



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 2 November 2017  
SP Paper 215  
10th Report, 2017 (Session 5)

## **Local Government and Communities Committee Comataidh Riaghaltas Ionadail is Coimhearsnachdan**

# **Subordinate legislation considered by the Local Government and Communities Committee on 1 November 2017**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish  
Parliament website at:  
[http://www.parliament.scot/abouttheparliament/  
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact  
Public Information on:  
Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

# Contents

<b>Consideration of instruments</b>	<b>1</b>
The Private Housing Tenancies (Scotland) Act 2016 (Consequential Provisions) Regulations 2017 [draft]	1
The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017 [draft]	3
The Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 [draft]	4

# Local Government and Communities Committee

To consider and report on communities, housing, local government, planning and regeneration matters falling within the responsibility of the Cabinet Secretary for Communities, Social Security and Equalities.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/local-govt-committee.aspx>



[LGCCcommittee@parliament.scot](mailto:LGCCcommittee@parliament.scot)



0131 348 6037

# Committee Membership



**Convener**  
**Bob Doris**  
Scottish National Party



**Deputy Convener**  
**Elaine Smith**  
Scottish Labour



**Kenneth Gibson**  
Scottish National Party



**Jenny Gilruth**  
Scottish National Party



**Graham Simpson**  
Scottish Conservative  
and Unionist Party



**Alexander Stewart**  
Scottish Conservative  
and Unionist Party



**Andy Wightman**  
Scottish Green Party

# Consideration of instruments

## The Private Housing Tenancies (Scotland) Act 2016 (Consequential Provisions) Regulations 2017 [draft]

1. The Committee reports to the Parliament as follows—
2. The Private Housing Tenancies (Scotland) Act 2016 (Consequential Provisions) Regulations 2017 [draft] was laid before the Parliament on 14 September 2017 and referred to the Local Government and Communities Committee for consideration.
3. This instrument is subject to affirmative procedure (Rule 10.6) and it is for this Committee to recommend to the Parliament whether the Regulations should be approved.
4. The Regulations make consequential provision for the purposes of the Private Housing (Tenancies) (Scotland) Act 2016.
5. The Delegated Powers and Law Reform Committee (DPLRC) considered this instrument at its meeting on 3 October and draws the Regulations to the attention of the Parliament on reporting ground (h), as the meaning of regulation 5(2)(b) could be clearer in a particular respect.
6. The DPLRC welcomes the Scottish Government's undertaking to include a provision to clarify this matter within an instrument which will amend the Letting Agent Code of Practice (Scotland) Regulations 2016 (SSI 2016/133), prior to those Regulations coming into force on 31 January 2018.
7. On 21 September 2017, the Scottish Government was asked:

“Regulation 5(2)(b) appears to amend paragraph 82 of the Letting Agent Code of Practice (Scotland) Regulations 2016 (visiting and entering property) so that part of the paragraph will read as follows, with the inserted words in italics:

“Section 184 of the Housing (Scotland) Act 2006 specifies that at least 24 hours’ notice must be given, *or 48 hours’ notice where the tenancy is a private residential tenancy*, unless the situation is urgent...”

(a) Please clarify how section 184 of the 2006 Act has been amended to so provide, or whether this is planned in a forthcoming instrument under the Private Housing (Tenancies) (Scotland) Act 2016, or whether there is any error?

(b) Please clarify accordingly why it is considered that the added reference to 48 hours’ notice in regulation 5(2)(b) makes consequential provision for the purposes of the 2016 Act, under section 76(1) of the Act.”
8. The Scottish Government responded to the DPLRC as follows:

“(a) We confirm that section 184 of the Housing (Scotland) Act 2006 (“the 2006 Act”) has not been amended in relation to private residential tenancies. Instead, the Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 which were made under sections 7 and 8 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and laid in draft on 14th September, provide for access to a property let under a private residential tenancy. Paragraph 6 of the schedule of those Regulations sets out the statutory term which makes provision for access to the let property both for authorised purposes where notice is given and where access is required urgently. However, we appreciate that it perhaps could be drafted more clearly to express that the longer notice period in respect of private residential tenancies is not set out in section 184 of the 2006 Act. We already intend to bring forward an instrument amending the Letting Agent Code of Practice (Scotland) Regulations 2016 prior to its coming into force on 31st January 2018 and we intend to include provision clarifying this point.

