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**Changes to legislation:** Housing (Scotland) Act 2001, SCHEDULE 5 is up to date with all changes known to be in force on or before 01 December 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

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## SCHEDULE 5

(introduced by sections 28, 32 and 33)

### SCOTTISH SECURE TENANCY: ALTERATIONS, ASSIGNATION, SUBLETTING, EXCHANGE ETC.

#### Commencement Information

- II** Sch. 5 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)

## PART 1

### ALTERATIONS ETC. TO HOUSE

- 1 A tenant under a Scottish secure tenancy who wishes to carry out work must make a written application to the landlord for the landlord's consent, giving details of the proposed work.
- 2 The landlord may—
- (a) consent,
  - (b) consent subject to such reasonable conditions as the landlord may impose, or
  - (c) refuse consent, provided that it is not refused unreasonably.
- 3 The conditions which may be imposed under paragraph 2(b) include conditions as to the standard to which the work is to be carried out; and in considering whether to impose such a condition the landlord must have regard to—
- (a) the age and condition of the house,
  - (b) the cost of complying with the condition, and
  - (c) any guidance issued under section 28(4).
- 4 The landlord must intimate its consent or refusal, any conditions imposed and, in the case of refusal, the reasons for the refusal, to the tenant in writing within one month of receipt of the application.
- 5 If the landlord fails to comply with paragraph 4, it is to be taken to have consented to the application.
- 6 A tenant who is aggrieved by a refusal, or by any condition imposed under paragraph 2(b), may raise proceedings by summary application.
- 7 In such proceedings the court must, unless it considers that the refusal or, as the case may be, the condition is reasonable, order the landlord to consent to the application or to withdraw the condition.
- 8 In deciding whether a refusal or a condition is reasonable the court is to have regard in particular to—
- (a) the safety of occupiers of the house or of any other premises,
  - (b) any expenditure which the landlord is likely to incur as a result of the work,
  - (c) whether the work is likely to reduce the value of the house or of any premises of which it forms part, or to make the house or such premises less suitable for letting or for sale,<sup>F1</sup> ...
  - (d) any effect which the work is likely to have on the extent of the accommodation provided by the house, [<sup>F2</sup>and

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- (e) any code of practice issued by the [<sup>F3</sup>Commission for Equality and Human Rights] which relates to this Part.]

**Textual Amendments**

- F1** Word in sch. 5 para. 8 repealed (4.12.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 54(a)**, 195(3) (with s. 193); [S.S.I. 2006/395](#), art. 2
- F2** Sch. 5 para. 8(e) and word inserted (4.12.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 54(b)**, 195(3) (with s. 193); [S.S.I. 2006/395](#), art. 2
- F3** Words in sch. 5 para. 8(e) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), **Sch. 3 para. 62** (with s. 92); [S.I. 2007/2603](#), art. 2(d)

## PART 2

### ASSIGNATION, SUBLETTING, EXCHANGE ETC.

- 9 A tenant under a Scottish secure tenancy who, in pursuance of section 32(1), wishes to assign, sublet or otherwise give up to another person possession of the house or any part of it or take in a lodger must make a written application to the landlord for the landlord's consent, giving details of the proposed transaction, and in particular of any payment which has been or is to be received by the tenant in consideration of the transaction.
- 10 A tenant under a Scottish secure tenancy who, in pursuance of section 33(1), wishes to exchange the house which is the subject of the tenancy for another house which is the subject of a Scottish secure tenancy must make a written application to the landlord and (if different) to the landlord of the other house for consent, giving details of the proposed transaction and, in particular, of the other house.
- 11 On an application under paragraph 9 or 10 the landlord may—
- (a) consent, or
  - (b) refuse consent, provided that it is not refused unreasonably.
- 12 The landlord must intimate its consent or refusal and, in the case of refusal, the reasons for the refusal, to the tenant in writing within one month of receipt of the application.
- 13 If the landlord fails to comply with paragraph 12, it is to be taken to have consented to the application.
- 14 A tenant who is aggrieved by a refusal may raise proceedings by summary application.
- 15 In such proceedings the court must, unless it considers that the refusal is reasonable, order the landlord to consent to the application.

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**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)