

SCHEDULE 1 PROTECTION OF THE INDIVIDUAL

PART 2

TENANCIES: PRE-ACTION REQUIREMENTS FOR ORDER FOR POSSESSION OR EVICTION ORDER ON GROUND OF RENT ARREARS

Assured and short assured tenancy

- 4 (1) The Housing (Scotland) Act 1988 applies in accordance with the modifications in this paragraph.
- (2) Section 18 (orders for possession) has effect as if—
- (a) after subsection (3A) there were inserted—
- “(3B) Subsection (3C) applies where the First-tier Tribunal is satisfied—
- (a) that Ground 8 in schedule 5 is established, and
- (b) that all or part of the rent in respect of which the tenant is in arrears as mentioned in that Ground relates to the period during which paragraph 4 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is in force.
- (3C) Where this subsection applies, in considering for the purposes of subsection (4) (as applied in accordance with the modification made by paragraph 3(2)(b) of schedule 1 of the Coronavirus (Scotland) Act 2020) whether it is reasonable to make an order for possession against the tenant, the First-tier Tribunal is to consider the extent to which the landlord has complied with pre-action requirements before raising the proceedings for possession.”,
- (b) after subsection (8) there were inserted—
- “(9) In subsection (3C), “pre-action requirements” means such requirements as the Scottish Ministers may specify in regulations.
- (10) Regulations under subsection (9) may in particular make provision about—
- (a) information to 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 to 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,
- (c) such other matters as the Scottish Ministers consider appropriate.
- (11) Regulations under subsection (9) are subject to the affirmative procedure.”.
- (3) Section 53(2) (orders and regulations) has effect as if after “above” there were inserted “or regulations under section 18(9)”.

Status: This is the original version (as it was originally enacted).

Private residential tenancy

- 5 (1) The Private Housing (Tenancies) (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Paragraph 12 of schedule 3 (rent arrears) has effect as if—
- (a) after sub-paragraph (3) there were inserted—
- “(3A) Sub-paragraph (3B) applies where the First-tier Tribunal is satisfied—
- (a) that the eviction ground named by sub-paragraph (1) applies, and
- (b) that all or part of the rent in respect of which the tenant is in arrears as mentioned in that eviction ground relates to the period during which paragraph 5 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is in force.
- (3B) Where this sub-paragraph applies, in considering for the purposes of sub-paragraph (3)(b) whether it is reasonable to issue an eviction order against the tenant, the First-tier Tribunal is to consider the extent to which the landlord has complied with pre-action requirements before applying for the eviction order.”,
- (b) after sub-paragraph (5) there were inserted—
- “(6) In sub-paragraph (3B), “pre-action requirements” means such requirements as the Scottish Ministers may specify in regulations.
- (7) Regulations under sub-paragraph (6) may in particular make provision about—
- (a) information to 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 to 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,
- (c) such other matters as the Scottish Ministers consider appropriate.”.
- (3) Section 77(3) (regulation-making powers) has effect as if after “41” there were inserted “and paragraph 12(6) of schedule 3”.