



# Coronavirus (Recovery and Reform) (Scotland) Act 2022

## 2022 asp 8

### PART 4

#### TENANCIES

##### *Removal of mandatory eviction grounds*

#### **43 Private residential tenancies: discretionary eviction grounds**

- (1) The Private Housing (Tenancies) (Scotland) Act 2016 is modified as follows.
- (2) In section 51(2) (First-tier Tribunal's power to issue an eviction order), the words "or must" are repealed.
- (3) In schedule 3 (eviction grounds)—
  - (a) in paragraph 1(2) (landlord intends to sell)—
    - (i) in the opening words, for "must" substitute "may",
    - (ii) after paragraph (a), the word "and" is repealed,
    - (iii) after paragraph (b) insert " , and  
" (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.",
  - (b) in paragraph 2(2) (property to be sold by lender)—
    - (i) in the opening words, for "must" substitute "may",
    - (ii) after paragraph (b), the word "and" is repealed,
    - (iii) after paragraph (c) insert " , and  
" (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.",
  - (c) in paragraph 3(2) (landlord intends to refurbish)—
    - (i) in the opening words, for "must" substitute "may",
    - (ii) after paragraph (b), the word "and" is repealed,
    - (iii) after paragraph (c) insert " , and

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- “(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (d) in paragraph 4(2) (landlord intends to live in property)—
- (i) for “must” substitute “may”,
  - (ii) the words from “the landlord” to “3 months” become paragraph (a),
  - (iii) after paragraph (a) insert “, and
- “(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,
- (e) in paragraph 6(2) (landlord intends to use for non-residential purpose)—
- (i) for “must” substitute “may”,
  - (ii) the words from “the landlord” to “home” become paragraph (a),
  - (iii) after paragraph (a) insert “, and
- “(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,
- (f) in paragraph 7(2) (property required for religious purpose)—
- (i) in the opening words, for “must” substitute “may”,
  - (ii) after paragraph (b), the word “and” is repealed,
  - (iii) after paragraph (c) insert “, and
- “(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (g) in paragraph 8 (not an employee)—
- (i) in the opening words of sub-paragraph (2), for “must” substitute “may”,
  - (ii) for sub-paragraph (2)(c) substitute—
- “(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (iii) sub-paragraph (3) is repealed,
  - (iv) in sub-paragraph (4), for “sub-paragraphs (2) and (3)” substitute “sub-paragraph (2)”,
- (h) in paragraph 10(2) (not occupying let property)—
- (i) in the opening words, for “must” substitute “may”,
  - (ii) after paragraph (a), the word “and” is repealed,
  - (iii) after paragraph (b) insert “, and
- “(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (i) in paragraph 12 (rent arrears), sub-paragraph (2) is repealed,
- (j) in paragraph 13(2) (criminal behaviour)—
- (i) in the opening words, for “must” substitute “may”,
  - (ii) after paragraph (a), the word “and” is repealed,
  - (iii) after paragraph (b) insert “, and
- “(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (k) in paragraph 14(2) (anti-social behaviour), after paragraph (b), for “and” substitute—
- “(ba) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and”.

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#### Commencement Information

