



# Homelessness etc. (Scotland) Act 2003

## 2003 asp 10

### *Intentional homelessness*

#### **4 Inquiries as to intentional homelessness**

- (1) In section 28(2) (further inquiries in cases of homelessness or threatened homelessness) of the 1987 Act, for the words from “shall” to “(b)” substitute—
  - “(a) shall make any further inquiries necessary to satisfy themselves as to whether he has a priority need, and
  - (b) may, if they think fit, make any further inquiries necessary to satisfy themselves as to”.
- (2) In section 30(3)(a) (notification of decision on intentional homelessness) of that Act, at the beginning insert “where they have made inquiries under section 28(2)(b).”.

#### **5 Accommodation for intentionally homeless persons with priority need**

- (1) In section 24 (definition of homelessness) of the 1987 Act, in subsection (3), after paragraph (e) insert “; or
  - (f) it is not accommodation secured by—
    - (i) a short Scottish secure tenancy granted in pursuance of paragraph 5A of schedule 6 to the Housing (Scotland) Act 2001 (asp 10), or
    - (ii) a Scottish secure tenancy,  
in circumstances where, immediately before his occupation of it, a local authority had a duty under section 31(2A) or (2B)(a) in relation to him.”
- (2) In section 31 (duties to persons found to be homeless) of that Act, after subsection (2) insert—

“(2A) Where—

  - (a) they are satisfied that he has a priority need and that he became homeless intentionally; and
  - (b) he does not fall within subsection (2C),

they shall secure that accommodation secured by a short Scottish secure tenancy granted in pursuance of paragraph 5A of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) becomes available for his occupation.

(2B) Where they are satisfied as mentioned in subsection (2A)(a) and he falls within subsection (2C), they shall—

- (a) if (but only if) they think fit, secure that accommodation secured by a short Scottish secure tenancy of the type referred to in subsection (2A) becomes available for his occupation;
- (b) in any other case—
  - (i) secure that accommodation becomes available for his occupation on a basis to which section 7 (persons living in hostel and other short-term accommodation) of the Housing (Scotland) Act 2001 (asp 10) applies; and
  - (ii) provide, or ensure the provision of, such housing support services (within the meaning of section 91(8) of that Act) as they consider appropriate with a view to securing that he becomes entitled to accommodation in pursuance of paragraph (a) of this subsection,

until either he becomes entitled to accommodation in pursuance of subsection (2A) or paragraph (a) of this subsection or he himself secures accommodation for his occupation.

(2C) An applicant falls within this subsection if—

- (a) he has been the tenant in a short Scottish secure tenancy granted in pursuance of paragraph 5A of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) which was, within the preceding 12 months, terminated by an order under section 16(2)(a) or 36 of that Act,
- (b) an order for recovery of possession has, within the preceding 3 years, been made against the applicant, or a person who it is proposed will reside with him, in proceedings under any of the enactments mentioned in paragraph 1(a) to (f) of schedule 6 to that Act on the ground specified in relation to the enactment in question, or
- (c) the applicant, or a person who it is proposed will reside with him, is subject to an anti-social behaviour order under section 19 of the Crime and Disorder Act 1998 (c. 37)."

(3) In section 36(2) (protection of property of homeless persons and persons threatened with homelessness) of that Act, after "31(2)" insert ", (2A) or (2B)".

(4) In section 5 (duty of registered social landlord to provide accommodation) of the 2001 Act—

- (a) in subsection (1), after "31(2)" insert ", (2A) or (2B)",
- (b) in subsection (4), after "request" insert "made for the purposes of section 31(2) of the 1987 Act",
- (c) after subsection (5) insert—

"(5A) A registered social landlord complies with such a request made for the purposes of section 31(2A) or (2B)(a) of the 1987 Act only if it provides for the person concerned accommodation secured by a short Scottish secure tenancy granted in pursuance of paragraph 5A of schedule 6."

- (5) In schedule 6 (grounds for granting short Scottish secure tenancy) to that Act, after paragraph 5 insert—

*“Accommodation for intentionally homeless persons with priority need*

- 5A The house is to be let expressly on a temporary basis, for a period of not less than a year, to a person in fulfilment of a duty imposed on a local authority by section 31(2A) or (2B)(a) of the 1987 Act.”

## **6 Intentionally homeless persons: short Scottish secure tenancies**

- (1) In section 34 (short Scottish secure tenancies) of the 2001 Act, after subsection (6) insert—

“(6A) Where a tenancy is a short Scottish secure tenancy by virtue of paragraph 5A of schedule 6, paragraph 16 of schedule 2 applies with the substitution for sub-paragraph (a) of the following—

- “(a) it consists of premises which are to be let by the landlord as a separate dwelling under a short Scottish secure tenancy granted in pursuance of paragraph 5A of schedule 6.””

- (2) After subsection (7) of that section insert—

“(7A) Where a tenancy is a short Scottish secure tenancy by virtue of paragraph 5A of schedule 6—

- (a) the local authority for the area 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, and
- (b) the landlord (if not that authority) must provide the local authority with such information as the authority may reasonably seek in relation to the operation of the tenancy and the housing support services provided in pursuance of paragraph (a).

(7B) The rights and obligations of the tenant in relation to housing support services to be provided in pursuance of subsection (7A)(a) must be included in the tenancy agreement.

(7C) The local authority, the landlord (if not that authority) and the tenant must from time to time jointly review the extent to which the tenant is complying with the obligations referred to in subsection (7B) and the tenant’s obligations under the tenancy agreement.”

- (3) In subsection (8) of that section—

- (a) after “to” insert—

“(a),”

- (b) at the end insert “or (7A), and

- (b) the procedure to be followed in relation to reviews under subsection (7C) and the action to be taken following such reviews.”

- (4) In section 37(1)(a) (conversion to Scottish secure tenancy) of that Act, for the words “or 2” substitute “, 2 or 5A”.