SCOTTISH STATUTORY INSTRUMENTS

2018 No. 155

HOUSING

The Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2018

Made - - - -	*12th May 2018*
Laid before the Scottish Parliament - - - -	*15th May 2018*
Coming into force - -	*1st May 2019*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 36(3) and 109(2) of the Housing (Scotland) Act 2001 [M1] and all other powers enabling them to do so.

Marginal Citations

M1 2001 asp 10.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2018 and shall come into force on 1st May 2019.

(2) In these Regulations "the Act" means the Housing (Scotland) Act 2001.

Form of notice for recovery of possession

2.—(1) Where the landlord is seeking to recover possession of a house which is the subject of a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2, or 2A of schedule 6 of the Act the prescribed form of notice for the purposes of section 36(3) of the Act is contained in schedule 1.

(2) Where the landlord is seeking to recover possession of a house which is the subject of a short Scottish secure tenancy created by virtue of paragraph 3, 4, 5, 6, 7 or 7A of schedule 6 of the Act the prescribed form of notice for the purposes of section 36(3) of the Act is contained in schedule 2.

Revocation

3. The Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2002 [M2] are revoked.

Marginal Citations

M2 S.S.I. 2002/319.

Saving Provision

4. Nothing in these Regulations affects the validity of a notice under section 36(3) of the Act served prior to 1st May 2019.

St Andrew's House,
Edinburgh

KEVIN STEWART
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 2(1)

HOUSING (SCOTLAND) ACT 2001

NOTICE UNDER SECTION 36 OF INTENTION TO RAISE PROCEEDINGS FOR POSSESSION

TO BE SERVED ON A TENANT OF A SHORT SCOTTISH SECURE TENANCY CREATED BY VIRTUE OF SECTION 35 OR PARAGRAPH 1, 2 OR 2A OF SCHEDULE 6 OF THE HOUSING (SCOTLAND) ACT 2001

Important information for tenant(s) - Please read this notice carefully.

This notice informs you, as a tenant, that your landlord intends to apply to the Sheriff for an Order for possession of the house at the address in Part 1, which is currently occupied by you.

Part 1. To……

(Name of tenant(s))

of
……
……
……
(address of house)

Part 2.[I/We*][on behalf of* your landlord(s)] ……

(name(s) of landlords)

of ……

……

……

(address and telephone number of landlord(s))

Inform you that [I/we*] require possession of the house at the address in Part 1

**delete as appropriate*

Part 3. The reason(s) for seeking recovery of possession [is /are*]* *delete as appropriate*
……
……
……

Part 4.

[I/We*]consider that you have broken the following obligation(s) of your tenancy:

……
……

Part 5 Proceedings will not be raised before ……./date)(which is the earliest date at which proceedings can be raised under section 36 of the Housing (Scotland) Act 2001.

Signed……(landlord(s)/landlord's agent*)

**delete as appropriate*

NOTES TO TENANTS

NOTE 1

This notice is a warning that your landlord may be going to raise proceedings against you in the sheriff court to gain possession of your house. It is not a notice to quit and it does not affect your right to continue to live in the house or your obligation to pay rent. You cannot be evicted from your house unless the sheriff court grants your landlord a possession order.

These Notes are intended for guidance only. If you are at all uncertain about what this notice means or if you are unsure of your rights you should get advice as quickly as possible. You may be able to get this from your landlord or:

- **Shelter Scotland**
- **your local Housing Advice Centre**
- **your local Citizens Advice Bureau**
- **your local Law Centre**
- **a solicitor (you may be able to get legal aid depending on your income).**

NOTE 2

Your landlord has explained in Part 2 of this notice that the landlord requires possession of the house.

[**Text for all notices in relation to a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 of the Housing (Scotland) Act 2001 where the notice under section 34(4) of that Act was served prior to 1st May 2019:**

The court must grant a possession order against you if it appears to the court that:—

(A) The tenancy has reached its end or "ish";

(B) Tacit relocation is not operating;

(C) No further contractual tenancy is in existence]*

[Text for notices in relation to a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 of the Housing (Scotland) Act 2001 where the notice under section 34(4) of that Act was served on or after 1st May 2019:

The court must grant a possession order against you if it appears to the court that:—

(A) The tenancy has reached the end of its term. The term of your tenancy will be 12 months unless it has been extended by 6 months under section 35A of the Housing (Scotland) Act 2001;

(B) Tacit relocation is not operating. Tacit relocation does not operate in respect of your tenancy due to section 34(5A) and section 37 of the Housing (Scotland) Act 2001;

(C) No further contractual tenancy is in existence]*

**delete as appropriate*

NOTE 3

Your landlord must give you 2 months' notice or such longer period as your tenancy agreement provides if your tenancy is a short Scottish secure tenancy and your landlord is seeking repossession as described in Note 2.

