
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 270

HOUSING

The Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020

Made - - - - *2nd September 2020*
Laid before the Scottish
Parliament - - - - *4th September 2020*
Coming into force - - *3rd October 2020*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 10 and paragraph 8(1) of schedule 1 of the Coronavirus (Scotland) Act 2020⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020 and come into force on 3 October 2020.

(2) In these Regulations—

“1984 Act” means the Rent (Scotland) Act 1984⁽²⁾,

“1988 Act” means the Housing (Scotland) Act 1988⁽³⁾,

“2001 Act” means the Housing (Scotland) Act 2001⁽⁴⁾, and

“2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016⁽⁵⁾.

Modification of schedule 1 of the Coronavirus (Scotland) Act 2020

2. Schedule 1 of the Coronavirus (Scotland) Act 2020 is modified in accordance with regulations 3 to 7.

(1) 2020 asp 7.
(2) 1984 c.58.
(3) 1988 c.43.
(4) 2001 asp 10.
(5) 2016 asp 19.

Paragraph 2 - private residential tenancies: regrouping of notice periods

3. In paragraph 2(2) of schedule 1 (private residential tenancies: extension of notice periods)—
- (a) in subsection (2)(b) of the text that is to be read as if it were substituted into section 54 of the 2016 Act, before “expires” insert “in the case of a notice served before 3 October 2020,”,
 - (b) after subsection (2)(b) of the text that is to be read as if it were substituted into section 54 of the 2016 Act, insert—
 - “(c) in the case of a notice served on or after 3 October 2020, expires on the day falling—
 - (i) 28 days after it begins if subsection (3B) applies,
 - (ii) three months after it begins if subsection (3C) applies,
 - (iii) six months after it begins if neither subsection (3B) nor (3C) applies.”,
 - (c) after subsection (3A) of the text that is to be read as if it were substituted into section 54 of the 2016 Act, insert—
 - “(3B) This subsection applies if the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—
 - (a) that the tenant is not occupying the let property as the tenant’s home,
 - (b) that the tenant has a relevant conviction,
 - (c) that the tenant has engaged in relevant anti-social behaviour, or
 - (d) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.
 - (3C) 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 landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004,
 - (iv) 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) an eviction ground, or grounds, mentioned in subsection (3B), and
 - (ii) an eviction ground, or grounds, mentioned in paragraph (a).”.

Paragraph 4 - assured tenancies: regrouping of notice periods

4. In paragraph 4(2) of schedule 1 (assured tenancies: extension of notice periods)—
- (a) for head (a) substitute—
 - “(a) in subsection (3)(b)—
 - (i) for the words “two weeks or two months” there were substituted “28 days, two months, three months or, as the case may be, six months”,
 - (ii) after the words “subsection (4)” there were inserted “or (4A)”,
 - (b) in sub-paragraph (2)(b)—

- (i) in subsection (4) of the text that is to be read as if it were substituted into section 19 of the 1988 Act after “notice”, where it first occurs, insert “served before 3 October 2020”,
- (ii) after subsection (4) of the text that is to be read as if it were substituted into section 19 of the 1988 Act, insert—
 - “(4A) The minimum period to be specified in a notice served on or after 3 October 2020 as mentioned in subsection (3)(b) is—
 - (a) 28 days if the notice specifies only Ground 15 in Part II of Schedule 5 to this Act,
 - (b) two months if the notice specifies Ground 9 in Part II of Schedule 5 to this Act (whether with or without also specifying the ground referred to in paragraph (a)),
 - (c) three months if the notice specifies Ground 1 in Part I of Schedule 5 to this Act (whether with or without also specifying either or both of the grounds referred to in paragraphs (a) and (b)),
 - (d) 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.”.

Paragraph 6 - tenancies under the Rent (Scotland) Act 1984: regrouping of notice periods

5. In paragraph 6(3) of schedule 1 (tenancies under the Rent (Scotland) Act 1984: extension of notice periods)—

- (a) in sub-paragraph (b)—
 - (i) in the text that is to be read as if it were inserted as section 112(1B) of the 1984 Act after “time” insert “for a notice served before 3 October 2020”,
 - (ii) after the text that is to be read as if it were inserted as section 112(1E) of the 1984 Act, insert—
 - “(1F) For the purpose of subsection (1)(a), the specified amount of time for a notice served on or after 3 October 2020 is—
 - (a) 4 weeks if subsection (1G) applies,
 - (b) 3 months if subsection (1H) applies,
 - (c) 6 months if subsection (1I) applies.
 - (1G) This subsection applies if the notice under subsection (1) specifies one or both of the following—
 - (a) that possession is sought in accordance with section 11(1)(a) on the basis that suitable alternative accommodation is available, or will be available, for the tenant, or
 - (b) that possession is sought on the basis that the circumstances are as specified in Case 2 in Schedule 2.
 - (1H) 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 (whether with or without also specifying the Case referred to in subsection (1G)(b))—

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

(1I) 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.”.

Paragraph 7 - Scottish secure tenancies: regrouping of notice periods

6.—(1) In paragraph 7(2) of schedule 1 (Scottish secure tenancies: extension of notice periods)—

- (a) in head (a) for the text that is to be read as if it were substituted for section 14(4)(b)(i) of the 2001 Act, substitute—

“(i) the date calculated in accordance with—

- (A) subsection (4A), where the notice is served before 3 October 2020,
 - (B) subsection (4E), where the notice is served on or after 3 October 2020,
- or”,

- (b) in head (b)—

- (i) in the text that is to be read as if it were inserted as section 14(4A) of the 2001 Act, for “subsection (4)(b)(i)” substitute “subsection (4)(b)(i)(A)”,

- (ii) after the text that is to be read as if it were inserted as section 14(4D) of the 2001 Act, insert—

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

- (a) 4 weeks after the date of service of the notice if subsection (4F) applies,
- (b) 3 months after the date of service of the notice if subsection (4G) applies,
- (c) 6 months after the date of service of the notice if subsection (4H) applies.

