



### **Private Housing (Tenancies) (Scotland) Act 2016**

All private residential landlords need to be aware of the implications of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”), which was enacted by the Scottish Government last year (2016) and is likely to come into effect later this year, on a date yet to be announced.

The Act is a complete overhaul of all existing residential tenancy law, and sweeps aside the Short Assured Tenancies (SATs), with which many landlords will be familiar, and replaces them with a new type of lease, to be known as the Private Residential Tenancy (“PRT”). The overarching theme of the Act is one of giving greater protection for tenants, which is achieved through substantial curtailments on freedom of contract in favour of the imposition of regulated and mandatory terms.

The most significant of these is the introduction of security of tenure through the abolition of the so-called “no-fault” ground for the termination of a tenancy – i.e. landlords will no longer be able to recover possession of their properties just because the agreed lease term has come to an end. In effect, PRTs will no longer have a specified duration and will continue until the tenant chooses to leave, which he or she can do by giving 28 days’ notice. Landlords will still be able to bring tenancies to an end, but only on specific grounds, which include (among others):-

- the landlord wishing to sell the property;
- the landlord wishing to use the property as a residence for himself or herself or for a family member;
- the tenant breaching the conditions of the lease; and
- rent being in arrears for three consecutive months.

In addition to the introduction of security of tenure, the Act also imposes restrictions on rent increases and, in certain circumstances, permits transmission of the tenancy to partners and other family members on the death of the tenant.

Landlords should be aware that a written document is not required for creation of a PRT – landlords will therefore have to be very careful not to allow a secure tenancy to be created by accident, i.e. by allowing somebody to occupy a property, and pay rent, on what may be intended as an informal or temporary arrangement.

Finally, existing SATs will not automatically convert to PRTs. Unless the landlord and tenant agree to the contrary, they will continue as SATs until terminated, even where they continue by tacit relocation beyond the initial term. However, after the Act comes into effect, it will no longer be possible to create a new SAT, so the termination of a SAT will mean that the next lease of the house must be a PRT. For those landlords who wish to try to remain within the old SAT regime, this will have an obvious impact on their negotiating position when it comes to reviewing the rent.

For further information, please contact any of our solicitors at J & H Mitchell W.S.

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*Although carefully prepared, this Fact Sheet is intended as a guide only.  
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including the precise content of any charitable constitution,  
Policies, Register of Interests, Remuneration Agreement, etc.*

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