
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 457

The Allotments (Compensation) (Scotland) Regulations 2017

PART 3

Compensation for deterioration

Assessment of deterioration

5. Where it appears to the authority that a tenant may be liable to pay compensation for the deterioration of an allotment under section 134(2) of the Act, the authority must—

- (a) carry out an inspection of the allotment to which the lease relates within 10 days beginning with the date of expiry or termination of the lease; and
- (b) where following that inspection it appears to the authority that—
 - (i) the allotment has deteriorated during the tenant's lease; and
 - (ii) the deterioration was caused by the fault or negligence of the tenant,

give a deterioration notice to the tenant within 28 days beginning with the date of expiry or termination of the lease.

Deterioration notice

6.—(1) The deterioration notice must be—

- (a) in writing; and
- (b) signed by the authority.

(2) The deterioration notice must include or be accompanied by the following information and evidence:—

- (a) the tenant's full name;
- (b) the tenant's address;
- (c) the allotment site and the location of the allotment which is the subject of the lease within the site;
- (d) the date of the inspection mentioned in regulation 5(a);
- (e) the date of expiry or termination of the lease;
- (f) the reasons it appears to the authority that—
 - (i) the allotment has deteriorated during the tenant's lease; and
 - (ii) the deterioration was caused by the fault or negligence of the tenant;
- (g) a description of the deterioration of the allotment which it appears to the authority has taken place during the tenant's lease;
- (h) the cost of remedying the deterioration;

- (i) photographs, receipts, quotations or other evidence as to the matters mentioned in sub-paragraphs (f), (g) and (h);
 - (j) a statement of the amount of compensation which the tenant is liable to pay under section 134(2) of the Act, based on the matters mentioned in paragraph (3); and
 - (k) particulars of the tenant's right to make representations under regulation 7.
- (3) The matters mentioned in this paragraph are—
- (a) the particulars mentioned in paragraph (2)(h) and (i); or
 - (b) where the lease makes provision about the procedure to be followed in assessing the amount of compensation for which the tenant is liable, that procedure.

Representations by tenant

7. On receipt of a deterioration notice the tenant may, within 28 days beginning with the date on which the notice is given, make oral or written representations to the authority in relation to any matter mentioned in regulation 6(2)(a) to (j).

Authority's decision

8.—(1) The authority must, within 28 days beginning with the expiry of the period mentioned in regulation 7, determine—

- (a) whether or not—
 - (i) the allotment has deteriorated during the tenant's lease; and
 - (ii) the deterioration was caused by the fault or negligence of the tenant; and
- (b) where the determination under sub-paragraph (a) is in the affirmative, the amount of compensation which the tenant is liable to pay under section 134(2) of the Act, based on the matters mentioned in regulation 6(3).

(2) The authority's determination under paragraph (1) must take account of any representations made by the tenant under regulation 7.

(3) The authority must, within 28 days beginning with the expiry of the period mentioned in regulation 7, give written notice to the tenant stating—

- (a) the authority's determination under paragraph (1);
- (b) the amount of compensation which the tenant is liable to pay under section 134(2) of the Act;
- (c) the reasons for the authority's determination; and
- (d) particulars of the tenant's right to appeal a decision of the authority under section 134(7) of the Act.

Payment of compensation

9.—(1) Subject to any appeal by the tenant under section 134(7) of the Act, the tenant must pay the amount of compensation mentioned in the written notice given under regulation 8(3)—

- (a) within 3 months beginning with—
 - (i) the date on which that written notice is given; or
 - (ii) where the tenant appeals under section 134(7) of the Act, the date of determination of the appeal (if the appeal is not upheld); or
- (b) within such longer period as is agreed between the authority and the tenant in writing.

(2) The amount of compensation stated in the notice given under regulation 8(3) is recoverable as a civil debt.