(4F) This subsection applies if the notice under subsection (2) specifies only a ground, or grounds, set out in any of the following paragraphs of schedule 2—

- (a) paragraph 2,
- (b) paragraph 5,
- (c) paragraph 7 or 8.

(4G) This subsection applies if the notice under subsection (2) specifies the ground set out in paragraph 6 of schedule 2 (whether with or without also specifying one or more of the grounds referred to in subsection (4F)).

(4H) 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.”.

(2) In paragraph 7(3)(c) of schedule 1, in the text which is to be read as if it were substituted for text in section 36(8) of the 2001 Act, after “subsection (4A)”, insert “or (4E)”.

Consequential modifications in relation to prescribed forms

7. In paragraph 9 of schedule 1 (consequential modifications in relation to prescribed forms)—
- (a) in sub-paragraph (1)(a)(iii), after “Property”, in the second place it occurs, insert “or, where notice is served on or after 3 October 2020, that you have a relevant conviction, that you have engaged in relevant anti-social behaviour or that you associate in the Let Property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour”;
 - (b) in sub-paragraph (1)(b)(iii), after “Let Property” insert “or, where notice is served on or after 3 October 2020, that you have a relevant conviction, that you have engaged in relevant anti-social behaviour or that you associate in the Let Property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour”;
 - (c) in sub-paragraph (2), in the text which is to be read as if it were inserted into the schedule as part of Form AT6—
 - (i) for “If only ground 9 applies”, substitute “If notice is served before 3 October 2020 and only ground 9 applies”;
 - (ii) for “If only grounds 1 or 15” where it first occurs, substitute “If notice is served before 3 October 2020 and either only grounds 1 or 15”;
 - (iii) for “if any of grounds”, substitute “If notice is served before 3 October 2020 and any of grounds”;
 - (iv) at the end, insert “If notice is served on or after 3 October 2020 and only ground 15 applies, 28 days’ notice must be given. If notice is served on or after 3 October 2020 and only ground 9 applies, or if ground 9 applies together with ground 15, two months’ notice must be given. If notice is served on or after 3 October 2020 and only ground 1 applies, or if ground 1 applies together with either or both ground 9 or ground 15, three months’ notice must be given. If notice is served on or after 3 October 2020 and 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.”.

St Andrew’s House,
Edinburgh
2nd September 2020

KEVIN STEWART
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of these Regulations)

Schedule 1 of the Coronavirus (Scotland) Act 2020 (“the 2020 Act”) extends the notice periods which a landlord must give to a tenant before commencing an action for recovery of possession or eviction under the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”), the Housing (Scotland) Act 1988 (“the 1988 Act”), the Rent (Scotland) Act 1984 (“the 1984 Act”), and the Housing (Scotland) Act 2001 (“the 2001 Act”).

Paragraph 8(1)(a) of schedule 1 of the 2020 Act confers power on the Scottish Ministers to modify a reference to any period of time which is for the time being specified in any of paragraphs 2, 4, 6 or 7 of schedule 1.

For notices served on or after 3 October 2020, regulation 4 modifies the period of time (from 3 months to 28 days) which applies where a notice is served under section 19 of the 1988 Act if the notice specifies only Ground 15 in Part II of schedule 5 of that Act (conviction for a relevant offence, acting in an anti-social manner or pursued a course of anti-social conduct).

Paragraph 8(1)(b) of schedule 1 of the 2020 Act confers power on the Scottish Ministers to modify how grounds for possession (however described) are grouped in any of paragraphs 2, 4, 6 or 7 of schedule 1 for the purpose of determining which notice period applies.

Regulation 3 modifies paragraph 2 of schedule 1 (private residential tenancies). For notices served on or after 3 October 2020, the grounds (i) that the tenant has a relevant conviction, (ii) that the tenant has engaged in relevant anti-social behaviour, and (iii) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour are now grouped together with the ground of the tenant not occupying the let property as the tenant’s home in the modified section 54 of the 2016 Act, with the effect that the relevant period for those grounds is changed from three months to 28 days.

Regulation 5 modifies paragraph 6 of schedule 1 (tenancies under the 1984 Act). For notices served on or after 3 October 2020, where the ground is Case 2 in Schedule 2 to the 1984 Act (nuisance, annoyance or conviction for using the house for immoral or illegal purposes), the ground is now grouped in the modified section 112(1G) of the 1984 Act, with the effect that the relevant period for that ground is changed from three months to 28 days.

Regulation 6 modifies paragraph 7 of schedule 1 (Scottish secure tenancies). For notices served on or after 3 October 2020, the grounds specified in paragraphs 2 (relevant conviction), 7 (anti-social behaviour or harassment) and 8 (nuisance, annoyance or harassment) of schedule 2 of the 2001 Act are now grouped together in the modified section 14(4F) of the 2001 Act with the effect that the relevant period for those is changed from three months to 28 days.

Paragraph 8(1)(b) of schedule 1 of the 2020 Act confers power on the Scottish Ministers to make consequential amendments to paragraph 9 of schedule 1 (consequential modifications in relation to prescribed forms). Regulation 7 makes consequential amendments to paragraph 9.