
S T A T U T O R Y I N S T R U M E N T S

1980 No. 1389 (S.110)

HOUSING, SCOTLAND

**The Secure Tenancies (Proceedings for Possession) (Scotland)
Order 1980**

Made - - - 12th September 1980

Coming into Operation 3rd October 1980

In exercise of the powers conferred upon me by section 14(3) of the Tenants' Rights, Etc. (Scotland) Act 1980(a) and of all other powers enabling me in that behalf, I hereby make the following order:—

1. This order shall be cited as the Secure Tenancies (Proceedings for Possession) (Scotland) Order 1980, and shall come into operation on 3rd October 1980.

2. Any notice served under section 14 of the Tenants' Rights, Etc. (Scotland) Act 1980 on a tenant under a secure tenancy, within the meaning of Part II of that Act, shall be in the form set out in the Schedule to this order.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
12th September 1980.

SCHEDULE

NOTICE OF PROCEEDINGS FOR RECOVERY OF POSSESSION

This notice is to inform you, _____ (name(s) of secure
tenant(s)) that _____, being the landlord of the
dwellinghouse at _____
may, at any time during the period of 6 months beginning on
(see Note 2), raise proceedings for possession of that dwellinghouse on the following
grounds:

which is/are deemed to fall within the terms of paragraph(s) _____ (see Note 3)
of Part I of Schedule 2 to the Tenants' Rights, Etc. (Scotland) Act 1980.

Signed

Date

Notes for the guidance of tenants

1. This notice is a warning that your landlord may be going to raise proceedings against you in the sheriff court to gain possession of your house. It is not a notice to quit and it does not affect your right to continue living in the house or your obligation to pay rent. You cannot be evicted from your house unless the sheriff court grants your landlord a possession order. You should read the rest of the notes carefully to find out what might happen if your landlord does start possession proceedings against you.

2. Now that this notice has been served on you there is no other preliminary step which your landlord need take before starting court action against you for possession of the house referred to in the notice. The date given in the notice is the earliest date on which your landlord can take court action. After that date the landlord is allowed to start possession proceedings against you at any time during the following 6 months. If that 6 month period passes without possession proceedings being started, your landlord would have to serve another one of these notices on you before it could start court action for possession and that notice would, like this one, have to give you at least 4 weeks warning before court action could be started.

3. Your landlord has explained in the notice the reason or reasons why it is considering taking possession proceedings against you. In order to help you understand your legal position if proceedings are taken, the paragraph number (referring to Part I of Schedule 2 of the Tenants' Rights, Etc. (Scotland) Act 1980) which applies to your landlord's reason for considering possession proceedings is given near the end of the notice. (If, for example, your landlord's reason for considering possession proceedings is rent arrears, the paragraph number given will be 1.) If the number is between 1 and 7, read note 4 below; if the number is between 8 and 14, read note 5 below. If the number is 10, read paragraph 6 below as well as paragraph 5.

4. If the paragraph number given near the end of the notice is between 1 and 7, and your landlord does take court action for possession against you, the sheriff court will be concerned with whether the facts on which your landlord is founding are correct (for example, whether you are in rent arrears if that is the reason which your

landlord has given) and, if it decides that the facts are correct, whether it is reasonable that you should be evicted, which will depend on the circumstances of your case. The court can postpone a decision on the case and impose conditions on you, for example about paying off rent arrears, if it wishes; if you obey the conditions the court would not normally grant your landlord a possession order afterwards. If a possession order is granted against you your landlord will have to evict you once the date given in the order is passed, unless it decides to grant you a new tenancy of your house. If it evicts you it will not be under any obligation to rehouse you. Any action which might be taken by a local authority under its powers and duties in relation to some categories of homeless people is a separate matter and you should not assume that you will be entitled to rehousing.

5. If the paragraph number given near the end of the notice is between 8 and 14, the court must grant a possession order against you provided the landlord can show that it (the landlord) has arranged for suitable alternative accommodation to be available to you. In considering whether alternative accommodation offered to you is suitable the court has to take account of the following points:—

- (a) how near it is to the place where you or any of your family work or go to school, college, etc., compared to the house which you live in now;
- (b) how *large* a house you and your family need;
- (c) its *character* compared to the house which you live in now;
- (d) the *terms* on which it is offered to you compared to the terms of the tenancy of the house which you live in now;
- (e) if the landlord provides any furniture in the house you live in now, whether the house offered will be provided with furniture which is as useful to you;
- (f) any special needs of you and your family.

Your landlord must make you an offer of alternative accommodation in writing, and must give you at least 14 days to make up your mind about the offer. Until your landlord has done this the court will not grant a possession order. Once it has been done the court will grant a possession order unless you tell the court that you do not consider the offer suitable and explain why.

6. If the paragraph number given near the end of the notice is 10, and your landlord only wants to move you out of your house temporarily while works are carried out, the court will make an order entitling you to return to your house once the works are completed. This will not affect your right to suitable alternative accommodation but you will not become the secure tenant of the house that you are moved to, so that you will have no right to stay there once the house which you live in now is ready for you to move back to.

7. If you are at all uncertain about what this notice means or of your rights you should obtain advice as quickly as possible. You may be able to get this from your landlord, from a number of sources of free and independent advice such as your local Citizens' Advice Bureau or Housing Advice Centre or from a solicitor. If you need to employ a solicitor, legal aid may be available, depending on your income.

8. These Notes are intended for the guidance of tenants and are not to be regarded as an authoritative interpretation of the law.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies to Scotland, prescribes the form of notice which is to be used by any landlord listed in section 10(2) of the Tenants' Rights, Etc. (Scotland) Act 1980 when notifying a secure tenant, within the meaning of Part II of that Act, that the landlord may commence possession proceedings in the sheriff court in respect of the dwellinghouse which is the subject of the secure tenancy. The notice sets out the time limits within which the landlord is permitted to commence possession proceedings and the grounds on which the landlord would be seeking possession.

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