
STATUTORY INSTRUMENTS

1982 No. 981 (S. 133)**HOUSING, SCOTLAND****The Secure Tenancies (Abandoned Property) (Scotland) Order
1982**

Made - - - - - 17th June 1982
Coming into Operation 2nd August 1982

In exercise of the powers conferred upon me by section 19(4) of the Tenants' Rights, Etc (Scotland) Act 1980 and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Secure Tenancies (Abandoned Property) (Scotland) Order 1982 and shall come into operation on 2nd August 1982.

(2) In this Order—

“the Act” means the Tenants' Rights, Etc (Scotland) Act 1980 (a).

Procedure

2.—(1) Where property is found in a house to which section 19(2) of the Act applies the landlord shall immediately serve notice on the tenant that the property is available for delivery into his or his agents hands at a place specified in the notice on payment of any sum payable in terms of Article 5(1) of this Order and that if the property is not collected by the tenant from the specified place on or before the date specified in the notice (being a date not less than 28 days from the date of service of the notice and not earlier than the date on which the landlord repossesses the house) it may be disposed of in accordance with the other provisions of this Order.

(2) The notice provided for in Paragraph (1) of this Article shall be served by posting it to the tenant in a recorded delivery letter addressed to him at his last known address or by leaving the notice for him at that address.

3.—(1) Where property in respect of which a notice under Article 2 of this Order has been served on the tenant has not been collected by the date specified in the notice the property shall, subject to Paragraph (2) of this Article, be stored by the landlord for a period of 6 months from the date on which the landlord took possession of the dwellinghouse and after expiry of the said period the landlord may sell any item remaining in its custody.

(2) Paragraph (1) of this Article shall not apply to any property the value of which would not, in the opinion of the landlord, exceed the amount which the landlord would be entitled to deduct under Article 7 of this Order from the proceeds of any sale of such item.

(a) 1980 c.52.

4. Where property to which Paragraph (1) of Article 3 does not apply and in respect of which a notice under Article 2 has been served on the tenant has not been collected by the date specified in the notice the landlord may sell or otherwise dispose of it in the manner which in its opinion is most expedient.

5.—(1) Subject to Paragraph (2) of this Article, where at any time prior to the sale or disposal of property under this Order the tenant, or any other person who appears to the landlord to have a right of ownership or of possession in the property, arranges for delivery to himself of any item the landlord shall relinquish custody of that item upon receipt of a payment equal to the amount of any expense incurred by the landlord in complying with this Order in relation to that item or such lesser amount (including a nil amount) as the landlord may think fit.

(2) Nothing in this Article shall affect the landlord's exercise of its right of hypothec.

6. Nothing in Articles 2 to 5 of this Order shall prevent the exercise by any person or authority of any power under any enactment relating to public health or public safety.

7. Where a landlord sells property under Article 3 of this Order it may deduct from the proceeds of sale the amount of any expense incurred by it in complying with this Order in relation to that property and, if there is any remainder after deduction of such amount, the amount of any arrears of rent.

Register of abandoned property

8.—(1) Landlords shall maintain a register of houses in which property has been found on the exercise of their powers under section 19 of the Act.

(2) A house shall remain on the register until after the expiry of a period of 5 years from the date on which the landlord took possession of the house.

(3) The landlord shall make the register available for inspection by members of the public at all reasonable times.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
17th June 1982.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order prescribes the procedure to be followed by a local authority in respect of property found in a house which has been re-posessed under section 19 of the Tenants' Rights, Etc (Scotland) Act 1980.

Article 2 provides that the tenant will be advised by notice that if he does not collect his property within a specified time it may be disposed of in accordance with this Order. Article 3 provides that property of a value sufficient to cover the cost of storage will be stored for 6 months and may thereafter be sold. Article 4 provides that property of a value insufficient to cover the cost of storage may be disposed of in the most expedient manner.

Article 5 provides that, subject to the landlord's security for unpaid rent, the landlord shall, on receipt of payment of its expenses, surrender any property to which the Order applies to any person appearing to be entitled to delivery. Article 7 provides that the landlord may deduct its expenses and the amount of any arrears of rent from the proceeds of sale of any property to which the Order applies.

Article 8 provides that landlords will maintain for 5 years in a register open to public inspection information as to the houses in which property to which the Order applies has been found.

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