

Changes to legislation: Housing (Scotland) Act 2001, SCHEDULE 1 is up to date with all changes known to be in force on or before 28 November 2020. 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) View outstanding changes

SCHEDULE 1

(introduced by section 11)

TENANCIES WHICH ARE NOT SCOTTISH SECURE TENANCIES

Commencement Information

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

Premises occupied under contract of employment

- 1 (1) A tenancy is not a Scottish secure tenancy if the tenant (or one of joint tenants) is an employee of the landlord or of any local authority and the contract of employment requires the tenant to occupy the house for the better performance of the tenant's duties.
- (2) In sub-paragraph (1), "contract of employment" means a contract of service or of apprenticeship, whether express or implied, and (if express) whether oral or in writing.

Police and fire service accommodation

- 2 ^{F1} ...
- ^{F2}(2) A tenancy is not a Scottish secure tenancy if the landlord is a local authority landlord and—
- (a) the house occupied by the tenant is [^{F3}provided] by the landlord for the purposes of [^{F4}the Police Service of Scotland] , or
 - (b) the tenant is let the house expressly on a temporary basis pending its being required for the purposes of [^{F5}the Police Service of Scotland] .
- (3) Sub-paragraph (2)(a) does not prevent a tenancy from being a Scottish secure tenancy if—
- (a) the tenancy was created before the relevant day,
 - (b) the tenant moved to the house in pursuance of—
 - (i) an order for recovery of possession made under section 16(2) of the Housing (Scotland) Act 2001 (asp 10), on any of the grounds set out in paragraphs 9 to 13 and 15 of schedule 2 to that Act, in respect of a house subject to a Scottish secure tenancy created before the relevant day, or
 - (ii) the operation of section 19(3)(b), 21(3)(b) or 22(6) of that Act following termination of a Scottish secure tenancy created before the relevant day,
 - (c) the tenant moved to the house from a house subject to a Scottish secure tenancy created before the relevant day in pursuance of a decision by the landlord to demolish that other house as a result of which—
 - (i) the tenancy of that other house was terminated by written agreement between the landlord and the tenant, and
 - (ii) the house was made available to the tenant,

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- (d) the tenant occupied the house immediately before the relevant day under a short Scottish secure tenancy which has, since that day, been converted into a Scottish secure tenancy under section 37, or
- (e) the tenant—
 - (i) occupied the house (or any other house held by the landlord for the purposes of a police force) under a Scottish secure tenancy immediately before the creation of the tenancy, and
 - (ii) agreed to terminate that Scottish secure tenancy without having been notified by the landlord of the effect of sub-paragraph (2)(a) at least 28 days before so agreeing.

(4) In this paragraph—

“police force” has the same meaning as in the Police (Scotland) Act 1967 (c.77),
 “relevant day” means the day on which section 154 of the Housing (Scotland) Act 2010 (asp 17) comes into force.]

Textual Amendments

- F1** Words in sch. 1 para. 2 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 8 Pt. 2](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)
- F2** Sch. 1 para. 2(2)-(4) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), [ss. 154\(c\)](#), 166(2); S.S.I. 2011/96, [art. 2](#), [sch.](#)
- F3** Word in sch. 1 para. 2(2)(a) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 18\(a\)](#)
- F4** Words in sch. 1 para. 2(2)(a) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 18\(b\)](#)
- F5** Words in sch. 1 para. 2(2)(b) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 18\(b\)](#)

Lettings to students

- 3 (1) A tenancy is not a Scottish secure tenancy if it is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is granted either by that institution or by another specified institution or body.
- (2) In sub-paragraph (1), “specified” means specified, or of a type specified, by regulations made by the Scottish Ministers.

Temporary accommodation during work

- 4 A tenancy is not a Scottish secure tenancy if—
- (a) the house is occupied by the tenant while work is being carried out on the house which the tenant normally occupies as the tenant’s home, and
 - (b) the tenant is—
 - (i) by agreement, or
 - (ii) by virtue of an order of the sheriff under section 16(6),
 entitled to return there after the work is completed.

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Accommodation for homeless persons

- 5 A tenancy is not a Scottish secure tenancy if the house is being let to the tenant expressly on a temporary basis, for a term of less than 6 months, in fulfilment of a duty imposed on a local authority by Part II (homeless persons) of the 1987 Act.

Accommodation for offenders

- 6 A tenancy is not a Scottish secure tenancy if it is granted, for a term of less than 6 months, to a person—
- (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or
 - (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority's functions under that paragraph.

Shared ownership agreements

- 7 A tenancy is not a Scottish secure tenancy if it is a tenancy under a shared ownership agreement within the meaning of section 83(3).

Agricultural and business premises

- 8 A tenancy is not a Scottish secure tenancy if the house—
- (a) is let together with agricultural land exceeding two acres in extent,
 - (b) consists of or includes premises which are used as a shop or office for business, trade or professional purposes,
 - (c) consists of or includes premises licensed for the sale of [^{F6}alcohol (within the meaning of section 2 of the Licensing (Scotland) Act 2005)] , or
 - (d) is let in conjunction with any purpose mentioned in sub-paragraph (b) or (c).

Textual Amendments

- F6** Words in *sch. 1 para. 8* substituted (1.9.2009 at 5.00 a.m.) by *The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248)*, ***sch. 1 para. 9*** (with art. 3)

Houses part of, or within curtilage of, certain other buildings

- 9 A tenancy is not a Scottish secure tenancy if the house forms part of, or is within the curtilage of, a building which—
- (a) is held by the landlord mainly for purposes other than the provision of housing accommodation, and
 - (b) mainly consists of accommodation other than housing accommodation.

Accommodation in property not owned by landlord

- 10 A tenancy is not a Scottish secure tenancy if the house is leased by the landlord from another body and the terms of the lease preclude the letting of the house by the landlord under a Scottish secure tenancy.

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Accommodation for persons with Temporary Protection

[^{F7}11. A tenancy is not a Scottish secure tenancy if it is granted in order to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005.]

Textual Amendments

F7 Sch. 1 para. 11 inserted (15.6.2005) by [The Displaced Persons \(Temporary Protection\) Regulations 2005 \(S.I. 2005/1379\)](#), reg. 1, **Sch. para. 15**

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Changes and effects yet to be applied to :

- Sch. 1 para. 11 and Italic heading repealed by [S.I. 2019/745 Sch. 3](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(5A) inserted by [2003 asp 10 s. 5\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 34(7A)-(7C) inserted by [2003 asp 10 s. 6\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 34(8)(b) and words inserted by [2003 asp 10 s. 6\(3\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 89(12) inserted by [2019 asp 10 s. 18\(3\)](#)
- sch. 6 para. 5A and cross-heading inserted by [2003 asp 10 s. 5\(5\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)