

Status: Point in time view as at 01/12/2015.

Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, SCHEDULE 2. (See end of Document for details)

SCHEDULE 2

(introduced by section 22)

PRIVATE RENTED HOUSING COMMITTEES: PROCEDURE ETC.

Notification of referral

- 1 (1) The private rented housing committee to which [^{F1}an application] is referred under section 23(1) must, as soon as practicable after receiving the reference, serve notice on the landlord and the tenant—
- (a) setting out the detail of the application in such manner as the committee think fit,
 - (b) stating that the president of the private rented housing panel has referred the application to the committee for determination, and
 - (c) specifying the day by which any—
 - (i) written representations, or
 - (ii) request to make oral representations,must be made.
- (2) The day so specified—
- (a) must be at least 14 days after the day on which the notice is served, and
 - (b) may, at the request of [^{F2}the landlord or the tenant], be changed to such later day as the committee think fit.
- (3) The committee must notify [^{F3}the landlord and the tenant] of any change under sub-paragraph (2)(b).
- [^{F4}(4) In the case of an application under section 22(1A), the committee must, in addition to carrying out the matters mentioned in sub-paragraphs (1) to (3)—
- (a) serve on the third party applicant a notice containing the matters mentioned in sub-paragraph (1)(a) to (c),
 - (b) if the committee thinks fit following a request of the third party applicant, change the day specified for the purposes of sub-paragraph (1)(c),
 - (c) notify—
 - (i) the third party applicant of any change under sub-paragraph (2)(b),
 - (ii) the landlord and the tenant of any change under paragraph (b).]

Textual Amendments

- F1** Words in sch. 2 para. 1(1) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(1\)\(a\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F2** Words in sch. 2 para. 1(2) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(1\)\(b\), 104\(3\); S.S.I. 2015/272, art. 2, Sch.](#)
- F3** Words in sch. 2 para. 1(3) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(1\)\(c\), 104\(3\); S.S.I. 2015/272, art. 2, Sch.](#)
- F4** Sch. 2 para. 1(4) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(1\)\(d\), 104\(3\); S.S.I. 2015/272, art. 2, Sch.](#)

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Inquiries

- 2 (1) The committee may, in considering an application, make such inquiries as they think fit for the purposes of determining whether the landlord has complied with the duty imposed by section 14(1)(b) in relation to the house concerned.
- (2) Inquiries may be made about matters other than those to which the application relates.
- (3) Inquiries must include—
- (a) consideration of any timeous written representation made by or on behalf of the landlord [^{F5}, the tenant or, as the case may be, third party applicant] ,
 - (b) where the committee receives a timeous request to make an oral representation, hearing any such representation made by or on behalf of the landlord [^{F6}, tenant or, as the case may be, third party applicant] who made the request, and
 - (c) consideration of any report about the state of repair of the house concerned which the committee requests a third party to prepare.
- (4) A representation or request is timeous if it is received—
- (a) by the day specified [^{F7}in accordance with] paragraph 1(1)(c), or
 - (b) where a later day is specified [^{F8}in accordance with paragraph 1(2)(b) or (4)(b)] , by that later day.

Textual Amendments

- F5** Words in sch. 2 para. 2(3)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(2\)\(a\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F6** Words in sch. 2 para. 2(3)(b) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(2\)\(b\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F7** Words in sch. 2 para. 2(4)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(2\)\(c\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F8** Words in sch. 2 para. 2(4)(b) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(2\)\(d\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)

Evidence

- 3 (1) The committee may, for the purposes of making inquiries, require the landlord, the tenant [^{F9}, third party applicant] or any other person—
- (a) to attend a hearing of the committee, at such time and place as the committee may specify, for the purposes of giving evidence,
 - (b) to give the committee, by such day as they may specify, such documents or information as they may reasonably require.
- (2) Sub-paragraph (1) does not authorise the committee to require any person to answer any question or to disclose anything which the person would be entitled to refuse to answer or disclose on grounds of confidentiality in civil proceedings in the Court of Session.
- (3) Any person on whom a requirement under sub-paragraph (1) is served who—
- (a) fails to attend a hearing of the committee as required by the citation,
 - (b) refuses or fails, while attending such a hearing as so required, to answer any question,

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- (c) refuses or fails to give the committee any document or information so required,
- (d) knowingly or recklessly makes any statement in respect of any information so required which is false or misleading in a material respect, or
- (e) deliberately alters, suppresses, conceals or destroys any document so required,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) It is a defence for a person charged with an offence under sub-paragraph (3)(a), (b) or (c) to show that the person had a reasonable excuse for the refusal or failure.

Textual Amendments

F9 Words in sch. 2 para. 3(1) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(3\), 104\(3\); S.S.I. 2015/272, art. 2, Sch.](#)

Duty to consult on provision for detecting fires

- 4 The committee must, where the application relates to the standard of repair mentioned in section 13(1)(f), consult the chief officer of the [^{F10}Scottish Fire and Rescue Service].

