

*Status: Point in time view as at 27/05/2020.*

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

## SCHEDULE 1

*(introduced by section 1)*

### TENANCIES WHICH CANNOT BE PRIVATE RESIDENTIAL TENANCIES

#### *Low rent*

- 1 (1) A tenancy cannot be a private residential tenancy if—
- (a) it is a tenancy under which rent of, or equivalent to, less than £6 a week is payable, and
  - (b) it has not previously acquired the status of a private residential tenancy or been an assured tenancy (including a statutory assured tenancy) within the meaning of the Housing (Scotland) Act 1988.
- (2) In determining the rent payable for the purpose of sub-paragraph (1), no account is to be taken of any amount paid by the tenant in respect of services, repairs, maintenance or insurance.

#### **Commencement Information**

**I1** Sch. 1 para. 1 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

#### *Shop*

- 2 A tenancy cannot be a private residential tenancy if it is one to which the Tenancy of Shops (Scotland) Act 1949 is capable of applying.

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

#### *Licensed premises*

- 3 A tenancy cannot be a private residential tenancy if it is one under which the let property consists of or comprises premises licensed for the sale of alcohol for consumption on the premises.

#### **Commencement Information**

**I3** Sch. 1 para. 3 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

#### *Agricultural land*

- 4 (1) A tenancy cannot be a private residential tenancy if sub-paragraph (2) or (3) applies to it.
- (2) This sub-paragraph applies to a tenancy if the let property includes two acres or more of agricultural land.
- (3) This sub-paragraph applies to a tenancy if—
- (a) the tenancy is a relevant agricultural tenancy, and

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- (b) the let property is occupied by the person responsible for the control (whether as tenant or as the tenant's agent or employee) of the farming of the let property.
- (4) For the purposes of this paragraph—
- (a) “agricultural land” has the meaning given in section 115(1) of the Rent (Scotland) Act 1984,
  - (b) “relevant agricultural tenancy” means a tenancy which falls within the definition given in the Agricultural Holdings (Scotland) Act 2003 of—
    - (i) a 1991 Act tenancy,
    - (ii) a short limited duration tenancy,
    - (iii) a limited duration tenancy,
    - (iv) a modern limited duration tenancy, or
    - (v) a repairing tenancy.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, sch.

*Student let*

- 5 (1) A tenancy cannot be a private residential tenancy if—
- (a) the purpose of it is to confer on the tenant the right to occupy the let property while the tenant is a student, and
  - (b) sub-paragraph (2) or (3) applies to the tenancy.
- (2) This sub-paragraph applies to a tenancy if the landlord is—
- (a) a university or constituent college, school or hall of a university,
  - (b) a central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980 (“the 1980 Act”),
  - (c) a designated institution within the meaning of section 44(2) of the Further and Higher Education (Scotland) Act 1992,
  - (d) an institution for the provision of further education within the meaning of section 135(1) of the 1980 Act which is administered by an education authority,
  - (e) a college of further education which is managed by a board of management in terms of Part 1 of the Further and Higher Education (Scotland) Act 1992,
  - (f) an association approved under regulation 8 of the Further Education (Scotland) Regulations 1959 (S.I. 1959/477),
  - (g) the Royal College of Surgeons of Edinburgh.
- (3) This sub-paragraph applies to a tenancy if—
- (a) planning permission for the construction, conversion or change of use of the building (or part of the building) of which the let property forms part was given on the basis that the let property would be used predominantly for housing students, and
  - (b) the landlord is an institutional provider of student accommodation.
- (4) For the purposes of sub-paragraph (3), a landlord is an institutional provider of student accommodation if—

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- (a) the landlord lets, or is entitled to let, other properties in the same building or complex as the let property,
- (b) the let property and the other properties together include at least 30 bedrooms, and
- (c) the landlord uses, or intends to use, the other properties predominantly for the purpose of housing students.

(5) In this paragraph, “student” means a person who is pursuing a course of study provided by a body referred to in sub-paragraph (2).

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

*Holiday let*

6 A tenancy cannot be a private residential tenancy if the purpose of it is to confer on the tenant the right to occupy the let property for a holiday.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

*Resident landlord*

7 A tenancy cannot be a private residential tenancy if paragraph 8 or 9 applies to it.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

8 This paragraph applies to a tenancy if—

- (a) the let property would not be regarded as a separate dwelling were it not for the terms of the tenancy entitling the tenant to use property in common with another person (“shared accommodation”), and
- (b) from the time the tenancy was granted, the person (or one of the persons) in common with whom the tenant has a right to use the shared accommodation is a person who—
  - (i) has the interest of the landlord under the tenancy, and
  - (ii) has a right to use the shared accommodation in the course of occupying that person's home.