**II** S. 43 in force at 1.10.2022, see s. 59(1)

#### 44 Assured tenancies: discretionary eviction grounds

- (1) The Housing (Scotland) Act 1988 is modified as follows.
- (2) In section 18 (orders for possession)—
  - (a) subsections (3) and (3A) are repealed,
  - (b) in subsection (4), for “Part II” substitute “Part I or II”,
  - (c) in subsection (6)(a), the words “or Ground 8” are repealed,
  - (d) in subsection (8), for “subsections (3A) and (4A)” substitute “subsection (4A)”.
- (3) In section 19 (notice of proceedings for possession), subsection (5) is repealed.
- (4) In section 20 (extended discretion of First-tier Tribunal in possession claims)—
  - (a) in subsection (1), for “Subject to subsection (6) below, the” substitute “The”,
  - (b) subsection (6) is repealed.
- (5) In section 33(1) (recovery of possession on termination of a short assured tenancy)—
  - (a) in the opening words, for “shall” substitute “may”,
  - (b) after paragraph (b), the word “and” is repealed,
  - (c) after paragraph (d) insert “, and  
“e) that it is reasonable to make an order for possession.”.
- (6) In schedule 5 (grounds for possession of houses let on assured tenancies)—
  - (a) in Part I, Ground 8 is repealed,
  - (b) the heading of Part I becomes “Certain grounds on which First-tier Tribunal may order possession”,
  - (c) the heading of Part II becomes “Further grounds on which First-tier Tribunal may order possession”.

#### Commencement Information

**I2** S. 44 in force at 1.10.2022, see s. 59(1)

#### 45 Tenancies under the Rent (Scotland) Act 1984: discretionary eviction grounds

- (1) The Rent (Scotland) Act 1984 is modified as follows.
- (2) In section 11 (grounds for possession of certain dwelling-houses)—
  - (a) in subsection (1)(b), after “Part I” insert “or II”,
  - (b) subsection (2) is repealed.
- (3) In section 12 (extended discretion of Tribunal)—
  - (a) in subsection (1), the words “Subject to subsection (5) below,” are repealed,
  - (b) in subsection (2), the words “, subject to subsection (5) below,” are repealed,
  - (c) subsection (5) is repealed.

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- (4) In section 14 (conditions applying to recovery of short tenancies)—
- (a) in subsection (1), after “Act” insert “provided the First-tier Tribunal considers it reasonable to allow such recovery”,
  - (b) in subsection (3)—
    - (i) the words from “a landlord” to “above,” become paragraph (a),
    - (ii) after paragraph (a) insert “or
      - “(b) the First-tier Tribunal does not consider it reasonable to allow recovery in accordance with the said Case 15,”,
    - (iii) the words from “the tenancy shall” to “this subsection.” become the closing words.
- (5) In schedule 2 (grounds for possession for protected or statutory tenancies)—
- (a) the heading of Part I becomes “Certain cases in which First-tier Tribunal may order possession”,
  - (b) the heading of Part II becomes “Further cases in which First-tier Tribunal may order possession”.

#### Commencement Information

**I3** S. 45 in force at 1.10.2022, see s. 59(1)

#### *Pre-action protocol in respect of evictions relating to rent arrears*

### **46 Private residential tenancies: pre-action protocol**

- (1) The Private Housing (Tenancies) (Scotland) Act 2016 is modified as follows.
- (2) In paragraph 12 of schedule 3 (rent arrears)—
- (a) in sub-paragraph (4)—
    - (i) the words from “whether the” to “benefit” become paragraph (a),
    - (ii) after paragraph (a) insert “, and
      - “(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.”,
  - (b) after sub-paragraph (5) insert—
    - “(6) Regulations under sub-paragraph (4)(b) may make provision about—
      - (a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),
      - (b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,
      - (c) such other matters as the Scottish Ministers consider appropriate.”.

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- (3) In section 77(3) (regulation-making powers), after “41” insert “and paragraph 12(4) (b) of schedule 3”.

**Commencement Information**

**I4** S. 46 in force at 1.10.2022, see s. 59(1)

**47 Assured tenancies: pre-action protocol**

- (1) The Housing (Scotland) Act 1988 is modified as follows.
- (2) In section 18 (orders for possession)—
- (a) in subsection (4A)—
- (i) the words from “the extent” to “universal credit” become paragraph (a),
- (ii) after paragraph (a) insert “, and
- “(b) the extent to which the landlord has complied with the pre-action protocol specified by the Scottish Ministers in regulations.”,
- (b) after subsection (8) insert—
- “(9) Regulations under subsection (4A)(b) may make provision about—
- (a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),
- (b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,
- (c) such other matters as the Scottish Ministers consider appropriate.
- (10) Regulations under subsection (4A)(b) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”.
- (3) In section 53(2) (orders and regulations), after “above” insert “or regulations under section 18(4A)(b)”.

