



Housing (Scotland) Act 2014

2014 asp 14

PART 2

SOCIAL HOUSING

Allocation of social housing

3 Reasonable preference in allocation of social housing

In section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing), for subsection (1) substitute—

“(1) A social landlord must, in relation to all houses held by it for housing purposes, secure that in the selection of its tenants a reasonable preference is given to the persons mentioned in subsection (1ZA).

(1ZA) The persons are—

- (a) persons who—
 - (i) subject to subsection (1A), are homeless persons and persons threatened with homelessness (within the meaning of Part 2), and
 - (ii) have unmet housing needs,
- (b) persons who—
 - (i) are living under unsatisfactory housing conditions, and
 - (ii) have unmet housing needs, and
- (c) tenants of houses which—
 - (i) are held by a social landlord, and
 - (ii) the social landlord selecting its tenants considers to be under-occupied.

(1ZB) For the purposes of subsection (1ZA), persons have unmet housing needs where the social landlord considers the persons to have housing needs which are not capable of being met by housing options which are available.”.

4 Rules on priority of allocation of housing: consultation

- (1) After section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing), insert—

“20A Rules on priority of allocation of housing: consultation

- (1) Before making or altering its rules governing the priority of allocation of houses, a social landlord must—
- (a) consult the persons mentioned in subsection (2), and
 - (b) prepare and publish a report on the consultation.
- (2) The persons are—
- (a) applicants on its housing list (within the meaning of section 19),
 - (b) tenants of the landlord,
 - (c) bodies for the time being registered in the register of tenant organisations maintained by the landlord under section 53(3) of the Housing (Scotland) Act 2001 (asp 10), and
 - (d) such other persons as the landlord thinks fit.
- (3) A social landlord may publish a consultation report mentioned in subsection (1)(b) in such manner as it thinks fit (and may in particular publish a joint report with any other social landlord).”.

- (2) In section 21 of the 1987 Act, after subsection (3) insert—

“(3A) In making or altering its rules governing the priority of allocation of houses, a social landlord must have regard to—

- (a) any local housing strategy (within the meaning of section 89(1)(b) of the Housing (Scotland) Act 2001) for its area, and
- (b) any guidance published by the Scottish Ministers.

(3B) Before publishing any guidance mentioned in subsection (3A), the Scottish Ministers must consult such persons as they consider appropriate.

(3C) The Scottish Ministers may by regulations prescribe persons of a description or type who a social landlord must include in its rules governing the priority of allocation of houses.

(3D) Regulations under subsection (3C) are subject to the affirmative procedure.”.

- (3) The title of section 21 of the 1987 Act becomes “**Rules relating to the housing list and to transfer of tenants**”.

5 Factors which may be considered in allocation: ownership of property

- (1) In section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing), for subsection (2)(a)(viii) substitute—

“(viii) where any of the circumstances in subsection (2C) apply to that person, the ownership of, or value of, heritable property owned by—

- (A) the applicant,
- (B) a person who normally resides with the applicant, or

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(C) a person who it is proposed will reside with the applicant.”.

(2) After subsection (2B) insert—

“(2C) The circumstances are that—

- (a) in the case of a property which has not been let, the owner cannot secure entry to that property,
- (b) it is probable that occupation of the property will lead to abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 ([asp 14](#))) from some other person residing in that property,
- (c) it is probable that occupation of it will lead to abuse (within the meaning of that Act) from some other person who previously resided with that person, whether in that property or elsewhere,
- (d) occupation of the property may endanger the health of the occupants and there are no reasonable steps which can be taken by the applicant to prevent that danger.”.

6 Determination of minimum period for application to remain in force

(1) In section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing)—

- (a) in subsection (2)(a)(iii), at the beginning insert “except to the extent permitted by section 20B,”, and
- (b) in subsection (2)(b)(i), at the beginning insert “except to the extent permitted by section 20B,”.

