
Changes to legislation: There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016, Paragraph 12A. (See end of Document for details)

SCHEDULE 3 EVICTION GROUNDS

PART 3

TENANT'S CONDUCT

Rent arrears

Substantial rent arrears

[^{F1}12A(1) It is an eviction ground that the tenant has substantial rent arrears.

- (2) The First-tier Tribunal may find that the ground named by [sub-paragraph \(1\)](#) applies if—
- (a) the tenant has accrued rent arrears under the tenancy in respect of one or more periods,
 - (b) the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice to leave is given to the tenant on this ground in accordance with section 52(3), and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order.
- (3) In deciding under [sub-paragraph \(2\)](#) whether it is reasonable to issue an eviction order, the Tribunal is to consider—
- (a) whether the tenant being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit,
 - (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers under paragraph 12(4)(b) (and continued in force by virtue of section 49 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022).
- (4) For the purpose of this paragraph—
- (a) references to a relevant benefit are to—
 - (i) a rent allowance or rent rebate under the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)),
 - (ii) a payment on account awarded under regulation 93 of those Regulations,
 - (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,
 - (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,
 - (b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.]

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Textual Amendments

- F1** Sch. 3 para. 12A treated as inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 2 para. 4\(1\)\(3\)\(c\)](#) (with ss. 6, 7, 8) (as amended: (1.4.2023) by S.S.I. 2023/82, regs. 1(3), **2(2)**); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), **2(2)**)

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