

Status: Point in time view as at 01/12/2017.

Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, SCHEDULE 3. (See end of Document for details)

SCHEDULE 3
(introduced by section 51)
EVICTION GROUNDS

PART 1

LET PROPERTY REQUIRED FOR ANOTHER PURPOSE

Landlord intends to sell

- 1 (1) It is an eviction ground that the landlord intends to sell the let property.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if the landlord—
- (a) is entitled to sell the let property, and
 - (b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it.
- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—
- (a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,
 - (b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

Commencement Information

I1 Sch. 3 para. 1 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Property to be sold by lender

- 2 (1) It is an eviction ground that a lender intends to sell the let property.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—
- (a) the let property is subject to a heritable security,
 - (b) the creditor under that security is entitled to sell the property, and
 - (c) the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession.

Commencement Information

I2 Sch. 3 para. 2 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Landlord intends to refurbish

- 3 (1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.

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- (2) The First-tier Tribunal must find that the eviction ground named by sub-paragraph (1) applies if—
- (a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),
 - (b) the landlord is entitled to do so, and
 - (c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord.
- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(a) includes (for example)—
- (a) any planning permission which the intended refurbishment would require,
 - (b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment.

Commencement Information

I3 Sch. 3 para. 3 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Landlord intends to live in property

- 4 (1) It is an eviction ground that the landlord intends to live in the let property.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months.
- (3) References to the landlord in this paragraph—
- (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,
 - (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.
- (4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

Commencement Information

I4 Sch. 3 para. 4 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Family member intends to live in property

- 5 (1) It is an eviction ground that a member of the landlord's family intends to live in the let property.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) a member of the landlord's family intends to occupy the let property as that person's only or principal home for at least 3 months, and

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- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
- (3) A member of the landlord's family is to be regarded as having the intention mentioned in sub-paragraph (2) if—
 - (a) the family member is incapable of having, or expressing, that intention, and
 - (b) the landlord and (if different) a person entitled to make decisions about where the family member lives, intend that the family member will occupy the let property as the family member's only or principal home for at least 3 months.
- (4) For the purposes of this paragraph, a person is a member of the landlord's family if the person is—
 - (a) in a qualifying relationship with the landlord,
 - (b) a qualifying relative of the landlord,
 - (c) a qualifying relative of a person who is in a qualifying relationship with the landlord, or
 - (d) in a qualifying relationship with a qualifying relative of the landlord.
- (5) For the purposes of sub-paragraph (4)—
 - (a) two people are in a qualifying relationship with one another if they are—
 - (i) married to each other,
 - (ii) in a civil partnership with each other, or
 - (iii) living together as though they were married,
 - (b) “a qualifying relative” means a parent, grandparent, child, grandchild, brother or sister,
 - (c) a relationship of the half blood is to be regarded as a relationship of the whole blood,
 - (d) a person's stepchild is to be regarded as the person's child,
 - (e) a person (“A”) is to be regarded as the child of another person (“B”), if A is being or has been treated by B as B's child.
- (6) In a case where two or more persons jointly are the landlord under a tenancy, references to the landlord in this paragraph are to any one of them.
- (7) Evidence tending to show that a member of the landlord's family has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the person has that intention.

Commencement Information

I5 Sch. 3 para. 5 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Landlord intends to use for non-residential purpose

- 6 (1) It is an eviction ground that the landlord intends to use the let property for a purpose other than housing.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if the landlord intends to use the let property for a purpose other than providing a person with a home.

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- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) any planning permission which would be required if the let property is to be used for the intended purpose.

Commencement Information

I6 Sch. 3 para. 6 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Property required for religious purpose

- 7 (1) It is an eviction ground that the let property is required for use in connection with the purposes of a religion.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—
- (a) the let property is held for the purpose of being available for occupation by a person engaged in the work of a religious denomination as a residence from which the duties of such a person are to be performed,
 - (b) the property has previously been occupied by a person engaged in the work of a religious denomination as a residence from which that person's duties were performed, and
 - (c) the property is required for the purpose mentioned in paragraph (a).
- (3) In sub-paragraph (2), reference to a person engaged in the work of a religious denomination includes an imam, a lay missionary, minister, monk, nun, priest and rabbi.

