

Status: Point in time view as at 07/04/2020.

Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 1. (See end of Document for details)

SCHEDULE 1

(introduced by section 2)

EVICTION FROM DWELLING-HOUSES

Private residential tenancies: eviction grounds to be discretionary

- 1 (1) The Private Housing (Tenancies) (Scotland) Act 2016 applies, in relation to a notice to leave within the meaning of section 62 of that Act served on a tenant while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 51(2) (First-tier Tribunal's power to issue an eviction order) has effect as if the words “or must” were repealed.
- (3) Schedule 3 (eviction grounds) has effect as if—
- (a) in paragraph 1(2) (landlord intends to sell)—
 - (i) in the opening words, for the word “must” there were substituted “may”,
 - (ii) after paragraph (a), the word “and” were repealed,
 - (iii) after paragraph (b) there were inserted “, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
 - (b) in paragraph 2(2) (property to be sold by lender)—
 - (i) in the opening words, for the word “must” there were substituted “may”,
 - (ii) after paragraph (b), the word “and” were repealed,
 - (iii) after paragraph (c) there were inserted “, and
 - (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
 - (c) in paragraph 3(2) (landlord intends to refurbish)—
 - (i) in the opening words, for the word “must” there were substituted “may”,
 - (ii) after paragraph (b), the word “and” were repealed,
 - (iii) after paragraph (c) there were inserted “, and
 - (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
 - (d) in paragraph 4(2) (landlord intends to live in property)—
 - (i) for the word “must” there were substituted “may”,
 - (ii) the words from “the landlord” to “3 months” were paragraph (a),
 - (iii) after paragraph (a) there were inserted “, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,
 - (e) in paragraph 6(2) (landlord intends to use for non-residential purpose)—
 - (i) for the word “must” there were substituted “may”,
 - (ii) the words from “the landlord” to “home” were paragraph (a),
 - (iii) after paragraph (a) there were inserted “, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,
 - (f) in paragraph 7(2) (property required for religious purpose)—

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- (i) in the opening words, for the word “must” there were substituted “may”;
- (ii) after paragraph (b) the word “and” were repealed,
- (iii) after paragraph (c) there were inserted “, and
 - (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (g) in paragraph 8 (not an employee)—
 - (i) in the opening words of sub-paragraph (2), for the word “must” there were substituted “may”;
 - (ii) for paragraph (c) there were substituted—
 - “(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
 - (iii) sub-paragraph (3) were repealed,
 - (iv) in sub-paragraph (4), for the words “sub-paragraphs (2) and (3)” there were substituted “sub-paragraph (2)”;
- (h) in paragraph 10(2) (not occupying let property)—
 - (i) in the opening words, for the word “must” there were substituted “may”;
 - (ii) after paragraph (a), the word “and” were repealed,
 - (iii) after paragraph (b) there were inserted “, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (i) in paragraph 12 (rent arrears), sub-paragraph (2) were repealed,
- (j) in paragraph 13(2) (criminal behaviour)—
 - (i) in the opening words, for the word “must” there were substituted “may”;
 - (ii) after paragraph (a), the word “and” were repealed,
 - (iii) after paragraph (b) there were inserted “, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”.

Private residential tenancies: extension of notice periods

- 2 (1) The Private Housing (Tenancies) (Scotland) Act 2016 applies, in relation to a notice to leave within the meaning of section 62 of that Act served on a tenant while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 54 (restriction on applying during the notice period) has effect as if for subsections (2) and (3) there were substituted—
 - “(2) The relevant period in relation to a notice to leave—
 - (a) begins on the day the tenant receives the notice to leave from the landlord, and
 - (b) expires on the day falling—
 - (i) 28 days after it begins if subsection (3) applies,
 - (ii) three months after it begins if subsection (3A) applies,
 - (iii) six months after it begins if neither subsection (3) nor (3A) applies.

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- (3) This subsection applies if the only eviction ground stated in the notice to leave is that the tenant is not occupying the let property as the tenant's home.
- (3A) This subsection applies if—
- (a) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—
 - (i) that the landlord intends to live in the let property,
 - (ii) that a member of the landlord's family intends to live in the let property,
 - (iii) that the tenant has a relevant conviction,
 - (iv) that the tenant has engaged in relevant anti-social behaviour,
 - (v) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour,
 - (vi) that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004,
 - (vii) that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006, or
 - (b) the only eviction grounds stated in the notice to leave are—
 - (i) the eviction ground mentioned in subsection (3), and
 - (ii) an eviction ground, or grounds, mentioned in paragraph (a).”.
- (3) Section 64 (six month periods) has effect as if for it there were substituted—

Three or six month periods

- “64 (1) A reference in this Part to a period of three or, as the case may be, six months (however expressed) is to a period which ends in the month which falls three or, as the case may be, six months after the month in which it began, either—
- (a) on the same day of the month as it began, or
 - (b) if the month in which the period ends has no such day, on the final day of that month.
- (2) Subsection (1) does not apply in relation to the references to six months in section 59.”.

