



Housing (Scotland) Act 2014

2014 asp 14

PART 2

SOCIAL HOUSING

Short Scottish secure tenancy

7 **Creation of short Scottish secure tenancy: antisocial behaviour**

- (1) In section 34 of the 2001 Act (short Scottish secure tenancies)—
- (a) in subsection (7), for “or 2” substitute “, 2 or 2A”, and
 - (b) after subsection (8), insert—
 - “(9) A landlord must have regard to any guidance published by the Scottish Ministers—
 - (a) before creating a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, and
 - (b) when taking any steps in relation to such a tenancy with a view to—
 - (i) extending the term of the tenancy under section 35A, or
 - (ii) raising proceedings for the recovery of possession of the house under section 36.
- (10) Before publishing any guidance mentioned in subsection (9), the Scottish Ministers must consult such persons as they consider appropriate.”.
- (2) In section 35 of the 2001 Act (conversion to a short Scottish secure tenancy)—
- (a) for subsection (2) substitute—
 - “(2) The landlord may serve a notice under subsection (3) only where—
 - (a) the tenant (or any one of joint tenants) or a person residing or lodging with, or a subtenant of, the tenant is subject to an antisocial behaviour order under—

Status: This is the original version (as it was originally enacted).

- (i) section 234AA of the Criminal Procedure (Scotland) Act 1995 (c.46), or
 - (ii) section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or
 - (b) the tenant (or any one of joint tenants), a person residing or lodging with, or a subtenant of, the tenant, or a person visiting the house has, within the period of 3 years preceding the date of service of the notice—
 - (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, or
 - (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.”
- (b) in subsection (3)—
 - (i) the word “and” immediately preceding paragraph (b) is repealed,
 - (ii) in paragraph (b), after “order” insert “or, as the case may be, has behaved as described in subsection (2)(b)”, and
 - (iii) after paragraph (b), insert—
 - “(c) if the notice is served under subsection (2)(b), specify—
 - (i) the actions of the tenant or other person which the landlord has taken into account, and
 - (ii) the landlord’s reasons for serving the notice, and
 - (d) explain the right of appeal conferred by subsection (5).”, and
- (c) after subsection (6), insert—
 - “(7) In this section —
 - “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).”.
- (3) In section 37(1) of the 2001 Act (conversion to Scottish secure tenancy), in paragraph (a) for “or 2” substitute “, 2 or 2A”.
- (4) In schedule 6 to the 2001 Act (grounds for granting short Scottish secure tenancy)—
 - (a) after paragraph 2 insert—

“Other antisocial behaviour

- 2A (1) A person mentioned in sub-paragraph (2) has, within the period of 3 years preceding the date of service of the notice—

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

- (a) 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 prospective tenant or by a person who it is proposed will reside with the prospective tenant, or
- (b) 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.

(2) The persons are—

- (a) the prospective tenant,
- (b) any one of prospective joint tenants,
- (c) a person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, and
- (d) a person who it is proposed will reside with the prospective tenant.

(3) In sub-paragraph (1)—

“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).”, and

(b) for paragraph 6 substitute—

“Accommodation for person in receipt of housing support

- 6 The house is to be let expressly on a temporary basis to a person—
- (a) to whom no other paragraph of this schedule applies, and
 - (b) who is in receipt of a housing support service.”.

(5) In section 31(5) of the 1987 Act (permanent accommodation where duty to secure accommodation for persons found to be homeless), in paragraph (c) for “or 2” substitute “, 2 or 2A”.

8 Grant of short Scottish secure tenancy: homeowners

In schedule 6 to the 2001 Act (grounds for granting short Scottish secure tenancy), after paragraph 7 insert—

“Temporary letting where other property owned

- 7A (1) The house is to be let expressly on a temporary basis to a person pending the making of arrangements in relation to a property mentioned in sub-paragraph (2) which will allow the person’s housing needs to be met.
- (2) The property is heritable property owned by the person or a person who it is proposed will reside with that person.”.