NOTE 4

The date given in the notice (see Part 5 of the notice) is the earliest date on which your landlord can take court action. After that the landlord is allowed to start possession proceedings against you at any time during the following 6 months. If that 6 month period passes without possession proceedings being started, your landlord would have to serve another one of these notices before it could start court action for possession.

NOTE 5

You can apply to your landlord for a review of its decision to seek recovery of possession. This must be done before the end of the period of 14 days beginning with the day this notice was served on you. If you make an application for review your landlord must before the date specified in Part 5:—

(A) confirm its decision to seek recovery of possession or withdraw this notice;

(B) notify you of its decision on the review; and

(C) where it decides to confirm the decision to seek recovery of possession notify you of its reasons.

If you want to contest your landlord's intention to repossess your home, you are strongly advised to take legal advice without delay and before the date specified in Part 5. Help with all or part of the cost of legal advice may be available under the legal aid legislation.

NOTE 6

[Text for all notices in relation to a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 of the Housing (Scotland) Act 2001 where the notice under section 34(4) of that Act was served prior to 1st May 2019:

Remember before you must leave your home, your landlord must have done 3 things:—

1. served on you a notice to quit;

2. served on you this notice; and

3. obtained a court order.]*

[Text for notices in relation to a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 of the Housing (Scotland) Act 2001 where the notice under section 34(4) of that Act was served on or after 1st May 2019:

Remember before you must leave your home, your landlord must have done 2 things:—

1. served on you this notice; and

2. obtained a court order.]*

**delete as appropriate*

NOTE 7

This is an important document and you should keep it in a safe place.

SCHEDULE 2

Regulation 2(2)

Modifications etc. (not altering text)

C1 Sch. 2 expiry of earlier affecting provision 2020 asp 7, sch. 1 para. 9 (30.3.2022) by The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2022 (S.S.I. 2022/64), **reg. 2(a)** (with regs. 4, 5)

HOUSING (SCOTLAND) ACT 2001

NOTICE UNDER SECTION 36 OF INTENTION TO RAISE PROCEEDINGS FOR POSSESSION

TO BE SERVED ON A TENANT OF A SHORT SCOTTISH SECURE TENANCY CREATED BY VIRTUE OF PARAGRAPH 3, 4, 5, 6, 7 OR 7A OF SCHEDULE 6 OF THE HOUSING (SCOTLAND) ACT 2001

Important information for tenant(s) - Please read this notice carefully.

This notice informs you, as a tenant, that your landlord intends to apply to the Sheriff for an Order for possession of the house at the address in Part 1, which is currently occupied by you.

Part 1. To……

(Name of tenant(s))

of
……
……
……
(address of house)

Part 2.[I/We*][on behalf of* your landlord(s)] ……

(name(s) of landlords)

of ……

……

……

(address and telephone number of landlord(s))

Inform you that [I/we*] require possession of the house at the address in Part 1

**delete as appropriate*

Part 3. The reason(s) for seeking recovery of possession [is /are*]* *delete as appropriate*
……

……

……

Part 4 Proceedings will not be raised before ……(date)(which is the earliest date at which proceedings can be raised under section 36 of the Housing (Scotland) Act 2001.

Signed……(landlord(s)/landlord's agent*)
**delete as appropriate*

NOTES TO TENANTS

NOTE 1

This notice is a warning that your landlord may be going to raise proceedings against you in the sheriff court to gain possession of your house. It is not a notice to quit and it does not affect your right to continue to live in the house or your obligation to pay rent. You cannot be evicted from your house unless the sheriff court grants your landlord a possession order.

These Notes are intended for guidance only. If you are at all uncertain about what this notice means or if you are unsure of your rights you should get advice as quickly as possible. You may be able to get this from your landlord or:

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- **your local Law Centre**
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NOTE 2

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The court must grant a possession order against you if it appears to the court that:—

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2. served on you this notice; and

3. obtained a court order.

NOTE 7

This is an important document and you should keep it in a safe place.

EXPLANATORY NOTE

(This note is not part of the Regulations)
These regulations prescribe the form of notice to be used by a landlord when notifying a tenant under a short Scottish secure tenancy, within the meaning of Part 2 of the Housing (Scotland) Act 2001 ("the Act"), that the landlord requires possession of the house occupied by that tenant and may commence possession proceedings in respect of that house.
Schedule 1 contains the form of notice that is to be used in relation to a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 of the Act.
Schedule 2 contains the form of notice that is to be used in relation to a short Scottish secure tenancy created by virtue of paragraph 3,4,5, 6, 7 or 7A of schedule 6 of the Act.
A notice in the prescribed form must be served by a landlord on a tenant in terms of section 36(2) of the Act.
The notice sets out the time limits within which the landlord is permitted to commence possession proceedings.
Regulation 3 revokes the Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2002 (S.S.I. 2002/319). Regulation 4 makes a saving for notices served prior to 1st May 2019.

Changes to legislation:
There are currently no known outstanding effects for the The Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2018.