Textual Amendments

F10 Words in Sch. 2 para. 4 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 70; S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

Expenses

- 5 (1) The Scottish Ministers may pay to any person such allowances and expenses as they may determine in respect of—
- (a) the person's attendance at a hearing of any private rented housing committee,
 - (b) the disclosure of anything required or requested by a committee (including any report about the state of repair of a house which the committee requests the person to prepare),
 - (c) anything else which the person was required or requested to do for the purposes of or in connection with inquiries made by a committee.
- (2) No such payments may be made to—
- (a) the landlord,
 - (b) the tenant, or
 - [^{F11}(ba) the third party applicant,]
 - (c) a representative of the landlord [^{F12}, tenant or third party applicant] ,
- other than payments of reasonable travelling expenses in respect of attendance at a hearing of any private rented housing committee.

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Textual Amendments

- F11** Sch. 2 para. 5(2)(ba) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(4)(a)**, 104(3); [S.S.I. 2015/272](#), **art. 2**, Sch.
- F12** Words in sch. 2 para. 5(2)(c) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(4)(b)**, 104(3); [S.S.I. 2015/272](#), **art. 2**, Sch.

Recording and notification of decisions

- 6 (1) This paragraph applies to any decision of a private rented housing committee—
- (a) under section 24(1) (decision on ^{F13}an application),
 - (b) to vary or revoke a repairing standard enforcement order (see section 25),
 - (c) that a landlord has failed to comply with a repairing standard enforcement order (see section 26(1)),
 - (d) to make or not to make a rent relief order (see section 26(2)(b)),
 - (e) to revoke a rent relief order (see section 27(4)),
 - (f) to consent under section 28(6) to the landlord entering into a tenancy or occupancy arrangement,
 - (g) to grant, or to refuse to grant, a certificate under section 60.
- (2) A decision to which this paragraph applies—
- (a) may be reached by majority, and
 - (b) must be recorded in a document which—
 - (i) contains a full statement of the facts found by the committee and the reasons for their decision,
 - (ii) explains the procedure, if any, for appealing the decision, and
 - (iii) narrates the effect of section 63 (which sets the date from which the decision, and any order made or varied in pursuance of it, has effect).
- (3) The committee must, as soon as reasonably practicable after making a decision to which this paragraph applies, serve notice of the decision on—
- (a) the landlord,
 - (b) the tenant,
 - (c) where the committee is aware of the name and address of a person who acts for the tenant in relation to the tenant's application, that person, ^{F14}...
 - ^{F15}(d) in the case of an application under section 22(1A), the third party applicant, and
 - (e) the local authority (unless the local authority is the third party applicant in relation to the decision).]
- (4) Such a notice must be accompanied by a copy of—
- (a) the document mentioned in sub-paragraph (2)(b),
 - (b) any order made or varied, or certificate granted, in pursuance of the decision, and
 - (c) any report which the committee considered before making the decision.
- (5) The local authority is entitled to disclose any notice and any copy document, order, certificate or report it receives under this paragraph to—
- (a) an authority administering housing benefit [^{F16}or universal credit],

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- (b) a person providing services relating to housing benefit [^{F16}or universal credit] to, or authorised to discharge any function relating to housing benefit [^{F16}or universal credit] of—
- (i) a local authority, or
 - (ii) an authority administering housing benefit [^{F16}or universal credit].

Textual Amendments

- F13** Word in sch. 2 para. 6(1)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(5\)\(a\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F14** Word in sch. 2 para. 6(3)(c) repealed (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(5\)\(b\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F15** Sch. 2 para. 6(3)(d)(e) substituted for sch. 2 para. 6(3)(d) (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(5\)\(c\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F16** Words in Sch. 2 para. 6(5) inserted (29.4.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 2\) Regulations 2013 \(S.S.I. 2013/137\), regs. 1, 7](#)

Withdrawal of application

- 7 (1) A tenant may withdraw an application under section 22(1) at any time (and the tenant is to be treated as having withdrawn it if the tenancy concerned is lawfully terminated).
- [^{F17}(1A) A third party applicant may withdraw an application under section 22(1A) at any time.]
- (2) Where an application is withdrawn before the president of the private rented housing panel refers the case to a private rented housing committee, the president may—
- (a) abandon the application, or
 - (b) despite the withdrawal, continue to refer the case to a private rented housing committee.
- (3) Where an application is withdrawn after it has been referred to a private rented housing committee, the committee may—
- (a) abandon their consideration of the application, or
 - (b) despite the withdrawal—
 - (i) continue to determine the application, and
 - (ii) if they do so by deciding that the landlord has failed to comply with the duty imposed by section 14(1), make and enforce a repairing standard enforcement order.

Textual Amendments

- F17** Sch. 2 para. 7(1A) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(6\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)

Procedure: further provision.

- 8 (1) The Scottish Ministers may by regulations make further provision about the making or determination of applications under section 22(1) [^{F18}and 22(1A)].

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- (2) Those regulations may, in particular, provide that matters which are preliminary or incidental to the determination of such an application may be dealt with by any individual member of the private rented housing panel or a private rented housing committee alone.

Textual Amendments

- F18** Words in sch. 2 para. 8(1) inserted (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(7)**, [104\(3\)](#); [S.S.I. 2014/264](#), **art. 2**, sch.

Commencement Information

- II** Sch. 2 para. 8 not in force at Royal Assent see s. 195(3); Sch. 2 para. 8 in force for certain purposes at 4.12.2006 by [S.S.I. 2006/569](#), **art. 2**; Sch. 2 para. 8 in force at 3.9.2007 by [S.S.I. 2007/270](#), {art. 3 Table}

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