



Housing (Scotland) Act 2001

2001 asp 10

PART 2

TENANTS OF SOCIAL LANDLORDS

CHAPTER 1

SCOTTISH SECURE TENANCIES

Creation and termination of tenancy

16 Powers of court in possession proceedings

- (1) The court may, as it thinks fit, adjourn proceedings under section 14 on a ground set out in any of paragraphs 1 to 7 and 15 of schedule 2 for a period or periods, with or without imposing conditions as to payment of outstanding rent or otherwise.
- (2) Subject to subsection (1), in proceedings under section 14 the court must make an order for recovery of possession if it appears to the court—
 - (a) that—
 - (i) the landlord has a ground for recovery of possession set out in any of paragraphs 1 to 7 of that schedule and specified in the notice required by section 14, and
 - (ii) it is reasonable to make the order,
 - (b) that—
 - (i) the landlord has a ground for recovery of possession set out in any of paragraphs 8 to 14 of that schedule and so specified, and
 - (ii) other suitable accommodation will be available for the tenant when the order takes effect, or
 - (c) that—
 - (i) the landlord has a ground for recovery of possession set out in paragraph 15 of that schedule and so specified,
 - (ii) it is reasonable to make the order, and

Status: Point in time view as at 30/09/2002. This version of this provision has been superseded.

Changes to legislation: Housing (Scotland) Act 2001, Section 16 is up to date with all changes known to be in force on or before 09 November 2023. 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)

- (iii) other suitable accommodation will be available for the tenant when the order takes effect.
- (3) For the purposes of subsection (2)(a)(ii) the court is to have regard, in particular, to—
- (a) the nature, frequency and duration of—
 - (i) where the ground for recovery of possession is one set out in any of paragraphs 1 and 3 to 7 of schedule 2, the conduct taken into account by the court in concluding that the ground is established,
 - (ii) where the ground for recovery of possession is that set out in paragraph 2 of that schedule, the conduct in respect of which the person in question was convicted,
 - (b) the extent to which that conduct is or was conduct of, or a consequence of acts or omissions of, persons other than the tenant,
 - (c) the effect which that conduct has had, is having and is likely to have on any person other than the tenant, and
 - (d) any action taken by the landlord, before raising the proceedings, with a view to securing the cessation of that conduct.
- (4) Part 2 of schedule 2 has effect to determine whether accommodation is suitable for the purposes of subsection (2)(b) or (c).
- (5) An order under subsection (2) 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.
- (6) Where, in proceedings under section 14 on the ground set out in paragraph 10 of schedule 2, it appears to the court that the landlord intends that—
- (a) substantial work will be carried out on the building (or a part of the building) which comprises or includes the house, and
 - (b) the tenant should return to the house after the work is completed,
- the court must make an order that the tenant is entitled to return to the house after the work is completed; and subsection (5)(a) does not apply in such a case.

Commencement Information

- II** S. 16 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)

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