partner or family member who qualifies to inherit, it is possible for a **resident carer** to inherit the tenancy – they must be at least 16, and have occupied the property as their only home for at least 12 months, and have given up their previous home.

Inheritance to a PRT can only happen once – so it doesn't apply if the deceased tenant had inherited the tenancy themselves.

One important point to note, however, is a change in the law in relation to succession to an assured or short assured tenancy: as soon as the successor becomes the tenant, the tenancy automatically becomes a PRT.

Other Things to Remember

This briefing is concerned only with the lease element of the tenancy – there are other requirements with which a residential landlord must comply:

- Landlord registration
- Deposits and deposit schemes
- HMO licensing
- Gas Safety certificates
- Electrical Installation reports
- Carbon Monoxide detectors & hard-wired smoke alarms
- Repairing standard



Ann Stewart
Property Development Advisor
T +44 (0)131 473 5380
E ann.stewart@shepwedd.com



Emma De Saily
Senior Associate
T +44 (0)131 473 5304
E emma.desaily@shepwedd.com



Shepherd and Wedderburn LLP is a limited liability partnership (with registered number SO300895) regulated by the Law Society of Scotland and authorised and regulated by the Solicitors Regulation Authority (with number 447895). Shepherd and Wedderburn Europe LLP is regulated by the Law Society of Ireland (with number F9807) and is authorised to operate as a limited liability partnership pursuant to Section 125 of the Legal Services Regulation Act, 2015 (with registration number 1262438). This material is for general information only and does not constitute legal or other professional advice or seek to be an exhaustive statement of the law and should not be relied on. Professional advice appropriate to a specific situation should always be sought. For further information, please speak to your usual Shepherd and Wedderburn contact. © 2026 Shepherd and Wedderburn LLP.