

HOUSING (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part Two – Social Housing

Allocation of social housing

Short Scottish secure tenancy

18. [Section 7\(1\)](#) provides the Scottish Ministers with a power to issue guidance on the creation of a short Scottish secure tenancy for antisocial behaviour and on taking certain steps in relation to such a tenancy. Before publishing this guidance, the Scottish Ministers must consult with such persons as they consider appropriate. Subsection (1) also amends section 34(7) of the 2001 Act to require the landlord to provide, or ensure provision of, the housing support services it considers appropriate to enable the conversion of the tenancy to a Scottish secure tenancy.
19. [Section 7\(2\)](#) substitutes a new subsection (2) in section 35 of the 2001 Act. New section 35(2) extends the circumstances in which a landlord may serve a notice on a tenant under subsection (3) (a notice stating that the Scottish secure tenancy becomes a short Scottish secure tenancy). The circumstances include where a tenant or person associated with the tenant has, within the period of three years preceding the date of service of the notice, acted in an antisocial manner, pursued a course of conduct amounting to harassment or a course of conduct which is otherwise antisocial in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality. Section 7(2) also amends section 35(3) of the 2001 Act in relation to the information that must be included in the notice to the tenant. Where no anti-social behaviour order applies, this must include the name of the person who has behaved in an antisocial manner, the actions of the tenant or other person which the landlord has taken into account, the landlord's reasons for serving the notice and an explanation of the tenant's right of appeal to a court. Subsection 7(3) makes a consequential amendment to section 37(1) (conversion to a Scottish secure tenancy) of the 2001 Act.
20. [Section 7\(4\)](#) inserts new paragraph 2A in schedule 6 to the 2001 Act to provide that the conduct referred to in new section 34(2)(b) if carried out by the persons referred to in new paragraph 2A(2), within the period of three years preceding the date of service of the notice, is a new ground for granting applicants a short Scottish secure tenancy. It also amends paragraph 6 of schedule 6 to the 2001 Act so that the ground for granting a short Scottish secure tenancy related to accommodation for a person in receipt of housing support only applies when no other paragraph in that schedule applies and where the person is in receipt of a housing support service. Section 7(5) makes another consequential amendment to section 31(5) of the 1987 Act to include new paragraph 2A as accommodation considered to be permanent accommodation under the duties of local authorities to persons found to be homeless.
21. [Section 8](#) creates a new ground for granting a short Scottish secure tenancy, for homeowners, where the house is to be let expressly on a temporary basis to a person who owns heritable property, or where a person who it is proposed will reside with

them owns heritable property. This is to allow them to make arrangements in respect of the heritable property they own, including sale or installation of adaptations, that will allow the person's housing needs to be met.

22. **Section 9(1)** amends section 34 of the 2001 Act to give short Scottish secure tenancies granted on the grounds of antisocial behaviour or a previous eviction order a term of 12 months. It also amends section 34 to provide that, at the end of the 12-month term, the tenancy cannot continue as a short Scottish secure tenancy on the same terms and conditions. Subsection (2) amends section 35 of the 2001 Act to provide that a short Scottish secure tenancy created by virtue of that section also has a term of 12 months. It also provides that, at the end of the 12-month term, the tenancy cannot continue as a short Scottish secure tenancy on the same terms and conditions. Subsection (3) inserts new subsection (5) and (6) into section 37 of the 2001 Act (conversion to Scottish secure tenancy) to provide that after this period, the short Scottish secure tenancy will automatically convert to a Scottish secure tenancy (unless the social landlord has taken steps to extend the short Scottish secure tenancy by a further six months or to seek repossession of the tenancy) on the term which applied before the tenancy became a short Scottish secure tenancy.
23. **Section 10** inserts new section 35A in the 2001 Act to provide that the term of a short Scottish secure tenancy granted on antisocial behaviour or previous eviction grounds may be extended by a further period of six months from the date which would otherwise be the expiry day of that tenancy. Tenants must have been given two months' notice of the extension (including the reasons for the extension) and must be being given housing support services. An extension may be required because the tenant requires support for a further period in order for the tenant to be able to sustain a Scottish secure tenancy. Subsection (2) makes consequential amendments to section 37 of the 2001 Act.
24. **Section 11** amends section 36 of the 2001 Act. Section 11(a) inserts a new subparagraph (aa) in section 36(2) to provide that proceedings for recovery of possession may not be raised, in the case of short Scottish secure tenancies created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 (those granted on antisocial behaviour or previous eviction grounds), unless the landlord considers that any obligation of the tenancy has been broken. Section 11(b) inserts a new subparagraph (aa) into section 36(3) to require landlords of such tenancies to give tenants reasons why they are seeking recovery of possession of the tenancy (including, if new subsection (2) (aa) applies, the obligations the landlord considers have been broken). This section also gives tenants a right to request that their landlord review the decision to seek recovery of possession before the case goes to court (new subsection (4A)). New subsection (4C) gives the Scottish Ministers the power by regulations to make provisions about the procedure to be followed in such reviews. Section 11(d) provides that, in cases where section 36(2)(aa) applies, the court must make an order for recovery of possession of the tenancy where the tenancy has reached the end of its 12-month term (or, in a case where an extension applies, the 18-month term applicable to it) and the landlord considers that an obligation of the tenancy has been broken. Section 11(f) inserts a new subsection (8) into section 36 of the 2001 Act to allow the procedure for recovery of possession (with respect to the serving of the notice for recovery of possession) under Scottish secure tenancies to also be used with short Scottish secure tenancies so long as the tenant has been given four weeks' notice prior to the landlord raising proceedings for recovery of possession.