Assured tenancies: eviction grounds to be discretionary

- 3 (1) The Housing (Scotland) Act 1988 applies, in relation to a notice served on a tenant under section 19 or 33(1)(d) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 18 (orders for possession) has effect as if—
- (a) subsections (3) and (3A) were repealed,
 - (b) in subsection (4), for “Part II” there were substituted “ Part I or Part II ”,
 - (c) in subsection (4A), after the word “possession” there were inserted “ on Ground 8 in Part I of Schedule 5 to this Act or ”.

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- (3) Section 20 has effect as if subsection (6) (no discretion where landlord entitled to possession) were repealed.
- (4) Section 33 (recovery of possession on termination of a short assured tenancy) has effect as if in subsection (1)—
- (a) in the opening words, for the word “shall” there were substituted “ may ”,
 - (b) after paragraph (b), the word “and” were repealed,
 - (c) after paragraph (d) there were inserted “, and
 - (e) that it is reasonable to make an order for possession.”.
- (5) Schedule 5 (grounds for possession of houses let on assured tenancies) has effect as if for the heading of Part I there were substituted “ Certain grounds on which First-tier Tribunal may order possession in relation to the period of the Coronavirus (Scotland) Act 2020 ”.

Assured tenancies: extension of notice periods

- 4 (1) The Housing (Scotland) Act 1988 applies, in relation to a notice served on a tenant under section 19 or 33(1)(d) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 19 (notice of proceedings for possession) has effect as if—
- (a) in subsection (3)(b), for the words “two weeks or two months” there were substituted “ two months, three months or, as the case may be, six months ”,
 - (b) for subsection (4) there were substituted—
- “(4) The minimum period to be specified in a notice as mentioned in subsection (3)(b) is—
- (a) two months if the notice specifies only Ground 9 in Part II of Schedule 5 to this Act,
 - (b) three months if the notice specifies any of the following grounds in Schedule 5 to this Act (whether with or without also specifying the ground referred to in paragraph (a))—
 - (i) Ground 1 in Part I,
 - (ii) Ground 15 in Part II,
 - (c) six months if the notice specifies any of the following grounds in Schedule 5 to this Act (whether with or without other grounds)—
 - (i) Grounds 2 to 8 in Part I,
 - (ii) Grounds 10 to 14 in Part II,
 - (iii) Ground 16 or 17 in Part II.”.
- (3) Section 33 (recovery of possession on termination of a short assured tenancy) has effect as if, in subsection (2), for the words “two months” in both places where they appear there were substituted “ six months ”.

Tenancies under the Rent (Scotland) Act 1984: eviction grounds to be discretionary

- 5 (1) The Rent (Scotland) Act 1984 applies, in relation to a notice served on a tenant in accordance with section 112(1) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.

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- (2) Section 11 (grounds for possession of certain dwelling-houses) has effect as if—
 - (a) in subsection (1)(b), after the words “Part I” there were inserted “ or Part II ”,
 - (b) subsection (2) were repealed.
- (3) Section 12 (extended discretion of court) has effect as if—
 - (a) in subsection (1), the words “Subject to subsection (5) below,” were repealed,
 - (b) in subsection (2), the words “, subject to subsection (5) below,” were repealed,
 - (c) subsection (5) were repealed.
- (4) Section 14 (conditions applying to recovery of short tenancies) has effect as if, in subsection (1), after the word “Act” there were inserted “ provided the First-tier Tribunal considers it reasonable to allow such recovery ”.
- (5) Schedule 2 (grounds for possession for protected or statutory tenancies) has effect as if for the heading of Part II there were substituted “ Certain cases in which First-tier Tribunal may order possession in relation to the period of the Coronavirus (Scotland) Act 2020 ”.

