

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

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 [^{F1}may] 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, ^{F2}...
 - (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 [^{F3}, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) In sub-paragraph (2), the reference to a sub-tenancy being lawfully granted is to be construed in accordance with section 46(3).

Textual Amendments

- F1** Word in sch. 3 para. 10(2) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 43(3)(h)(i)**, 59(1) (with s. 48(1))
- F2** Word in sch. 3 para. 10(2) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 43(3)(h)(ii)**, 59(1) (with s. 48(1))
- F3** Sch. 3 para. 10(2)(c) and word inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 43(3)(h)(iii)**, 59(1) (with s. 48(1))

Commencement Information

- I1** 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.

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

- (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

I2 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.

^{F4}(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—

- [^{F5}(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 [^{F6}, 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.

- [^{F7}(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,

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

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

Textual Amendments

- F4** 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))
- F5** 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))
- F6** 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))
- F7** 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

- I3** Sch. 3 para. 12 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, **sch.**

Substantial rent arrears

[^{F8}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—
- the tenant has accrued rent arrears under the tenancy in respect of one or more periods,
 - 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
 - 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—
- 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,
 - 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—
- references to a relevant benefit are to—
 - a rent allowance or rent rebate under the [Housing Benefit Regulations 2006 \(S.I. 2006/213\)](#),
 - a payment on account awarded under regulation 93 of those Regulations,
 - 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,
 - sums payable by virtue of section 73 of the [Education \(Scotland\) Act 1980](#),

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

- (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.]

Textual Amendments

F8 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\(2\)](#))

Criminal behaviour

- 13 (1) It is an eviction ground that the tenant has a relevant conviction.
- (2) The First-tier Tribunal [^{F9}may] find that the ground named by sub-paragraph (1) applies if—
- (a) after the tenancy is granted, the tenant receives a relevant conviction, ^{F10}...
- (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 [^{F11}, and
- (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (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.

Textual Amendments

F9 Word in sch. 3 para. 13(2) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. [43\(3\)\(j\)\(i\)](#), 59(1) (with s. 48(1))

F10 Word in sch. 3 para. 13(2) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. [43\(3\)\(j\)\(ii\)](#), 59(1) (with s. 48(1))

F11 Sch. 3 para. 13(2)(c) and word inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. [43\(3\)\(j\)\(iii\)](#), 59(1) (with s. 48(1))

Commencement Information

I4 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.

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

- (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,
 - [^{F12}(ba) 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 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.

Textual Amendments

F12 Sch. 3 para. 14(2)(ba) substituted for word (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. **43(3)(k)**, 59(1) (with s. 48(1))

Commencement Information

I5 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.

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

- (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

I6 Sch. 3 para. 15 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

Changes to legislation:

There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, PART 3.