



# Rent (Scotland) Act 1984

## 1984 CHAPTER 58

### PART I

#### PRELIMINARY

#### **1 Protected tenancies.**

- (1) A tenancy under which a dwelling-house (which may be a house or part of a house) is let as a separate dwelling is a protected tenancy for the purposes of this Act unless—
- (a) the rateable value of the dwelling-house on the appropriate day exceeded or, as the case may be, exceeds £200, or in the case of a dwelling-house comprising or forming part of lands and heritages for which a rateable value is or was first shown on the valuation roll on or after 1st April 1978, £600; or
  - (b) the tenancy is one with respect to which section 2 below otherwise provides; or
  - (c) by virtue of section 4 or 5 below, the tenancy is for the time being precluded from being a protected tenancy by reason of the body or entity in whom the landlord's interest is vested; or
  - (d) by virtue of section 6 below, the tenancy has at all times since it was granted been precluded from being a protected tenancy;
- and any reference to a protected tenant shall be construed accordingly.
- (2) In relation to dwelling-houses comprising or forming part of lands and heritages for which a rateable value is or was first shown on the valuation roll on or after 1st April 1978, the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament increase the said sum of £600 in subsection (1) above, and he may make different provision for different classes of case.
- (3) For the purposes of this Act, any land or premises let together with a dwelling-house shall, unless it consists of agricultural land exceeding two acres in extent, be treated as part of the dwelling-house.

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- (4) If any question arises in any proceedings whether a dwelling-house is within the limit of rateable value in subsection (1)(a) above, it shall be deemed to be within that limit unless the contrary is shown.

## **2 Tenancies excepted from definition of “protected tenancy”.**

- (1) A tenancy is not a protected tenancy if—
- (a) under the tenancy either no rent is payable or the rent payable is less than two-thirds of the rateable value which is or was the rateable value of the dwelling-house on the appropriate day; or
  - (b) under the tenancy the dwelling-house is bona fide let at a rent which includes payments in respect of board or attendance; or
  - (c) the tenancy is granted to a person who is pursuing or intends to pursue a course of study provided by a specified educational institution and is so granted either by that institution or by another specified institution or body of persons; or
  - (d) the purpose of the tenancy is to confer on the tenant the right to occupy the dwelling-house for a holiday; or
  - (e) subject to section 1(3) above, the dwelling-house which is subject to the tenancy is let together with land other than the site of the dwelling-house.
- (2) Paragraph (a) of subsection (1) above shall not apply to a converted tenancy after the conversion.
- (3) In the following provisions of this Act, a tenancy falling within paragraph (a) of subsection (1) above is referred to as a “tenancy at a low rent”.
- (4) For the purposes of paragraph (b) of subsection (1) above, a dwelling-house shall not be taken to be bona fide let at a rent which includes payments in respect of attendance unless the amount of rent which is fairly attributable to attendance, having regard to the value of the attendance to the tenant, forms a substantial part of the whole rent.
- (5) In paragraph (c) of subsection (1) above “specified” means specified, or of a class specified, for the purposes of that paragraph by regulations made by the Secretary of State by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **3 Statutory tenants and tenancies.**

- (1) Subject to sections [F13A,] 4 and 5 below—
- (a) after the termination of a protected tenancy of a dwelling-house the person who, immediately before that termination, was the protected tenant of the dwelling-house shall, so long as he retains possession of the dwelling-house without being entitled to do so under a contractual tenancy, be the statutory tenant of it; and
  - (b) the provisions of Schedule 1 to this Act shall have effect for determining what person (if any) is the statutory tenant of a dwelling-house at any time after the death of a person who, immediately before his death, was either a protected tenant of the dwelling-house or the statutory tenant of it by virtue of paragraph (a) above;

and a dwelling-house is referred to as subject to a statutory tenancy when there is a statutory tenant of it.

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- (2) A person who becomes a statutory tenant of a dwelling-house as mentioned in paragraph (a) of subsection (1) above is, in this Act, referred to as a statutory tenant by virtue of his previous protected tenancy, and a person who becomes a statutory tenant as mentioned in paragraph (b) of that subsection is, in this Act, referred to as a statutory tenant by succession.

