

SCHEDULE 1

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2016

PART 3

Procedure in respect of private rented applications

Procedure in respect of Landlord applications to the First-tier Tribunal

Application

54.—(1) An application under section 28A of the Act must be made by written notice, and may be made on a form obtained from the First-tier Tribunal.

(2) The application must state—

- (a) the name and address of the landlord;
- (b) that the application is made under section 28A of the Act;
- (c) the address of the house in respect of which the application is made;
- (d) the name, address and profession of any representative appointed by the landlord;
- (e) a telephone number to enable contact to be made with the landlord or any representative appointed by the landlord and any email address which may be used for such contact;
- (f) the landlord registration number of the landlord or that an application for registration has been made in accordance with section 83 of the Antisocial Behaviour etc. (Scotland) Act 2004⁽¹⁾ and has not been determined;
- (g) the name, telephone number (if known), and email address (if known) of the tenant;
- (h) that the tenant has been notified in writing that the landlord wishes to exercise the landlord's right of entry;
- (i) that entry to the house is sought for the purpose of paragraph (a) of section 181(4) of the Act or of paragraph (b) of that section or of both;
- (j) whether or not the landlord has, within the 12 months prior to the date of making of the application, made another application under section 28A of the Act in respect of the same house; and
- (k) the name of any person the landlord intends to authorise to enter the house.

(3) The application must be signed and dated by the landlord or by any representative appointed by the landlord.

(4) The application must be accompanied by—

- (a) a copy of the lease or the tenancy agreement or, if these are not available, as much information about the tenancy as the landlord can give; and
- (b) a copy of the notification referred to in paragraph (2)(h) and any subsequent correspondence relating to that notification.

Rejection of applications

55.—(1) The First-tier Tribunal must reject an application if—

(1) 2004 asp 8.

- (a) the First-tier Tribunal considers that the application is frivolous or vexatious;
 - (b) the dispute to which the application relates has been resolved or the landlord has been able to enter the house for the purpose specified in the application;
 - (c) the First-tier Tribunal has good reason to believe that it would not be appropriate to assist either the landlord or any person the landlord intends to authorise to enter the house, or both, to gain entry to the house;
 - (d) the First-tier Tribunal considers that the application is being made for a purpose other than a purpose specified in section 181(4) of the Act; or
 - (e) the landlord has previously made an identical or substantially similar application in relation to the same house and in the First-tier Tribunal's opinion there has been no significant change in any material considerations since the identical or substantially similar application was determined.
- (2) Where the First-tier Tribunal makes a decision under section 28A(3) of the Act to reject an application the notification to the landlord under that section must state—
- (a) the name of the tenant and the address of the house;
 - (b) the reason for the decision; and
 - (c) that in terms of section 28A(8) of the Act the decision is final.

Person authorised to enter

56. If the First-tier Tribunal does not consider the person the landlord intends to authorise to enter the house to be a suitable person, it may allow the landlord to amend the application in this regard.

Decision to assist

57. Where the First-tier Tribunal decides to assist the landlord under subsection (3) of section 28A of the Act, the notice sent to the landlord and the tenant under subsection (5) of that section must, in addition to the information required under that subsection, state—

- (a) the name and address of the landlord;
- (b) the name and address of the landlord's representative, if any;
- (c) the name of the tenant and the address of the house;
- (d) the name of any person the landlord intends to authorise to enter the house;
- (e) whether the landlord is seeking entry to the house for the purpose of—
 - (i) viewing its state and condition for the purpose of determining whether the house meets the repairing standard;
 - (ii) carrying out any work necessary to comply with the duty in section 14(1)(b) of the Act; or
 - (iii) both;
- (f) that if the tenant (without reasonable excuse) fails or refuses, within a reasonable time, to—
 - (i) respond to the First-tier Tribunal; or
 - (ii) agree a suitable date and time (or dates and times) for the landlord to exercise the landlord's right of entry,
 the First-tier Tribunal may fix a date and time (or dates and times) for the landlord to exercise the landlord's right of entry.

58. Where the First-tier Tribunal makes a decision to stop assisting the landlord under section 28A(7) or section 28C(9)(2) of the Act the First-tier Tribunal must notify the landlord and the tenant and that notice must state—

- (a) the name and address of the landlord;
- (b) the name and address of the landlord's representative, if any;
- (c) the name of the person the landlord intended to authorise to enter the house;
- (d) the name of the tenant and the address of the house;
- (e) the reason for the decision; and
- (f) that in terms of section 28A(8) of the Act the decision to stop assisting the landlord is final.

(2) Section 28C was inserted by section 35(4) of the Private Rented Housing (Scotland) Act 2011.