



Long Leases (Scotland) Act 2012

2012 asp 9

PART 4

COMPENSATION FOR LOSS OF LANDLORD'S RIGHTS

Supplementary

56 Claims in excess of £500: preliminary notice

- (1) This section applies where a landlord intends, after the appointed day, to require or (as the case may be) claim from the tenant under a qualifying lease—
 - (a) a compensatory payment which is,
 - (b) an additional payment which is, or
 - (c) two or more additional payments which, taken together, are, likely to exceed £500.
- (2) The landlord must, not later than 6 months before the appointed day, serve on the person registered as tenant a notice (such notice being referred to in this Act as a “preliminary notice”) stating the landlord’s intention to require or (as the case may be) claim such a payment.
- (3) The preliminary notice must—
 - (a) be in the prescribed form,
 - (b) state—
 - (i) the amount of compensatory payment to be required or (as the case may be) additional payment to be claimed, or
 - (ii) where such amount cannot be determined, the best estimate of such amount, and
 - (c) be accompanied by a copy of the prescribed explanatory note.
- (4) Where a preliminary notice has not been served in accordance with this section—
 - (a) the amount of compensatory payment required under section 45(2),
 - (b) the amount of additional payment claimed under section 50(2), or
 - (c) where two or more additional payments are claimed, the total amount of such payments,

may not exceed £500.

57 Making payment by instalments

- (1) This section applies where an instalment document under section 45(5), 50(5) or 54(4) is served on a former tenant.
- (2) An instalment document must be—
 - (a) a filled out document in the prescribed form, and
 - (b) accompanied by a copy of the prescribed explanatory note.
- (3) Subject to subsection (4), the former tenant obtains the option of making the compensatory or (as the case may be) additional payment by instalments only if—
 - (a) the former tenant signs, dates and returns the instalment document within the period which (but for this section) is allowed for making that payment—
 - (i) in the case of a compensatory payment, under section 46, or
 - (ii) in the case of an additional payment, under section 53(2) or (as the case may be) 54(5), and
 - (b) when so returning such document, the former tenant pays to the former landlord an amount equivalent to one tenth of the payment (such amount being payable in addition to the payment and irrespective of how or when such payment is subsequently made).
- (4) If on or after the date on which an instalment document is served on the former tenant under a qualifying lease the former tenant ceases, by virtue of a sale or transfer for valuable consideration, to have right to the land in respect of which the claim for payment has been made or any part of that land then—
 - (a) where the former tenant has obtained the option mentioned in subsection (3), the former tenant loses that option and the outstanding balance of the entire payment falls due on the seventh day after the day on which the former tenant ceases to have that right, and
 - (b) where the former tenant has not obtained that option, the former tenant loses the right to obtain it and the following apply accordingly—
 - (i) in the case of a compensatory payment, section 46(2), or
 - (ii) in the case of an additional payment, section 53(2) or (as the case may be) 54(5).
- (5) Subsections (6) to (8) apply where the option of making the payment by instalments is obtained.
- (6) The instalments are to be equal instalments payable on the term days of Whitsunday and Martinmas which follow the making of the payment under subsection (3)(b).
- (7) The number of instalments is set out in the following table—

<i>Amount of compensatory or additional payment</i>	<i>Number of instalments</i>
£50 or more than £50 but no more than £500	5
More than £500 but no more than £1,000	10

Status: This is the original version (as it was originally enacted).

<i>Amount of compensatory or additional payment</i>	<i>Number of instalments</i>
More than £1,000 but no more than £1,500	15
More than £1,500	20

- (8) In a case where any instalment payable by virtue of subsections (6) and (7) remains unpaid for 42 days after falling due, the outstanding balance of the entire payment immediately falls due.
- (9) In any other case, the former tenant may pay that outstanding balance at any time.

58 Collecting third party to disclose information

- (1) This section applies where a landlord or (as the case may be) former landlord receives or has at any time received from a third party an amount—
- (a) collected in respect of rent from, and
 - (b) remitted to the landlord or former landlord on behalf of,
- a tenant or (as the case may be) former tenant.
- (2) The third party must—
- (a) if required by the landlord or (as the case may be) former landlord for the purpose of serving notice under section 45(2),
 - (b) in so far as it is practicable, and
 - (c) as soon as is reasonably practicable,
- disclose to the landlord or former landlord the information mentioned in subsection (3).
- (3) The information referred to in subsection (2) is—
- (a) the identity and address of the tenant or former tenant, and
 - (b) in a case where the rent remitted is part of a *cumulo* rent, the amount so collected from the tenant or former tenant.

59 Duty to disclose identity etc. of former tenant

- (1) This section applies where—
- (a) a former landlord purports to serve notice under section 45(2) or 50(2) on the former tenant, and
 - (b) the person on whom that notice is served—
 - (i) was the tenant at some time before the appointed day, but
 - (ii) is not the former tenant.
- (2) The person on whom the notice is served must as soon as is reasonably practicable disclose to the former landlord—
- (a) the identity and address of the former tenant, or
 - (b) (if that person cannot do so) such other information as that person has which might enable the former landlord to discover that identity and address.

60 Prescription of requirement to make payment

In Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 (c.52) (which specifies obligations affected by prescriptive periods of 5 years under section 6 of that Act)—

- (a) in paragraph 1, after sub-paragraph (ac) there is inserted—
 - “(aca) to any obligation to make a payment under section 46, 53(2) or 54(5) of the Long Leases (Scotland) Act 2012 (asp 9),” and
- (b) in paragraph 2(e), for the words “, (aa), (ab) or (ac)” substitute “to (aca)”.

61 Interpretation of Part 4

- (1) In this Part—
 - “former landlord”, in relation to a lease, means the person who was the landlord immediately before the appointed day, and
 - “former tenant”, in relation to a lease, means the person who was the tenant immediately before the appointed day.
- (2) Where, immediately before the appointed day, the right as tenant under a lease is held by two or more persons in common—
 - (a) they are—
 - (i) severally liable to make any compensatory or (as the case may be) additional payment,
 - (ii) as between themselves, liable in the proportions in which they hold the right as tenant, and
 - (b) subject to section 74, they are together to be treated for the purposes of this Part as being a single tenant.