#### Textual Amendments

F1 “3A,” inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(1), 52

### [<sup>F2</sup>3A Statutory tenants and tenancies: further provision as to succession.

- (1) Where the person who is the original tenant, within the meaning of Schedule 1 to this Act, dies after the commencement of section 46 of the Housing (Scotland) Act 1988, the provisions of Schedule 1A to this Act shall have effect for determining what person (if any) is entitled to a statutory or statutory assured tenancy of the dwelling-house.
- (2) Where subsection (1) above does not apply but the person who is the first successor, within the meaning of the said Schedule 1, dies after the commencement of the said section 46, the provisions of Schedule 1B to this Act shall have effect for determining what person (if any) is entitled to a statutory assured tenancy of the dwelling-house by succession.
- (3) In any case where, by virtue of any provision of the said Schedules 1A or 1B to this Act, a person becomes entitled to an assured tenancy of a dwelling-house by succession, that tenancy shall be a statutory assured tenancy arising by virtue of the said section 46.]

#### Textual Amendments

F2 S. 3A inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(2), 52

### 4 No protected or statutory tenancy where landlord’s interest belongs to Crown.

- (1) Subject to subsection (3) below, a tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to Her Majesty in right of the Crown or to a Government department, or is held in trust for Her Majesty for the purposes of a Government department.
- (2) A person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord, at that time, belongs or is held as mentioned in subsection (1) above.
- (3) An interest belonging to Her Majesty in right of the Crown shall not prevent a tenancy from being a protected tenancy or a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners [<sup>F3</sup>or is an interest to which section 90B(5) of the Scotland Act 1998 applies].

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### Textual Amendments

**F3** Words in s. 4(3) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 18\(2\)](#)

### Modifications etc. (not altering text)

**C1** S. 4 modified by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 60(2), [Sch. 8 Pt. III para. 20\(2\)\(b\)](#)

## 5 No protected or statutory tenancy where landlord's interest belongs to local authority, etc.

- (1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to any of the bodies or entities specified in subsection (2) below, nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord belongs at that time to any of those bodies or entities.
- (2) The bodies and entities referred to in subsection (1) above are—
  - (a) a [<sup>F4</sup>local authority], or a joint board or joint committee as respectively defined by the <sup>M1</sup>Local Government (Scotland) Act 1973, or the common good of [<sup>F4</sup>local authority] or any trust under the control of a [<sup>F4</sup>local authority];
  - <sup>F5</sup>(aa) Scottish Water;
  - (b) a development corporation established by an order made, or having effect as if made, under the <sup>M2</sup>New Towns (Scotland) Act 1968;
  - (c) the Housing Corporation;
  - (d) the Scottish Special Housing Association, or any housing trust which was in existence on 13th November 1953 . . . <sup>F6</sup>; and
  - (e) an urban development corporation within the meaning of Part XVI of the <sup>M3</sup>Local Government, Planning and Land Act 1980.
- (3) In subsection (2)(d) above, “housing trust” means a corporation or body of persons which is required by the terms of its constituent instrument to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of houses and to other purposes incidental thereto.
- (4) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy [<sup>F7</sup>belongs to a housing association which—
  - (a) is registered under the Housing Associations Act <sup>M4</sup>1985, or
  - (b) is a co-operative housing association within the meaning of that Act;
 nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord belongs at that time to such a housing association.]
- (5) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under the tenancy belongs to a housing co-operative, as defined in section [<sup>F8</sup>22 of the Housing (Scotland) Act 1987] (agreements for exercise by housing co-operatives of local authority housing functions) and the dwelling-house is comprised in an agreement to which that section applies or in a similar agreement between the co-operative and the Scottish Special Housing Association.

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[<sup>F9</sup>(5A) A tenancy which is a lease under a shared ownership agreement within the meaning of [<sup>F10</sup>section 83(3) of the Housing (Scotland) Act 2001 (asp 10)] shall not be a protected tenancy.]

(6) Where—

- (a) a tenancy is not a protected tenancy or a statutory tenancy by virtue only of this section, and
- (b) a sub-tenancy of the dwelling-house or any part thereof is created,

then in ascertaining, in relation to the sub-tenancy, what rent is recoverable from the sub-tenant, the provisions of this Act shall apply as if the tenancy were a protected tenancy or a statutory tenancy, as the case may be, and neither the dwelling-house nor any part thereof had ever been let before the beginning of the tenancy.

