



Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

1985 CHAPTER 73

Provisions relating to leases

4 Irritancy clauses etc. relating to monetary breaches of lease.

- (1) A landlord shall not, for the purpose of treating a lease as terminated or terminating it, be entitled to rely—
- (a) on a provision in the lease which purports to terminate it, or to enable him to terminate it, in the event of a failure of the tenant to pay rent, or to make any other payment, on or before the due date therefor or such later date or within such period as may be provided for in the lease; or
 - (b) on the fact that such a failure is, or is deemed by a provision of the lease to be, a material breach of contract,
- unless subsection (2) or (5) below applies.
- (2) This subsection applies if—
- (a) the landlord has, at any time after the payment of rent or other payment mentioned in subsection (1) above has become due, served a notice on the tenant—
 - (i) requiring the tenant to make payment of the sum which he has failed to pay together with any interest thereon in terms of the lease within the period specified in the notice; and
 - (ii) stating that, if the tenant does not comply with the requirement mentioned in sub-paragraph (i) above, the lease may be terminated; and
 - (b) the tenant has not complied with that requirement.
- (3) The period to be specified in any such notice shall be not less than—
- (a) a period of 14 [^{F1}days][^{F1}weeks] immediately following the service of the notice; or

Status: Point in time view as at 07/04/2020. This version of this provision has been superseded.

Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, Section 4 is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) if any period remaining between the service of the notice and the expiry of any time provided for in the lease or otherwise for the late payment of the sum which the tenant has failed to pay is greater than 14 [^{F2}days][^{F2}weeks], that greater period.

[^{F3}(3A) The Scottish Ministers may, by regulations, amend the period referred to in paragraphs (a) and (b) of subsection (3).

(3B) Regulations under subsection (3A) are subject to the negative procedure.]

- (4) Any notice served under subsection (2) above shall be sent by recorded delivery and shall be sufficiently served if it is sent to the tenant's last business or residential address in the United Kingdom known to the landlord or to the last address in the United Kingdom provided to the landlord by the tenant for the purpose of such service.

- (5) This subsection applies if the tenant does not have an address in the United Kingdom known to the landlord and has not provided an address in the United Kingdom to the landlord for the purpose of service.

[^{F4}(5A) This section applies regardless of whether the circumstances referred to in paragraph (a) or (b) of subsection (1), in which a landlord is entitled to terminate a lease, occurred before or after the date on which paragraph 7 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force.

(5B) A notice served under subsection (2) before the date on which paragraph 7 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force becomes void if, by that date, the time period specified in the notice has not yet expired.]

Textual Amendments

- F1** Word in s. 4(3)(a) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 7\(a\)](#) (with [ss. 11-13](#)) (which affecting provision expires (30.3.2022) by virtue of The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2022 (S.S.I. 2022/64, [reg. 2\(c\)](#))
- F2** Word in s. 4(3)(b) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 7\(a\)](#) (with [ss. 11-13](#)) (which affecting provision expires (30.3.2022) by virtue of The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2022 (S.S.I. 2022/64, [reg. 2\(c\)](#))
- F3** S. 4(3A)(3B) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 7\(b\)](#) (with [ss. 11-13](#)) (which affecting provision expires (30.3.2022) by virtue of The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2022 (S.S.I. 2022/64, [reg. 2\(c\)](#))
- F4** S. 4(5A)(5B) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 7\(c\)](#) (with [ss. 11-13](#)) (which affecting provision expires (30.3.2022) by virtue of The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2022 (S.S.I. 2022/64, [reg. 2\(c\)](#))

Modifications etc. (not altering text)

- C1** S. 4 excluded (3.2.1995) by [1994 c. 33, s. 106\(3\)\(a\)](#); S.I. 1995/127, art. 2(1), [Sch.1](#)
S. 4 excluded (1.8.2000) by [1999 c. 33, s. 149\(3\)\(e\)](#); S.I. 2000/1985, art. 2, [Sch.](#)
- C2** Ss. 4-7 excluded by [2002 c. 29, s. 269A\(5\)](#) (as inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 29\(5\)](#), [58\(1\)\(6\)](#); S.I. 2018/78, [reg. 3\(1\)](#))

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