Tenancies under the Rent (Scotland) Act 1984: extension of notice periods

- 6 (1) The Rent (Scotland) Act 1984 applies, in relation to a notice served on a tenant in accordance with section 112(1) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 14 (conditions applying to landlord's right to recovery of possession of a short tenancy) has effect as if, in subsection (2), for the words “three nor more than six” there were substituted “ six nor more than nine ”.
- (3) Section 112 (minimum length of notice to quit) has effect as if—
 - (a) in subsection (1), for the words “given not less than four weeks before the date on which it is to take effect” there were substituted “given—
 - (a) in the case of a notice by a landlord, not less than the specified amount of time before the date on which it is to take effect,
 - (b) in the case of a notice by a tenant, not less than four weeks before the date on which it is to take effect”,
 - (b) after subsection (1) there were inserted—
 - “(1A) A notice given by a landlord in accordance with subsection (1) must state, in addition to any other information that is prescribed under subsection (1), the basis on which the landlord intends to seek possession of the dwelling-house.
 - (1B) For the purpose of subsection (1)(a), the specified amount of time is—
 - (a) 4 weeks if subsection (1C) applies,
 - (b) 3 months if subsection (1D) applies,
 - (c) 6 months if subsection (1E) applies.
 - (1C) This subsection applies if the notice under subsection (1) specifies that possession is sought only in accordance with section 11(1)(a)

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on the basis that suitable alternative accommodation is available, or will be available, for the tenant.

(1D) This subsection applies if the notice under subsection (1) specifies that possession is sought only on the basis that the circumstances are as specified in one or more of the following Cases in Schedule 2—

- (a) Case 2,
- (b) Case 6,
- (c) Case 8 or 9,
- (d) Case 11.

(1E) This subsection applies if the notice under subsection (1) specifies that possession is sought on the basis that the circumstances are as specified in one or more of the following Cases in Schedule 2 (whether with or without specifying any other Cases)—

- (a) Case 1,
- (b) Cases 3 to 5,
- (c) Case 7,
- (d) Case 10,
- (e) Cases 12 to 21.”.

Scottish secure tenancies: extension of notice periods

7 (1) The Housing (Scotland) Act 2001 applies, in relation to a notice served on a tenant under section 14(2)(a) or 36(2)(a) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.

(2) Section 14 (proceedings for possession) has effect as if—

- (a) for subsection (4)(b)(i) there were substituted—
 - “(i) the date calculated in accordance with subsection (4A), or”,
- (b) after subsection (4) there were inserted—

“(4A) For the purpose of subsection (4)(b)(i), the date is the date falling—

- (a) 4 weeks after the date of service of the notice if subsection (4B) applies,
- (b) 3 months after the date of service of the notice if subsection (4C) applies,
- (c) 6 months after the date of service of the notice if subsection (4D) applies.

(4B) This subsection applies if the notice under subsection (2) specifies only the ground set out in paragraph 5 of schedule 2.

(4C) This subsection applies if the notice under subsection (2) specifies a ground set out in any of the following paragraphs of schedule 2 (whether with or without also specifying the ground referred to in subsection (4B))—

- (a) paragraph 2,
- (b) paragraphs 6 to 8.

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- (4D) This subsection applies if the notice under subsection (2) specifies a ground set out in any of the following paragraphs of schedule 2 (whether with or without other grounds)—
- (a) paragraph 1,
 - (b) paragraph 3 or 4,
 - (c) paragraphs 9 to 15.”.
- (3) Section 36 (recovery of possession of short Scottish secure tenancies) has effect as if—
- (a) for subsection (3)(b)(i), there were substituted—
 - “(i) the date calculated in accordance with subsection (3A), or such longer period from the date of service of the notice as the tenancy agreement may provide, or”,
 - (b) after subsection (3) there were inserted—
 - “(3A) For the purpose of subsection (3)(b)(i), the date is the date falling—
 - (a) 2 months from the date of service of the notice if subsection (3B) applies,
 - (b) 6 months from the date of service of the notice if subsection (3C) applies.
- (3B) This subsection applies if the tenancy is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6.
- (3C) This subsection applies if the tenancy is a short Scottish secure tenancy by virtue of any of paragraphs 3 to 7A of schedule 6.”,
- (c) in subsection (8), for the words which are to be read as if they were substituted for paragraph (b) of section 14(4) there were substituted—
 - “(b) a date, not earlier than the date calculated in accordance with subsection (4A), on or after which the landlord may raise proceedings for recovery of possession,”.

