

SCHEDULE 3 EVICTION GROUNDS

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).

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.

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—
- (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

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- (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.

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—
 - (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

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(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.

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—

- (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.

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)—

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- (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.