Commencement Information

I7 Sch. 3 para. 7 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

PART 2

TENANT'S STATUS

Not an employee

- 8 (1) It is an eviction ground that the tenancy was entered into to provide an employee with a home and the tenant is not a qualifying employee.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—
- (a) the tenancy was granted to the tenant—
 - (i) in consequence of the tenant being an employee of the landlord, or
 - (ii) in the expectation that the tenant would become an employee of the landlord,
 - (b) the tenant is not employed by the landlord, and
 - (c) either—

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- (i) the application for an eviction order that is before the Tribunal was made within 12 months of the tenant ceasing to be an employee of the landlord, or
 - (ii) if the tenant never became an employee of the landlord, the application for an eviction order that is before the Tribunal was made within 12 months of the tenancy being granted to the tenant.
- (3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the conditions set out in sub-paragraph (2)(a) and (b) are met, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order, despite the landlord not applying for one within the period of 12 months mentioned in sub-paragraph (2)(c).
- (4) In sub-paragraphs (2) and (3), “landlord” includes any person who has been a landlord under the tenancy.

Commencement Information

18 [Sch. 3 para. 8](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

No longer in need of supported accommodation

- 9
- (1) It is an eviction ground that the tenancy was entered into on account of the tenant having an assessed need for community care and the tenant has since been assessed as no longer having that need.
 - (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
 - (a) the tenancy was granted in consequence of the tenant being assessed under section 12A of the Social Work (Scotland) Act 1968 to have needs calling for the provision of community care services,
 - (b) the tenancy would not have been granted to the tenant on the basis of the latest assessment of the tenant's needs under that section, and
 - (c) the Tribunal considers it reasonable to issue an eviction order on account of that fact.
 - (3) The condition in sub-paragraph (2)(a) is to be deemed to be met if the tenancy was granted as a result of a local authority taking urgent action by virtue of section 12A(5) of the Social Work (Scotland) Act 1968.

Commencement Information

19 [Sch. 3 para. 9](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

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PART 3

TENANT'S CONDUCT

Not occupying let property

- 10 (1) It is an eviction ground that the tenant is not occupying the let property as the tenant's home.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—
- (a) the let property is not being occupied as the only or principal home of—
 - (i) the tenant, or
 - (ii) a person to whom a sub-tenancy of the let property has been lawfully granted, and
 - (b) the property's not being so occupied is not attributable to a breach of the landlord's duties under Chapter 4 of Part 1 of the Housing (Scotland) Act 2006.
- (3) In sub-paragraph (2), the reference to a sub-tenancy being lawfully granted is to be construed in accordance with section 46(3).

Commencement Information

I10 [Sch. 3 para. 10](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

Breach of tenancy agreement

- 11 (1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the tenant has failed to comply with a term of the tenancy, and
 - (b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.
- (3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.

Commencement Information

I11 [Sch. 3 para. 11](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

Rent arrears

- 12 (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—

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- (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—
 - (i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and
 - (ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and
 - (b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- (3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) for three or more consecutive months the tenant has been in arrears of rent, and
 - (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
- (4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- (5) For the purposes of this paragraph—
- (a) references to a relevant benefit are to—
 - (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),
 - (ii) a payment on account awarded under regulation 91 of those Regulations,
 - (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,
 - (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,
 - (b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

Commencement Information

112 Sch. 3 para. 12 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Criminal behaviour

- 13 (1) It is an eviction ground that the tenant has a relevant conviction.
- (2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—
- (a) after the tenancy is granted, the tenant receives a relevant conviction, and
 - (b) either—

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- (i) the application for an eviction order that is before the Tribunal was made within 12 months of the tenant's conviction, or
 - (ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.
- (3) In sub-paragraph (2), “a relevant conviction” means a conviction for an offence—
- (a) which was committed by using, or allowing the use of, the let property for an immoral or illegal purpose, or
 - (b) which—
 - (i) was committed within or in the locality of the let property, and
 - (ii) is punishable by imprisonment.
- (4) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.