(2) After section 20A of the 1987 Act (inserted by section 4(1)), insert—

“20B Determination of minimum period for application to remain in force

(1) A social landlord may impose a requirement that an application must have remained in force for a minimum period before the applicant is eligible for the allocation of housing falling within section 20(1) if, before making that application, any of the circumstances mentioned—

- (a) in subsection (6) applied in relation to the applicant, or
- (b) in paragraphs (a) to (g) of subsection (6) applied in relation to a person who it is proposed will reside with the applicant.

(2) But a social landlord may not impose a requirement under subsection (1) if the landlord—

- (a) in relation to the same application has previously relied on the same circumstance as it applied to an applicant or a person who it is proposed will reside with the applicant to impose a requirement under subsection (1), or
- (b) is a local authority and has a duty to the applicant under section 31(2) (duty to secure accommodation where applicant is homeless).

(3) In considering whether to impose a requirement under subsection (1), a social landlord must have regard to any guidance about this section (including the matters mentioned in subsection (5)) published by the Scottish Ministers.

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- (4) Before publishing any guidance mentioned in subsection (3), the Scottish Ministers must consult such persons as they consider appropriate.
- (5) The Scottish Ministers may by regulations prescribe—
- (a) the maximum period preceding the application which a social landlord may consider in relation to any circumstances mentioned in subsection (6),
 - (b) the maximum period for an application to have remained in force which a social landlord may impose in relation to any circumstances mentioned in subsection (6), and such regulations may make different provision for different cases.
- (6) The circumstances are—
- (a) the person has—
 - (i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person,
 - (ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person, or
 - (iii) acted in an antisocial manner, or pursued a course of conduct which is antisocial conduct, in relation to an employee of the social landlord in the course of making the application,
 - (b) the person has been, or has resided with a person who has been, convicted of—
 - (i) using a house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an offence punishable by imprisonment which was committed in, or in the locality of, a house occupied by the person,
 - (c) an order for recovery of possession has been made against the person in proceedings under—
 - (i) the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118),
 - (ii) the Housing Act 1985 (c.68),
 - (iii) this Act,
 - (iv) the Housing (Scotland) Act 1988 (c.43),
 - (v) the Housing (Scotland) Act 2001 (asp 10),
 - (d) the person's tenancy has been terminated by the landlord under section 18(2) of the Housing (Scotland) Act 2001 (repossession where abandoned tenancy),
 - (e) the person's interest in a tenancy has been terminated by the landlord under section 20(3) of the Housing (Scotland) Act 2001 (abandonment by joint tenant),
 - (f) in relation to a house where the person was a tenant, a court has ordered recovery of possession on the ground set out in paragraph 3 or 4 of schedule 2 to the Housing (Scotland) Act 2001,
 - (g) there is or was any outstanding liability (for payment of rent or otherwise) in relation to a house which—
 - (i) is attributable to the person's tenancy of the house, and

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- (ii) either—
 - (A) section 20(2A) would not be satisfied in respect of that debt, or
 - (B) in the case of a debt which is no longer outstanding, section 20(2A) would not have been satisfied at any time while that debt remained outstanding,
 - (h) the person knowingly or recklessly made a false statement in any application for housing held by a social landlord,
 - (i) the person has refused one or more offers of housing falling within section 20(1) and the landlord considers the refusal of that number of offers to be unreasonable.
- (7) In subsection (6)—
- “antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
 - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and
 - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).
- (8) The Scottish Ministers may by regulations modify subsections (6) and (7).
- (9) After the social landlord imposes a requirement under subsection (1) (whether or not previously varied under this subsection), it may—
- (a) withdraw the requirement, or
 - (b) vary the requirement in order to shorten the period imposed for the application to have remained in force.
- (10) An applicant may by summary application appeal to the sheriff against any decision of a social landlord under subsection (1).
- (11) Regulations under subsection (5) and under subsection (8) are subject to the affirmative procedure.”.