#### Textual Amendments

- F4** Words in s. 5(2)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 137(2)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F5** S. 5(2)(aa) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **sch. para. 5(2)**
- F6** Words repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339, **Sch. 24** (as amended *retrospectively* by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72, **Sch. 7 para. 30**)
- F7** Words substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 59(2)**
- F8** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339, **Sch. 23 para. 29(1)**
- F9** S. 5(5A) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), **ss. 47(1), 52**
- F10** Words in s. 5(5A) substituted (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 9(2)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to transitional provisions in art. 3)

#### Modifications etc. (not altering text)

- C2** S. 5 excluded by Housing (Scotland) Act 1987 (c. 26, SIF 61), **s. 180(4)**

#### Marginal Citations

- M1** 1973 c. 65.
- M2** 1968 c. 16.
- M3** 1980 c. 65.
- M4** 1985 c. 69(61).

## 6 No protected tenancy where landlord's interest belongs to resident landlord.

(1) Subject to subsection (6) below, a tenancy of a dwelling-house which is granted on or after 1st December 1980 shall not be a protected tenancy at any time if—

- (a) the dwelling-house (not being a whole flat in a purpose-built block of flats) forms part only of a building; and
- (b) subject to subsection (2) below, the tenancy was granted by a person who, at the time when he granted it, occupied as his residence another dwelling-house which also forms part of the building; and
- (c) subject to subsection (3) below, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which also formed part of the building.

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- (2) The condition in paragraph (b) of subsection (1) above shall be deemed to be fulfilled if the tenancy was granted by trustees and, at the time when the tenancy was granted, the interest of the landlord under the tenancy thereby created was held on trust for a person who was entitled to the liferent or to the fee or a share of the fee of that interest and who occupied as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection.
- (3) In determining whether the condition in paragraph (c) of subsection (1) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
- (a) any period of not more than 28 days beginning with the date of the conveyance of the interest of the landlord under the tenancy to an individual who, during that period, does not occupy as his residence another dwelling-house which forms part of the building concerned;
  - (b) if, within a period falling within paragraph (a) above, the individual concerned notifies the tenant in writing of his intention to occupy as his residence another such dwelling-house as is referred to in that paragraph, the period beginning with the date of the conveyance mentioned in that paragraph and ending—
    - (i) at the expiry of the period of 6 months beginning on that date, or
    - (ii) on the date on which the interest of the landlord under the tenancy ceases to be held by that individual, or
    - (iii) on the date on which the condition in subsection (1)(c) above again applies,
 whichever is the earlier; and
  - (c) any period of not more than 24 months beginning with the date of death of the landlord under the tenancy during which the interest of the landlord under the tenancy is vested in his executor.
- (4) Throughout any period which, by virtue of subsection (3)(a) or (b) above, falls to be disregarded for the purpose of determining whether the condition in subsection (1)(c) above is fulfilled with respect to a tenancy, no order for possession of the dwelling-house subject to that tenancy shall be made, other than an order which might be made if that tenancy were or, as the case may be, had been a regulated tenancy.
- (5) During any period when—
- (a) the interest of the landlord under the tenancy referred to in subsection (1) above is vested in trustees, and
  - (b) that interest is held on trust for a person who is entitled to the liferent or to the fee or a share of the fee of that interest and who occupies as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection,
- the condition in paragraph (c) of that subsection shall be deemed to be fulfilled and, accordingly, no part of that period shall be disregarded by virtue of subsection (3) above.
- (6) This section does not apply to a tenancy of a dwelling-house which forms part of a building if the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building.
- (7) For the purposes of this section, a person shall be treated as occupying a dwelling-house as his residence if, so far as the nature of the case allows, he would be regarded

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as retaining possession of the dwelling-house for the purposes of paragraph (a) of section 3(1) above if he were such a person as is referred to in that paragraph.

- (8) For the purposes of this section—
- (a) a building is a purpose-built block of flats if as constructed it contained, and it contains, two or more flats, and for this purpose “flat” has the same meaning as in section [F11 338 of the Housing (Scotland) Act 1987];
  - (b) “conveyance” includes the grant of a tenancy and any other conveyance or transfer other than upon death;
  - (c) “the date of the conveyance” means the date on which the conveyance was granted, delivered or otherwise made effective.

- (9) This section shall apply to a tenancy of a dwelling-house granted on or after 14th August 1974 but before 1st December 1980 as it applies to such a tenancy granted on or after 1st December 1980, but with the substitution for paragraph (a) of subsection (1) above of the following paragraph—

“ (a) the dwelling-house forms part only of a building which is not a purpose-built block of flats; and”.