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

9 (1) This paragraph applies to a tenancy if sub-paragraphs (2) and (3) apply to it.

(2) This sub-paragraph applies to a tenancy if, from the time it was granted, a dwelling within the same building as the let property has been occupied as the only or principal

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home of a person who, at the time of occupying it, has the interest of the landlord under the tenancy.

- (3) This sub-paragraph applies to a tenancy if, at the time it was granted, there was an ordinary means of access—
- (a) through the let property to the dwelling occupied by the person who is, or is to be, the landlord, or
  - (b) through the dwelling occupied by the person who is, or is to be, the landlord to the let property (whether or not that access was available to the tenant as of right).
- (4) For the purpose of this paragraph, in determining whether a dwelling is occupied as the only or principal home of the person having the interest of the landlord, no account is to be taken of—
- (a) any period beginning with the date on which the interest of the landlord is transferred (other than on death) and ending—
    - (i) 28 days later, or
    - (ii) 6 months later if, within 28 days of the period beginning, the person to whom the interest is transferred notifies the tenant of the person's intention to occupy a dwelling within the same building as the let property,
  - (b) any period of up to 24 months beginning with the date of the person's death and ending with the person's interest in the tenancy being vested in another person (otherwise than as the person's executor).

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

- 10 If, at any time, the landlord holds the landlord's interest as a trustee under a trust, a reference in paragraph 8 or 9 to a landlord or the person having the interest of the landlord includes a person who is a beneficiary under the trust.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

- 11 In a case where two or more persons jointly are the landlord under a tenancy, references to the landlord in paragraphs 8 to 10 are to any one of those persons.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Police housing*

- 12 A tenancy cannot be a private residential tenancy if the landlord is the Scottish Police Authority.

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**Commencement Information**

**I12** Sch. 1 para. 12 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Military housing*

- 13 A tenancy cannot be a private residential tenancy if the landlord is the Secretary of State for Defence.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Social housing*

- 14 A tenancy cannot be a private residential tenancy if the landlord is—
- (a) a local authority landlord within the definition given in section 11 of the Housing (Scotland) Act 2001,
  - (b) a registered social landlord within the definition given in section 165 of the Housing (Scotland) Act 2010,
  - (c) a co-operative housing association within the definition given in section 1 of the Housing Associations Act 1985, or
  - (d) Scottish Water.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Sublet, assigned, etc. social housing*

- 15 A tenancy cannot be a private residential tenancy if it arises as a result of a Scottish secure tenancy or a short Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001) being assigned, sublet or otherwise given up (see section 32(7) of the 2001 Act).

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Homeless persons*

- 16 A tenancy cannot be a private residential tenancy if it is granted on a temporary basis and the purpose of it is the fulfilment of a duty imposed on a local authority by Part II of the Housing (Scotland) Act 1987.

**Commencement Information**

**I16** Sch. 1 para. 16 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

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*Persons on probation or released from prison etc.*

- 17 A tenancy cannot be a private residential tenancy if it is granted for a term of less than 6 months to a tenant who—
- (a) is under the supervision provided by a local authority under paragraph (b) (i), (ii) or (vi) of section 27(1) of the Social Work (Scotland) Act 1968, or
  - (b) has requested advice, guidance or assistance from a local authority in fulfilment of its functions under paragraph (c) of that section.

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Asylum seekers*

- 18 A tenancy cannot be a private residential tenancy if the purpose of it is to provide accommodation for asylum-seekers or their dependants in accordance with section 4 or Part VI of the Immigration and Asylum Act 1999.

**Commencement Information**

**I18** Sch. 1 para. 18 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Displaced persons*

- 19 A tenancy cannot be a private residential tenancy if the purpose of it is to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005 (S.I. 2005/1379).

**Commencement Information**

**I19** Sch. 1 para. 19 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Shared ownership*

- 20 A tenancy cannot be a private residential tenancy if it is a tenancy under a shared ownership agreement within the meaning of section 83(3) of the Housing (Scotland) Act 2001.

**Commencement Information**

**I20** Sch. 1 para. 20 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

*Tenancies under previous legislation*

- 21 A tenancy cannot be a private residential tenancy if it is—
- (a) a protected tenancy within the meaning of the Rent (Scotland) Act 1984,
  - (b) a tenancy to which Part VI of that Act applies,
  - (c) a Part VII contract under that Act, or

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- (d) an assured tenancy (including a statutory assured tenancy) within the meaning of the Housing (Scotland) Act 1988.

