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Housing (Scotland) Act 2014

2014 asp 14

PART 2

SOCIAL HOUSING

Short Scottish secure tenancy

7 Creation of short Scottish secure tenancy: antisocial behaviour

- (1) In section 34 of the 2001 Act (short Scottish secure tenancies)—
- (a) in subsection (7), for “or 2” substitute “, 2 or 2A ”, and
 - (b) after subsection (8), insert—
 - “(9) A landlord must have regard to any guidance published by the Scottish Ministers—
 - (a) before creating a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, and
 - (b) when taking any steps in relation to such a tenancy with a view to—
 - (i) extending the term of the tenancy under section 35A, or
 - (ii) raising proceedings for the recovery of possession of the house under section 36.
- (10) Before publishing any guidance mentioned in subsection (9), the Scottish Ministers must consult such persons as they consider appropriate.”.
- (2) In section 35 of the 2001 Act (conversion to a short Scottish secure tenancy)—
- (a) for subsection (2) substitute—
 - “(2) The landlord may serve a notice under subsection (3) only where—
 - (a) the tenant (or any one of joint tenants) or a person residing or lodging with, or a subtenant of, the tenant is subject to an antisocial behaviour order under—

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- (i) section 234AA of the Criminal Procedure (Scotland) Act 1995 (c.46), or
- (ii) section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or
- (b) the tenant (or any one of joint tenants), a person residing or lodging with, or a subtenant of, the tenant, or a person visiting the house has, within the period of 3 years preceding the date of service of the notice—
 - (i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person, or
 - (ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.”
- (b) in subsection (3)—
 - (i) the word “and” immediately preceding paragraph (b) is repealed,
 - (ii) in paragraph (b), after “order” insert “ or, as the case may be, has behaved as described in subsection (2)(b) ”, and
 - (iii) after paragraph (b), insert—
 - “(c) if the notice is served under subsection (2)(b), specify —
 - (i) the actions of the tenant or other person which the landlord has taken into account, and
 - (ii) the landlord's reasons for serving the notice, and
 - (d) explain the right of appeal conferred by subsection (5).”, and
- (c) after subsection (6), insert—
 - “(7) In this section —
 - “antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
 - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and
 - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).”.
- (3) In section 37(1) of the 2001 Act (conversion to Scottish secure tenancy), in paragraph (a) for “or 2” substitute “, 2 or 2A ”.
- (4) In schedule 6 to the 2001 Act (grounds for granting short Scottish secure tenancy)—
 - (a) after paragraph 2 insert—

2A “Other antisocial behaviour

- (1) A person mentioned in sub-paragraph (2) has, within the period of 3 years preceding the date of service of the notice—

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- (a) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, or
 - (b) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.
- (2) The persons are—
- (a) the prospective tenant,
 - (b) any one of prospective joint tenants,
 - (c) a person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, and
 - (d) a person who it is proposed will reside with the prospective tenant.
- (3) In sub-paragraph (1)—
- “antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
 - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and
 - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).”, and
- (b) for paragraph 6 substitute—

6 “Accommodation for person in receipt of housing support

The house is to be let expressly on a temporary basis to a person—

- (a) to whom no other paragraph of this schedule applies, and
- (b) who is in receipt of a housing support service.”.

- (5) In section 31(5) of the 1987 Act (permanent accommodation where duty to secure accommodation for persons found to be homeless), in paragraph (c) for “or 2” substitute “, 2 or 2A”.

Annotations:

Commencement Information

- II** [S. 7\(1\)\(b\)](#) in force at 20.11.2014 by [S.S.I. 2014/264](#), [art. 2](#), [Sch.](#)

PROSPECTIVE

8 Grant of short Scottish secure tenancy: homeowners

In schedule 6 to the 2001 Act (grounds for granting short Scottish secure tenancy), after paragraph 7 insert—

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- 7A (1) The house is to be let expressly on a temporary basis to a person pending the making of arrangements in relation to a property mentioned in subparagraph (2) which will allow the person's housing needs to be met.
- (2) The property is heritable property owned by the person or a person who it is proposed will reside with that person.”.