(b) We think that the added reference to 48 hours’ notice is consequential for the purposes of the 2016 Act as the requirement for access to a property let under a private residential tenancy is 48 hours’ notice as set out in the Statutory Terms Regulations mentioned in paragraph (a) above. The Letting Agent Code of Practice (Scotland) Regulations 2016 need to provide clarity to letting agents in relation to the requirements for access to a let property.”

9. At its meeting on 1 November 2017, the Local Government and Communities Committee took evidence on the instrument from:
  - Kevin Stewart, Minister for Local Government and Housing, Linda Leslie, Team Leader, Private Rented Sector, and Kirsten Simonnet-Lefevre, Principal Legal Officer, Scottish Government.
10. Following the evidence session, Kevin Stewart moved motion S5M-08087—

That the Local Government and Communities Committee recommends that the Private Housing Tenancies (Scotland) Act 2016 (Consequential Provisions) Regulations 2017 [draft] be approved.

**The motion was agreed to.**

11. The evidence taken and debate held at the meeting on 1 November 2017 on this instrument can be found in the Official Report at the following [link](#) (available from 6 November 2017).
12. The Local Government and Communities Committee recommends that the Private Housing Tenancies (Scotland) Act 2016 (Consequential Provisions) 2017 [draft] be approved.

## The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017 [draft]

13. The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017 [draft] was laid before the Parliament on 14 September 2017 and referred to the Local Government and Communities Committee for consideration.
14. This instrument is subject to affirmative procedure (Rule 10.6) and it is for this Committee to recommend to the Parliament whether the Regulations should be approved.
15. The Regulations make provision in relation to the information to be given by a landlord to a tenant in respect of a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
16. The Delegated Powers and Law Reform Committee (DPLRC) considered this instrument at its meeting on 27 September and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
17. At its meeting on 1 November 2017, the Local Government and Communities Committee took evidence on the instrument from—
  - Kevin Stewart, Minister for Local Government and Housing, Linda Leslie, Team Leader, Private Rented Sector, and Kirsten Simonnet-Lefevre, Principal Legal Officer, Scottish Government.
18. Following the evidence session, Kevin Stewart moved motion S5M-07895—

That the Local Government and Communities Committee recommends that the Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017 [draft] be approved.

### **The motion was agreed to.**

19. The evidence taken and debate held at the meeting on 1 November 2017 on this instrument can be found in the Official Report at the following [link](#) (available from 6 November 2017)
20. The Local Government and Communities Committee recommends that the Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017 [draft] be approved.



## The Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 [draft]

21. The Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 [draft] was laid before the Parliament on 14 September 2017 and referred to the Local Government and Communities Committee for consideration.
22. This instrument is subject to affirmative procedure (Rule 10.6) and it is for this Committee to recommend to the Parliament whether the Regulations should be approved.
23. The 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”). The Regulations prescribe the terms set out in schedule 2 of the Act, subject to certain modifications.
24. The Delegated Powers and Law Reform Committee (DPLRC) considered this instrument at its meeting on 27 September and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
25. At its meeting on 1 November 2017, the Local Government and Communities Committee took evidence on the instrument from—

Kevin Stewart, Minister for Local Government and Housing, Linda Leslie, Team Leader, Private Rented Sector, and Kirsten Simonnet-Lefevre, Principal Legal Officer, Scottish Government.

26. Following the evidence session, Kevin Stewart moved motion S5M-07895—

That the Local Government and Communities Committee recommends that the Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 [draft] be approved.

### **The motion was agreed to.**

27. The evidence taken and debate held at the meeting on 1 November 2017 on this instrument can be found in the Official Report at the following [link](#) (available from 6 November 2017)

28. The Local Government and Communities Committee recommends that the Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 [draft] be approved.