**Commencement Information**

**I5** S. 47 in force at 1.10.2022, see s. 59(1)

*Saving and transitional provision*

**48 Tenancies: saving provision**

- (1) In relation to a notice to leave (within the meaning of section 62 of the 2016 Act) served on a tenant before 1 October 2022—

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- (a) the 2016 Act continues to apply in accordance with the modifications made by paragraph 1 of schedule 1 of the 2020 Act and paragraph 5 of schedule 1 of the [2020 \(No.2\) Act](#) (despite those paragraphs' expiry),
  - (b) the 2020 Regulations continue to apply (despite regulation 1 of those Regulations and the expiry of paragraph 5 of schedule 1 of the [2020 \(No.2\) Act](#)),
  - (c) the modifications made to the 2016 Act by sections 33 and 36 of this Act do not apply.
- (2) In relation to a notice served on a tenant under section 19 or 33(1)(d) of the 1988 Act before 1 October 2022—
- (a) the 1988 Act continues to apply in accordance with the modifications made by paragraph 3 of schedule 1 of the 2020 Act and paragraph 4 of schedule 1 of the [2020 \(No.2\) Act](#) (despite those paragraphs' expiry),
  - (b) the 2020 Regulations continue to apply (despite regulation 1 of those Regulations and the expiry of paragraph 4 of schedule 1 of the [2020 \(No.2\) Act](#)),
  - (c) the modifications made to the 1988 Act by sections 34 and 37 of this Act do not apply.
- (3) In relation to a notice served on a tenant in accordance with section 112(1) of the 1984 Act before 1 October 2022—
- (a) the 1984 Act continues to apply in accordance with the modifications made by paragraph 5 of schedule 1 of the 2020 Act (despite that paragraph's expiry),
  - (b) the modifications made to the 1984 Act by section 35 of this Act do not apply.
- (4) In this section—
- “the 1984 Act” means the Rent (Scotland) Act 1984,
  - “the 1988 Act” means the Housing (Scotland) Act 1988,
  - “the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,
  - “the 2020 Act” means the Coronavirus (Scotland) Act 2020,
  - “the [2020 \(No.2\) Act](#)” means the Coronavirus (Scotland) (No.2) Act 2020,
  - “the 2020 Regulations” means the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 ([S.S.I. 2020/304](#)).

#### Commencement Information

**I6** [S. 48](#) in force at 1.10.2022, see [s. 59\(1\)](#)

## 49 Tenancies: transitional provision

- (1) The 2020 Regulations continue in force (despite regulation 1 of those Regulations and the expiry of paragraphs 4 and 5 of schedule 1 of the [2020 \(No.2\) Act](#)).
- (2) They are deemed to have been made under the powers conferred by section 18(4A) (b) of the 1988 Act and paragraph 12(4)(b) of schedule 3 of the 2016 Act.
- (3) In the 2020 Regulations—
  - (a) references to the pre-action requirements are to be read as references to the pre-action protocol,

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- (b) the reference in regulation 3 to section 18(3C) is to be read as a reference to section 18(4A)(b),
  - (c) the reference in regulation 4 to paragraph 12(3B) is to be read as a reference to paragraph 12(4)(b).
- (4) Nothing in this section affects the 2020 Regulations insofar as they continue to apply by virtue of section 48.
- (5) In this section—
- “the 1988 Act” means the Housing (Scotland) Act 1988,
  - “the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,
  - “the 2020 (No.2) Act” means the Coronavirus (Scotland) (No.2) Act 2020,
  - “the 2020 Regulations” means the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 ([S.S.I. 2020/304](#)).

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**Commencement Information**

**I7** [S. 49](#) in force at 1.10.2022, see [s. 59\(1\)](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Coronavirus (Recovery and Reform) (Scotland) Act 2022, Part 4.