PROSPECTIVE

9 Short Scottish secure tenancy: term

- (1) In section 34 of the 2001 Act (short Scottish secure tenancies)—
- (a) after subsection (5), insert—
- “(5A) Subsection (5) does not apply to a tenancy mentioned in subsection (6A).”.
- (b) after subsection (6) insert—
- “(6A) A tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 has a term of 12 months from the day on which the tenancy is granted.”.
- (2) In section 35 of the 2001 Act (conversion to short Scottish secure tenancy)—
- (a) after subsection (3) insert—
- “(3A) A short Scottish secure tenancy created by virtue of this section has a term of 12 months from the day on which the landlord serves a notice under subsection (3).”, and
- (b) for subsection (4), substitute—
- “(4) Where a tenancy becomes a short Scottish secure tenancy by virtue of this section—
- (a) subsection (5) of section 34 does not apply to the tenancy, but
- (b) otherwise subsection (6) of that section does apply to the tenancy.”.
- (3) In section 37 of the 2001 Act (conversion to Scottish secure tenancy), after subsection (4) insert—
- “(5) Subsection (6) applies to a tenancy which—
- (a) became a short Scottish secure tenancy by virtue of section 35, and
- (b) becomes a Scottish secure tenancy by virtue of this section.
- (6) The term of the tenancy is the term which applied immediately before the tenancy became a short Scottish secure tenancy.”.

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PROSPECTIVE

10 Short Scottish secure tenancy: extension of term

(1) After section 35 of the 2001 Act, insert—

“35A Extension of term of short Scottish secure tenancy

(1) The landlord under a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 may extend the term of that tenancy by 6 months from the day which would otherwise be the day of expiry of the tenancy.

(2) Such an extension may not be made unless—

- (a) the tenant is in receipt of housing support services, and
- (b) the landlord has, on or before the day which is 2 months before the day which would otherwise be the day of expiry of the tenancy, served on the tenant a notice informing the tenant of—
 - (i) the extension, and
 - (ii) the reasons for the extension.

(3) A landlord may not give a notice if the landlord has previously given a notice under subsection (2) in relation to that short Scottish secure tenancy.”

(2) In section 37 of the 2001 Act (conversion to Scottish secure tenancy)—

- (a) in subsection (1)—
 - (i) the words “, in the period of 12 months following the creation of the tenancy,” are repealed,
 - (ii) after “36(2)” insert “ before the expiry of the relevant period ”, and
 - (iii) for “that” substitute “ the relevant ”,
- (b) after subsection (1), insert—

“(1A) In this section, the “relevant period” is—

- (a) the period of 12 months following the creation of the tenancy, or
- (b) if an extension notice has been served under section 35A, the period of 18 months following the creation of the tenancy.”

- (c) in subsection (2)—
 - (i) for “period of 12 months following the creation of the tenancy” substitute “ relevant period ”, and
 - (ii) for “that period of 12 months”, in both places where it occurs, substitute “ the relevant period ”.

PROSPECTIVE

11 Short Scottish secure tenancy: recovery of possession

In section 36 of the 2001 Act (recovery of possession)—

- (a) in subsection (2), after paragraph (a) insert—

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- “(aa) in the case of a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, the landlord considers that any obligation of the tenancy has been broken,”
- (b) in subsection (3), after paragraph (a) insert—
 - “(aa) state the reason why the landlord is seeking recovery of possession (including, in a case where subsection (2)(aa) applies, the obligations which the landlord considers to have been broken),”
- (c) after subsection (4), insert—
 - “(4A) A tenant may, before the end of the period of 14 days beginning with the day of service of a notice under subsection (2), apply to the landlord for a review of a decision to seek recovery of possession of the house which is the subject of the tenancy.
 - (4B) If an application for a review under subsection (4A) is made, the landlord must, before the day specified in the notice by virtue of subsection (3)(b)—
 - (a) confirm its decision to seek recovery of possession or withdraw its notice under subsection (2),
 - (b) notify the tenant of its decision on the review, and
 - (c) where its decision on the review is to confirm the decision to seek recovery of possession, notify the tenant of the reasons.
 - (4C) The Scottish Ministers may by regulations make further provision about the procedure to be followed in connection with a review following an application under subsection (4A).”
- (d) in subsection (5)(a), after “34(5)” insert “ or, in a case where subsection (2)(aa) applies, the end of the term applicable to the tenancy in accordance with section 34(6A), 35(3A) or 35A(1) ”,
- (e) in subsection (7), after “16” insert “, but subject to the modification mentioned in subsection (8) ”, and
- (f) after subsection (7), insert—
 - “(8) In relation to the recovery of possession of the house which is the subject of a short Scottish secure tenancy, section 14(4) is to be read as if for paragraph (b) there were substituted—
 - “(b) a date, not earlier than 4 weeks from the date of service of the notice on or after which the landlord may raise proceedings for recovery of possession,”.”

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.S.I. 2016/412, art. 3(1)
(a) by [S.S.I. 2017/330 art. 2](#)
- specified provision(s) amendment to earlier commencing SSI 2015/272 Sch. by
[S.S.I. 2015/349 art. 2\(2\)](#)