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

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### SCHEDULE 3 EVICTION GROUNDS

#### PART 3

#### TENANT'S CONDUCT

##### *Rent arrears*

12 (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

<sup>F1</sup>(2) .....

(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—

- <sup>F2</sup>(a) 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 <sup>F3</sup>, and
- (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.]

(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.

<sup>F4</sup>(6) Regulations under sub-paragraph (4)(b) may make provision about—

- (a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),
- (b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

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(c) such other matters as the Scottish Ministers consider appropriate.]

#### Textual Amendments

- F1** Sch. 3 para. 12(2) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 43(3)(i)**, 59(1) (with s. 48(1))
- F2** Words in sch. 3 para. 12(4) renumbered as sch. 3 para. 12(4)(a) (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 46(2)(a)(i)**, 59(1) (with s. 48(1))
- F3** Sch. 3 para. 12(4)(b) and word inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 46(2)(a)(ii)**, 59(1) (with s. 48(1))
- F4** Sch. 3 para. 12(6) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 46(2)(b)**, 59(1) (with s. 48(1))

#### Commencement Information

- I1** Sch. 3 para. 12 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, **sch.**

#### Substantial rent arrears

[<sup>F5</sup>12A(1) It is an eviction ground that the tenant has substantial rent arrears.

- (2) The First-tier Tribunal may find that the ground named by [sub-paragraph \(1\)](#) applies if—
- (a) the tenant has accrued rent arrears under the tenancy in respect of one or more periods,
  - (b) the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice to leave is given to the tenant on this ground in accordance with section 52(3), and
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order.
- (3) In deciding under [sub-paragraph \(2\)](#) whether it is reasonable to issue an eviction order, the Tribunal is to consider—
- (a) whether the tenant being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit,
  - (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers under paragraph 12(4)(b) (and continued in force by virtue of section 49 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022).
- (4) For the purpose of this paragraph—
- (a) references to a relevant benefit are to—
    - (i) a rent allowance or rent rebate under the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)),
    - (ii) a payment on account awarded under regulation 93 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,

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- (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.]

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**Textual Amendments**

- F5** Sch. 3 para. 12A treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 2 para. 4\(1\)\(3\)\(c\)](#) (with ss. 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), **2(2)**); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), **2(2)**)

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