



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- (2) In section 51(2) (First-tier Tribunal’s power to issue an eviction order), the words “or must” are repealed.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 - (ii) after paragraph (a), the word “and” is repealed,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 - (ii) after paragraph (b), the word “and” is repealed,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 - (ii) after paragraph (b), the word “and” is repealed,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

Status: This is the original version (as it was originally enacted).

- “(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 - (ii) after paragraph (b), the word “and” is repealed,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”.

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”.

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.
- (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,”.

Status: This is the original version (as it was originally enacted).

(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”.

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

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)”.

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—
- (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](#)).

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,

(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](#)).