



# Housing (Scotland) Act 2014

## 2014 asp 14

### PART 2 **S**

#### SOCIAL HOUSING

##### *Short Scottish secure tenancy*

#### 7 **Creation of short Scottish secure tenancy: antisocial behaviour** **S**

- (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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*Changes to legislation: Housing (Scotland) Act 2014, Section 7 is up to date with all changes known to be in force on or before 19 September 2023. 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) View outstanding changes*

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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”.

#### Commencement Information

- I1** S. 7(1)(a)(2)-(5) in force at 1.5.2019 by [S.S.I. 2018/153](#), [art. 2](#), [sch.](#) (with [arts. 3, 9](#))
- I2** S. 7(1)(b) in force at 20.11.2014 by [S.S.I. 2014/264](#), [art. 2](#), [Sch.](#)

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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\(2\)](#)