



Homelessness etc. (Scotland) Act 2003

2003 asp 10

Assured tenancies: recovery of possession

12 Assured tenancies: recovery of possession for non-payment of rent

(1) Section 18 (orders for possession) of the Housing (Scotland) Act 1988 (c. 43) is amended as follows.

(2) In subsection (3), for “subsection (6)” substitute “subsections (3A) and (6)”.

(3) After that subsection, insert—

“(3A) If the sheriff is satisfied—

- (a) that Ground 8 in Part I of Schedule 5 to this Act is established; and
- (b) that rent is in arrears as mentioned in that Ground as a consequence of a delay or failure in the payment of relevant housing benefit,

he shall not make an order for possession unless he considers it reasonable to do so.”

(4) After subsection (4) insert—

“(4A) In considering for the purposes of subsection (4) above whether it is reasonable to make an order for possession on Ground 11 or 12 in Part II of Schedule 5 to this Act, the sheriff shall have regard, in particular, to the extent to which any delay or failure to pay rent taken into account by the sheriff in determining that the Ground is established is or was a consequence of a delay or failure in the payment of relevant housing benefit.”

(5) At the end insert—

“(8) In subsections (3A) and (4A) above—

(a) “relevant housing benefit” means—

- (i) any rent allowance or rent rebate to which the tenant was entitled in respect of the rent under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971); or

- (ii) any payment on account of any such entitlement awarded under Regulation 91 of those Regulations;

Changes to legislation: There are currently no known outstanding effects for the Homelessness etc. (Scotland) Act 2003, Section 12. (See end of Document for details)

- (b) references to delay or failure in the payment of relevant housing benefit do not include such delay or failure so far as referable to any act or omission of the tenant.”
- (6) In section 20 (extended discretion of court in possession claims) of that Act, in subsection (6), at the end insert “except Ground 8 in a case where the sheriff is satisfied as mentioned in section 18(3A) above”.

Commencement Information

II [S. 12](#) in force at 2.7.2004 by [S.S.I. 2004/288](#), [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Homelessness etc. (Scotland) Act 2003, Section 12.