Housing (Scotland) Act 2001

2001 asp 10

PART 2

TENANTS OF SOCIAL LANDLORDS

CHAPTER 1

SCOTTISH SECURE TENANCIES

Short Scottish secure tenancies

34 Short Scottish secure tenancies

(1) A tenancy of a house is a short Scottish secure tenancy if—
- (a) it would have been a Scottish secure tenancy but for this section,
- (b) it is for a term of not less than 6 months, and
- (c) before its creation, the prospective landlord serves on the prospective tenant a notice under subsection (4).

(2) A prospective landlord may serve a notice under subsection (4) only where any of the paragraphs of schedule 6 is satisfied.

(3) The Scottish Ministers may by order modify that schedule.

(4) A notice under this subsection—
- (a) must be in such form as the Scottish Ministers may prescribe by regulations,
- (b) must state that the tenancy to which it relates is to be a short Scottish secure tenancy and specify the paragraph of that schedule which is satisfied in relation to it, and
- (c) must specify the term of the tenancy.

(5) At the ish of the tenancy it may continue—
- (a) by tacit relocation, or
- (b) by express agreement,

Status: *Point in time view as at 30/09/2002.*
Changes to legislation: *Housing (Scotland) Act 2001, Cross Heading: Short Scottish secure tenancies is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and the continued tenancy is a short Scottish secure tenancy despite subsection (1) not being satisfied.

(6) The provisions of this Chapter, except sections 11(2) and (4), 12 and 22 and schedules 1 and 3, apply to a short Scottish secure tenancy as they do to a Scottish secure tenancy.

(7) Where a tenancy is a short Scottish secure tenancy by virtue of section 35 or paragraph 1 or 2 of schedule 6 the landlord must provide, or ensure the provision of, such housing support services as it considers appropriate with a view to enabling the conversion of the tenancy to a Scottish secure tenancy by virtue of section 37.

(8) The Scottish Ministers may issue guidance as to the housing support services which are appropriate for the purposes of subsection (7).

Commencement Information

I1 S. 34 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, **art. 2** (subject to transitional provisions and savings in arts. 3-5)

35 Conversion to short Scottish secure tenancy

(1) A Scottish secure tenancy of a house becomes a short Scottish secure tenancy by virtue of this section immediately on the landlord serving on the tenant a notice under subsection (3).

(2) The landlord may serve a notice under subsection (3) only where the tenant (or any one of joint tenants) or a person residing or lodging with, or subtenant of, the tenant is subject to an anti-social behaviour order under section 19 of the Crime and Disorder Act 1998 (c.37).

(3) A notice under this subsection must—

(a) state that the Scottish secure tenancy to which it relates becomes a short Scottish secure tenancy by virtue of service of the notice, and

(b) specify the tenant or other person who is subject to the anti-social behaviour order.

(4) Subsections (5) and (6) of section 34 apply to a tenancy which becomes a short Scottish secure tenancy by virtue of this section.

(5) Where a Scottish secure tenancy becomes a short Scottish secure tenancy by virtue of this section, a tenant who is aggrieved by the conversion may raise proceedings by summary application.

(6) In such proceedings the court may, if it considers that there are good grounds for doing so, grant a declarator that the notice under subsection (3) is of no effect.

Commencement Information

I2 S. 35 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, **art. 2** (subject to transitional provisions and savings in arts. 3-5)

Status: *Point in time view as at 30/09/2002.*
Changes to legislation: *Housing (Scotland) Act 2001, Cross Heading: Short Scottish secure tenancies is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

36 Recovery of possession

(1) The landlord under a short Scottish secure tenancy may raise proceedings by way of summary cause for recovery of possession of the house which is the subject of the tenancy.

(2) Such proceedings may not be raised unless—
- (a) the landlord has served on the tenant a notice complying with subsection (3),
- (b) the proceedings are raised on or after the date specified in the notice, and
- (c) the notice is in force at the time when the proceedings are raised.

(3) A notice under subsection (2) must be in such form as the Scottish Ministers may prescribe by regulations, and must—
- (a) state that the landlord requires possession of the house,
- (b) specify a date, not earlier than—
  - (i) 2 months, or such longer period as the tenancy agreement may provide, from the date of service of the notice, or
  - (ii) the date on which the tenancy could have been brought to an end by a notice to quit had it not been a short Scottish secure tenancy,

  whichever is later, on or after which the landlord may raise proceedings for recovery of possession.

(4) A notice under subsection (2) ceases to be in force 6 months after the date specified in it in accordance with subsection (3)(b) or when it is withdrawn by the landlord, whichever is earlier.

(5) The court must make an order for recovery of possession if it appears to the court that—
- (a) the tenancy has reached the ish referred to in section 34(5),
- (b) tacit relocation is not operating,
- (c) no further contractual tenancy (whether or not a short Scottish secure tenancy) is in existence, and
- (d) subsection (2) has been complied with.

(6) An order under subsection (5) must appoint a date for recovery of possession and has the effect of—
- (a) terminating the tenancy, and
- (b) giving the landlord the right to recover possession of the house,

at that date.

(7) This section is without prejudice to sections 14 and 16.

Commencement Information

I3 S. 36 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, **art. 2** (subject to transitional provisions and savings in arts. 3-5)

37 Conversion to Scottish secure tenancy

(1) Where—

Status: *Point in time view as at 30/09/2002.*
Changes to legislation: *Housing (Scotland) Act 2001, Cross Heading: Short Scottish secure tenancies is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a tenancy is a short Scottish secure tenancy by virtue of section 35 or paragraph 1 or 2 of schedule 6, and

(b) the landlord has not, in the period of 12 months following the creation of the tenancy, served on the tenant a notice under section 14(2) or 36(2),

the tenancy becomes, by virtue of this section, a Scottish secure tenancy with effect from the expiry of that period.

(2) Where subsection (1)(a) applies and the landlord has, in the period of 12 months following the creation of the tenancy, served a notice referred to in subsection (1)(b), then—

(a) if the notice—

(i) has ceased to be in force in accordance with section 14(5) or, as the case may be, 36(4), or

(ii) has been withdrawn by the landlord without proceedings for recovery of possession having been raised,

the tenancy becomes, by virtue of this section, a Scottish secure tenancy with effect from the date on which the notice ceased to be in force or was withdrawn or the expiry of that period of 12 months, whichever is the later,

(b) if proceedings for recovery of possession have been raised and have been finally determined in favour of the tenant, the tenancy becomes, by virtue of this section, a Scottish secure tenancy with effect from the date on which the proceedings were finally determined or the expiry of that period of 12 months, whichever is the later.

(3) For the purposes of subsection (2)(b) proceedings are finally determined when—

(a) the period for appealing against the interlocutor disposing of the proceedings has expired without an appeal being lodged, or

(b) where an appeal has been lodged, the appeal is withdrawn or finally determined.

(4) Where a tenancy becomes a Scottish secure tenancy by virtue of this section, the landlord must notify the tenant of that fact and of the date on which the tenancy became a Scottish secure tenancy.

Commencement Information

I4 S. 37 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, **art. 2** (subject to transitional provisions and savings in arts. 3-5)

Status:
Point in time view as at 30/09/2002.

Changes to legislation:
Housing (Scotland) Act 2001, Cross Heading: Short Scottish secure tenancies is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.