Commencement Information

I13 Sch. 3 para. 13 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Anti-social behaviour

- 14 (1) It is an eviction ground that the tenant has engaged in relevant anti-social behaviour.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the tenant has behaved in an anti-social manner in relation to another person,
 - (b) the anti-social behaviour is relevant anti-social behaviour, and
 - (c) either—
 - (i) the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or
 - (ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.
- (3) For the purposes of this paragraph, a person is to be regarded as behaving in an anti-social manner in relation to another person by—
- (a) doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance,
 - (b) pursuing in relation to the other person a course of conduct which—
 - (i) causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or
 - (ii) amounts to harassment of the other person.
- (4) In sub-paragraph (3)—
- “conduct” includes speech,
 - “course of conduct” means conduct on two or more occasions,
 - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.
- (5) Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) if the Tribunal is satisfied that it is reasonable to issue an eviction order as a consequence of it, given the nature of the anti-social behaviour and—

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- (a) who it was in relation to, or
 - (b) where it occurred.
- (6) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.

Commencement Information

I14 Sch. 3 para. 14 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Association with person who has relevant conviction
or engaged in relevant anti-social behaviour*

- 15 (1) It is an eviction ground that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) a person who falls within sub-paragraph (4)—
 - (i) has received a relevant conviction as defined by paragraph 13(3), or
 - (ii) has engaged in relevant anti-social behaviour,
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and
 - (c) either—
 - (i) the application for an eviction order that is before the Tribunal was made within 12 months of the conviction or (as the case may be) the occurrence of the anti-social behaviour, or
 - (ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.
- (3) In sub-paragraph (2)(a)(ii), “relevant anti-social behaviour” means behaviour which, if engaged in by the tenant, would entitle the Tribunal to issue an eviction order on the basis that the tenant has engaged in relevant anti-social behaviour.
- (4) A person falls within this sub-paragraph if the person—
- (a) resides or lodges in the let property,
 - (b) has sub-let the let property (or part of it) from the tenant, or
 - (c) has been admitted to the let property by the tenant on more than one occasion.
- (5) In a case where two or more persons jointly are the tenant under a tenancy, the references in sub-paragraphs (3) and (4) to the tenant are to any one of those persons.

Commencement Information

I15 Sch. 3 para. 15 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

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PART 4

LEGAL IMPEDIMENT TO LET CONTINUING

Landlord has ceased to be registered

- 16 (1) It is an eviction ground that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”).
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the landlord is not entered in the register prepared and maintained for the purposes of Part 8 of the 2004 Act by the local authority within whose area the let property is situated because either—
 - (i) the local authority has refused to enter the landlord in the register, or
 - (ii) the local authority has removed the landlord from the register in accordance with section 88(8) or 89 of the 2004 Act,
 - (b) by continuing to let the property to the tenant the landlord—
 - (i) is committing an offence under subsection (1) of section 93 of the 2004 Act, or
 - (ii) would be doing so but for subsection (6) of that section, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

Commencement Information

I16 Sch. 3 para. 16 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

HMO licence has been revoked

- 17 (1) It is an eviction ground that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006 (“the 2006 Act”).
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) under section 139(1) or 157(2) of the 2006 Act, the HMO licence for the let property has been revoked, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

Commencement Information

I17 Sch. 3 para. 17 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Overcrowding statutory notice

- 18 (1) It is an eviction ground that an overcrowding statutory notice has been served on the landlord.

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- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) an overcrowding statutory notice in respect of the let property has been served on the landlord under section 17(3) of the Private Rented Housing (Scotland) Act 2011, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

Commencement Information

I18 Sch. 3 para. 18 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

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Changes to legislation:

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