9 Short Scottish secure tenancy: term

- (1) In section 34 of the 2001 Act (short Scottish secure tenancies)—
- (a) after subsection (5), insert—

“(5A) Subsection (5) does not apply to a tenancy mentioned in subsection (6A).”
 - (b) after subsection (6) insert—

“(6A) A tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 has a term of 12 months from the day on which the tenancy is granted.”
- (2) In section 35 of the 2001 Act (conversion to short Scottish secure tenancy)—
- (a) after subsection (3) insert—

“(3A) A short Scottish secure tenancy created by virtue of this section has a term of 12 months from the day on which the landlord serves a notice under subsection (3).”, and
 - (b) for subsection (4), substitute—

“(4) Where a tenancy becomes a short Scottish secure tenancy by virtue of this section—

 - (a) subsection (5) of section 34 does not apply to the tenancy, but
 - (b) otherwise subsection (6) of that section does apply to the tenancy.”
- (3) In section 37 of the 2001 Act (conversion to Scottish secure tenancy), after subsection (4) insert—
- (5) Subsection (6) applies to a tenancy which—
 - (a) became a short Scottish secure tenancy by virtue of section 35, and
 - (b) becomes a Scottish secure tenancy by virtue of this section.
 - (6) The term of the tenancy is the term which applied immediately before the tenancy became a short Scottish secure tenancy.”

10 Short Scottish secure tenancy: extension of term

- (1) After section 35 of the 2001 Act, insert—
- “35A Extension of term of short Scottish secure tenancy**
- (1) The landlord under a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 may extend the term of that tenancy by 6 months from the day which would otherwise be the day of expiry of the tenancy.
- (2) Such an extension may not be made unless—
- (a) the tenant is in receipt of housing support services, and
 - (b) the landlord has, on or before the day which is 2 months before the day which would otherwise be the day of expiry of the tenancy, served on the tenant a notice informing the tenant of—
 - (i) the extension, and

- (ii) the reasons for the extension.
- (3) A landlord may not give a notice if the landlord has previously given a notice under subsection (2) in relation to that short Scottish secure tenancy.”
- (2) In section 37 of the 2001 Act (conversion to Scottish secure tenancy)—
 - (a) in subsection (1)—
 - (i) the words “, in the period of 12 months following the creation of the tenancy,” are repealed,
 - (ii) after “36(2)” insert “before the expiry of the relevant period”, and
 - (iii) for “that” substitute “the relevant”,
 - (b) after subsection (1), insert—
 - “(1A) In this section, the “relevant period” is—
 - (a) the period of 12 months following the creation of the tenancy, or
 - (b) if an extension notice has been served under section 35A, the period of 18 months following the creation of the tenancy.”.
 - (c) in subsection (2)—
 - (i) for “period of 12 months following the creation of the tenancy” substitute “relevant period”, and
 - (ii) for “that period of 12 months”, in both places where it occurs, substitute “the relevant period”.

11 Short Scottish secure tenancy: recovery of possession

In section 36 of the 2001 Act (recovery of possession)—

- (a) in subsection (2), after paragraph (a) insert—
 - “(aa) in the case of a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, the landlord considers that any obligation of the tenancy has been broken,”
- (b) in subsection (3), after paragraph (a) insert—
 - “(aa) state the reason why the landlord is seeking recovery of possession (including, in a case where subsection (2)(aa) applies, the obligations which the landlord considers to have been broken),”
- (c) after subsection (4), insert—
 - “(4A) A tenant may, before the end of the period of 14 days beginning with the day of service of a notice under subsection (2), apply to the landlord for a review of a decision to seek recovery of possession of the house which is the subject of the tenancy.
 - (4B) If an application for a review under subsection (4A) is made, the landlord must, before the day specified in the notice by virtue of subsection (3)(b)—
 - (a) confirm its decision to seek recovery of possession or withdraw its notice under subsection (2),
 - (b) notify the tenant of its decision on the review, and
 - (c) where its decision on the review is to confirm the decision to seek recovery of possession, notify the tenant of the reasons.

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

- (4C) The Scottish Ministers may by regulations make further provision about the procedure to be followed in connection with a review following an application under subsection (4A).”,
- (d) in subsection (5)(a), after “34(5)” insert “or, in a case where subsection (2) (aa) applies, the end of the term applicable to the tenancy in accordance with section 34(6A), 35(3A) or 35A(1)”,
- (e) in subsection (7), after “16” insert “, but subject to the modification mentioned in subsection (8)”, and
- (f) after subsection (7), insert—
- “(8) In relation to the recovery of possession of the house which is the subject of a short Scottish secure tenancy, section 14(4) is to be read as if for paragraph (b) there were substituted—
- “(b) a date, not earlier than 4 weeks from the date of service of the notice on or after which the landlord may raise proceedings for recovery of possession,””