#### Textual Amendments

**F11** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339, [Sch. 23 para. 29\(2\)](#)

## 7 Rateable value and the appropriate day.

- (1) Except where this Act otherwise provides, the rateable value on any day of a dwelling-house shall be ascertained for the purposes of this Act as follows:—
- (a) if the dwelling-house comprises lands and heritages for which a rateable value is then shown on the valuation roll, it shall be that rateable value;
  - (b) if the dwelling-house forms part only of such lands and heritages, its rateable value shall be taken to be such value as is found by a proper apportionment of the rateable value so shown.
- (2) Any question arising under this section as to the proper apportionment of any value shall be determined by the sheriff, and the decision of the sheriff shall be final.
- (3) In this Act “the appropriate day”,—
- (a) in relation to any dwelling-house which, on 23rd March 1965, comprised or formed part of land and heritages for which a rateable value was shown on the valuation roll then in force, means that date;
  - (b) in relation to any dwelling-house of which a tenancy granted before 1st December 1980 becomes, or would but for its low rent become, a protected tenancy by virtue of section 4(3) above, means 1st December 1980; and
  - (c) in relation to any other dwelling-house means the date on which a rateable value is or was first shown on the valuation roll.
- (4) Where, after the date which is the appropriate day in relation to any dwelling-house, the valuation roll is altered so as to vary the rateable value of the lands and heritages of which the dwelling-house consists or forms part and the alteration has effect from a date not later than the appropriate day, the rateable value of the dwelling-house on the

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appropriate day shall be ascertained as if the value shown on the valuation roll on the appropriate day had been the value shown on the roll as altered.

- (5) The preceding provisions of this section apply in relation to any other land as they apply in relation to a dwelling-house.

## **8 Regulated tenancies.**

- (1) For the purposes of this Act, a “regulated tenancy” is a protected or statutory tenancy.
- (2) Where a regulated tenancy is followed by a statutory tenancy of the same dwelling-house, the two shall be treated for the purposes of this Act as together constituting one regulated tenancy.

## **9 Short tenancies.**

- (1) A protected tenancy created on or after 1st December 1980 is a short tenancy for the purposes of this Act where—
- (a) immediately before the creation of the tenancy the tenant was not a protected or statutory tenant of the dwelling-house, except where he was then a tenant under a short tenancy or a statutory tenant following on the expiry of a short tenancy;
  - (b) the tenancy is for a period specified in the tenancy agreement of not less than one year nor more than five years;
  - (c) the tenancy agreement does not contain any provision whereby the landlord may terminate the tenancy before the expiry of the said specified period other than for non-payment of rent or for breach of any other obligation of the tenancy;
  - (d) before the creation of the tenancy the landlord has served on the tenant notice in writing informing him that the tenancy will be a short tenancy for the purposes of this Act; and
  - (e) either—
    - (i) there is, at the commencement of the tenancy, a rent registered for the dwelling-house which is the subject of the tenancy in the register of rents kept for the purposes of Part V of this Act, or
    - (ii) the landlord has applied for and been granted a certificate of fair rent under section 47 below, and has, within 14 days after the commencement of the tenancy, made an application for that fair rent to be registered under subsection (4) of that section.
- (2) Where a short tenancy has been created in a case to which sub-paragraph (e)(ii) of subsection (1) above applies, the application referred to in that sub-paragraph may not be withdrawn and, notwithstanding the provisions of section 50(1) and (4) below, the rent registered for the dwelling-house shall take effect from the commencement of the tenancy.
- (3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament dispense with the requirements of subsection (1)(e) above in relation to any registration area within the meaning of section 43 below.
- (4) The Secretary of State may by order made by statutory instrument prescribe the form of notice required under subsection (1)(d) above.



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## 10 Premises with business use.

- (1) A tenancy of a dwelling-house which consists of or comprises premises [<sup>F12</sup>which, by virtue of a premises licence issued under the Licensing (Scotland) Act 2005, are licensed for the sale of alcohol (within the meaning of section 2 of that Act) for consumption on the premises] shall not be a protected tenancy, nor shall such a dwelling-house be the subject of a statutory tenancy.
- (2) A tenancy shall not be a regulated tenancy if it is a tenancy to which the <sup>M5</sup>Tenancy of Shops (Scotland) Act 1949 applies (but this provision is without prejudice to the application of any other provision of this Act to a sub-tenancy of any part of the premises comprised in such a tenancy).

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### Textual Amendments

**F12** Words in s. 10(1) substituted (1.9.2009 at 5.00 a.m.) by [The Licensing \(Scotland\) Act 2005 \(Consequential Provisions\) Order 2009 \(S.S.I. 2009/248\)](#), art. 1(1), **sch. 1 para. 4** (with art. 3)

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### Marginal Citations

**M5** 1949 c. 25.

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