



Sheriff Courts (Scotland) Act 1907

1907 CHAPTER 51 7 Edw 7

REMOVINGS

34 Removings.

Where lands exceeding two acres in extent are held under a probative lease specifying a term of endurance, and whether such lease contains an obligation upon the tenant to remove without warning or not, such lease, or an extract thereof from the books of any court of record, shall have the same force and effect as an extract decree of removing obtained in an ordinary action at the instance of the lessor, or any one in his right, against the lessee or any party in possession, and such lease or extract shall, along with authority in writing signed by the lessor or any one in his right or by his factor or law agent, be sufficient warrant to any sheriff officer or messenger-at-arms of the sheriffdom within which such lands or heritages are situated to eject such party in possession, his family, sub-tenants, cottars, and dependants, with their goods, gear and effects, at the expiry of the term or terms of endurance of the lease: Provided that previous notice in writing to remove shall have been given—

- (A) When the lease is for three years and upwards not less than one year and not more than two years before the termination of the lease; and
- (B) In the case of leases from year to year (including lands occupied by tacit relocation) or for any other period less than three years, not less than six months before the termination of the lease (or where there is a separate ish as regards land and houses or otherwise before that ish which is first in date):

Provided that if such written notice as aforesaid shall not be given the lease shall be held to be renewed by tacit relocation for another year, and thereafter from year to year: Provided further that nothing contained in this section shall affect the right of the landlord to remove a tenant who has been sequestrated under the ^{M1}Bankruptcy (Scotland) Act 1856, or against whom a decree of cessio has been pronounced under the ^{M2}Debtors (Scotland) Act 1880, or who by failure to pay rent has incurred any irritancy of his lease or other liability to removal: Provided further that removal or ejectment in virtue of this section shall not be competent after six weeks from the date of the ish last in date: Provided further that nothing herein contained shall be

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construed to prevent proceedings under any lease in common form; and that the foregoing provisions as to notice shall not apply to any stipulations in a lease entitling the landlord to resume land for building, planting, feuing, or other purposes or to subjects let for any period less than a year.

Modifications etc. (not altering text)

- C1** Reference to [Bankruptcy \(Scotland\) Act 1856 \(c. 79\)](#) to be construed as reference to [Bankruptcy \(Scotland\) Act 1913 \(c. 34\)](#); [Interpretation Act 1889 \(c. 63\)](#), **s. 38(1)**

Marginal Citations

- M1** [1856 c. 79.](#)
M2 [1880 c. 34.](#)

35 Letter of removal.

Where any tenant in possession of any lands exceeding two acres in extent (whether with or without a written lease) shall, either at the date of entering upon the lease or at any other time, have granted a letter of removal, either holograph or attested by one witness, such letter of removal shall have the same force and effect as an extract decree of removing, and shall be a sufficient warrant for ejection to the like effect as is provided in regard to a lease or extract thereof, and shall be operative against the granter of such letter of removal or any party in his right within the same time and in the same manner after the like previous notice to remove: Provided always that where such letter is dated and signed within twelve months before the date of removal or before the first ish, if there be more than one ish, it shall not be necessary that any notice of any kind shall be given by either party to the other.

36 Notice to remove.

Where lands exceeding two acres in extent are occupied by a tenant without any written lease, and the tenant has given to the proprietor or his agent no letter of removal, the lease shall terminate on written notice being given to the tenant by or on behalf of the proprietor, or to the proprietor by or on behalf of the tenant not less than six months before the determination of the tenancy, and such notice shall entitle the proprietor, in the event of the tenant failing to remove, to apply for and obtain a summary warrant of ejection against the tenant and everyone deriving right from him.

Modifications etc. (not altering text)

- C2** [S. 36](#) applied (10.6.2002) by [Act of Sederunt \(Summary Cause Rules\) 2002 \(S.S.I. 2002/132\)](#), **art. 2**, {Sch. 1 rule 30.3} (with art. 3)

37 Notice of termination of tenancy.

In all cases where houses, with or without land attached, not exceeding two acres in extent, lands not exceeding two acres in extent let without houses, mills, fishings, shootings, and all other heritable subjects (excepting land exceeding two acres in extent) are let for a year or more, notice of termination of tenancy shall be given in writing to the tenant by or on behalf of the proprietor or to the proprietor by or on behalf of the tenant: Provided always that notice under this section shall not warrant summary

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ejection from the subjects let to a tenant, but such notice, whether given to or by or on behalf of the tenant, shall entitle the proprietor to apply to the [^{F1}sheriff principal] for a warrant for summary ejection in common form against the tenant and every one deriving right from him: Provided further that the notice provided for by this section shall be given at least forty days before the fifteenth day of May when the termination of the tenancy is the term of Whitsunday, and at least forty days before the eleventh day of November when the termination of the tenancy is the term of Martinmas.

Textual Amendments

F1 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **s. 4**

Modifications etc. (not altering text)

C3 [S. 37](#) applied (10.6.2002) by [Act of Sederunt \(Summary Cause Rules\) 2002 \(S.S.I. 2002/132\)](#), **art. 2**, {Sch. 1 rule 30.3} (with art. 3)

VALID FROM 27/11/2003

[^{F2}37A Exception for certain tenancies

The provisions of this Act relating to removings (including summary removings) shall not apply to or in relation to short limited duration tenancies or limited duration tenancies within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11).]

Textual Amendments

F2 [S. 37A](#) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp. 11\)](#), ss. 94, 95(3)(4), **Sch. para. 1** (with s. 95(1)); [S.S.I. 2003/548](#), **art. 2** (with art. 3, Sch.)

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