Power to modify notice periods

- 8 (1) The Scottish Ministers may by regulations—
- (a) modify a reference to any period of time which is for the time being specified in any of paragraphs 2, 4, 6 and 7,
 - (b) modify how grounds for possession (however described) are grouped in any of paragraphs 2, 4, 6 and 7 for the purpose of determining which notice period applies,
 - (c) make consequential modifications to paragraph 9.
- (2) But the power in sub-paragraph (1) may not be exercised so as to result in a period of time being specified that is in excess of six months.
- (3) Sub-paragraph (1) applies to references to periods of time and grounds for possession (however described) whether or not they are contained in text which is to be treated as if inserted or substituted into another enactment.
- (4) Regulations under sub-paragraph (1) are subject to the negative procedure.

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Consequential modifications in relation to prescribed forms

- 9 (1) The Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017 (S.S.I. 2017/297) are to be read, in relation to a notice to leave within the meaning of section 62 of the Private Housing (Tenancies) (Scotland) Act 2016 served on a tenant while paragraph 2 is in force, as if—
- (a) in schedule 5 (notice to leave)—
 - (i) in the text preceding Part 1, for “84 days' notice, depending on how long you have occupied the Let Property and” there were substituted “three or six months' notice, depending on”,
 - (ii) in Part 1, the words “The tenant(s) has lived in the property since:” were deleted, together with the space for completion immediately following it,
 - (iii) in Part 4, for the words “(28 days or 84 days depending on the eviction ground or how long you have occupied the Let Property).” there were substituted “ (normally 3 months or 6 months, depending on the ground on which eviction is being sought, but this will be 28 days if eviction is being sought on the ground that you are no longer occupying the Let Property). ”,
 - (b) in schedule 6 (sub-tenancy notice to leave)—
 - (i) in the text preceding Part 1, for the words “if you have lived in the property for six months or less or 84 days' notice if you have lived in the property for more than six months.” there were substituted “and may be required to give you three or six months' notice, depending on the grounds on which they intend to apply for eviction.”,
 - (ii) in Part 1, the words “The Sub-Tenant(s) has lived in the property since:” were deleted, together with the space for completion immediately following it,
 - (iii) in Part 4, for the words “(28 days or 84 days depending on how long you have occupied the property).” there were substituted “ (normally 3 months or 6 months, depending on the ground on which eviction is being sought, but this will be 28 days if eviction is being sought on the ground that you are no longer occupying the Let Property). ”.
- (2) The Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017 (S.S.I. 2017/349) are to be read, in relation to a notice served on a tenant under section 19 or 33(1)(d) of the Housing (Scotland) Act 1988 while paragraph 4 is in force, as if in the schedule, in Form AT6 (notice under section 19 of intention to raise proceedings for possession), for the note 3 to the tenant on Part 3 there were substituted the following— “ Your landlord must give you proper notice between serving this notice and raising proceedings in the Tribunal. If only ground 9 applies, two months' notice must be given. If only grounds 1 or 15 apply, or if grounds 1 or 15 apply together with ground 9, three months' notice must be given. If any of grounds 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16 or 17 apply, with or without any other grounds, six months' notice must be given. ”.
- (3) The Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2018 (S.S.I. 2018/155) are to be read, in relation to a notice served on a tenant under section 36(2)(a) of the Housing (Scotland) Act 2001 while paragraph 7 is in force, as if in schedule 2 (notice under section 36 of intention to raise proceedings for possession), in note 3 to the tenant for the words “2 months' notice” there were substituted “6 months' notice”.

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Errors in notices

- 10 (1) Where a notice to which this paragraph applies is completed without taking proper account of paragraphs 1 to 9—
- (a) the notice is not invalid by reason of that error, but
 - (b) it may not be relied upon by the landlord for the purpose of seeking an order for possession (however described) until the date on which it could have been relied upon had it been correctly completed.
- (2) Where sub-paragraph (1) applies, the period for which the notice remains in force for the purpose of seeking an order for possession (however described) is to be calculated by reference to the period which would have applied had the notice been correctly completed.
- (3) This paragraph applies to—
- (a) a notice to leave within the meaning of section 62 of the Private Housing (Tenancies) (Scotland) Act 2016 served on a tenant,
 - (b) a notice served on a tenant under section 14(2)(a) or 36(2)(a) of the Housing (Scotland) Act 2001,
 - (c) a notice served on a tenant under section 19 or 33(1)(d) of the Housing (Scotland) Act 1988,
 - (d) a notice served on a tenant in accordance with section 112(1) of the Rent (Scotland) Act 1984,
- while this paragraph is in force.

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