#### Commencement Information

**I21** Sch. 1 para. 21 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### *[<sup>F1</sup>Accommodation for veterans and care leavers*

#### Textual Amendments

**F1** Sch. 1 para. 22 inserted (1.7.2019) by [The Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(Modification of Schedule 1\) Regulations 2019 \(S.S.I. 2019/216\)](#), regs. 1, 2 (with reg. 3)

22. (1) A tenancy cannot be a private residential tenancy if the landlord is—
- (a) a charity providing accommodation to veterans, or
  - (b) a charity providing temporary accommodation to a care leaver.
- (2) For the purposes of this paragraph—
- “care leaver” is a person who—
- (a) is under the age of 26 years,
  - (b) was on that person’s sixteenth birthday or at any subsequent time looked after by a local authority, and
  - (c) is no longer looked after by a local authority; and “looked after” is to be construed in accordance with sections 17(6) (duty of local authority to child looked after by them) and 29(7) (after-care) of the Children (Scotland) Act 1995,
- “charity” has the meaning given in section 106 of the Charities and Trustee Investment (Scotland) Act 2005, and
- “veteran” means a person who has served—
- (a) for at least one day in Her Majesty’s Armed Forces (regular and reserve), or
  - (b) as a member of the Merchant Navy on a civilian vessel while supporting the Armed Forces.]

## SCHEDULE 2

*(introduced by section 8)*

### STATUTORY TERMS REQUIRED BY SECTION 8

#### *Rent receipts*

- 1 Where any payment of rent is made in cash, the landlord must provide the tenant with a written receipt for the payment stating—
- (a) the amount paid, and
  - (b) either (as the case may be)—
    - (i) the amount which remains outstanding, or

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(ii) confirmation that no further amount remains outstanding.

**Commencement Information**

**I22** Sch. 2 para. 1 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

*Rent increases*

2 The rent may be increased in accordance with Chapter 2 of Part 4.

**Commencement Information**

**I23** Sch. 2 para. 2 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

*Notification about other residents*

3 If a person aged 16 or over (who is not a joint tenant) occupies the let property with the tenant as that person's only or principal home, the tenant must tell the landlord in writing—

- (a) that person's name, and
- (b) the person's relationship to the tenant.

**Commencement Information**

**I24** Sch. 2 para. 3 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

4 If—

- (a) in accordance with the term specified in paragraph 3, the landlord has been told about a person occupying the let property, and
- (b) that person has ceased to occupy the let property as that person's only or principal home,

the tenant must tell the landlord that.

**Commencement Information**

**I25** Sch. 2 para. 4 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

*Subletting etc.*

5 The tenant may not, without the written agreement of the landlord—

- (a) sublet the let property (or any part of it),
- (b) take in a lodger,
- (c) assign the tenant's interest in the let property (or any part of it), or
- (d) otherwise part with, or give up to another person, possession of the let property (or any part of it).



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**Commencement Information**

**I26** Sch. 2 para. 5 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

*Access for repairs etc.*

- 6 The tenant is to allow reasonable access to the let property for an authorised purpose where—
- (a) the tenant has been given at least 48 hours' notice, or
  - (b) access is required urgently for the purpose of—
    - (i) carrying out work on the let property, or
    - (ii) inspecting the let property in order to determine what work of a type mentioned in paragraph 7(1)(a) (if any) to carry out.

**Commencement Information**

**I27** Sch. 2 para. 6 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

- 7 (1) The following are authorised purposes—
- (a) carrying out any work on the let property which the landlord has an entitlement or obligation to carry out,
  - (b) inspecting the let property—
    - (i) in order to determine what work of a type mentioned in paragraph (a) (if any) to carry out,
    - (ii) in pursuance of any entitlement or obligation which the landlord has to carry out an inspection,
  - (c) valuing the let property (or any part of it).
- (2) References in sub-paragraph (1) to the landlord having an entitlement or obligation to do something are to the landlord having an entitlement or obligation to do the thing by virtue of—
- (a) an enactment, or
  - (b) the terms of any agreement between the landlord and the tenant.

**Commencement Information**

**I28** Sch. 2 para. 7 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

- 8 The tenant is to allow reasonable use of facilities within the let property in connection with anything done or to be done under the term specified in paragraph 6.

**Commencement Information**

**I29** Sch. 2 para. 8 in force at 31.10.2016 by S.S.I. 2016/298, reg. 2, sch.

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SCHEDULE 3  
(introduced by section 51)  
EVICTION GROUNDS

PART 1

LET PROPERTY REQUIRED FOR ANOTHER PURPOSE

*Landlord intends to sell*

- 1 (1) It is an eviction ground that the landlord intends to sell the let property.
- (2) The First-tier Tribunal [<sup>F2</sup>must][<sup>F2</sup>may] find that the ground named by subparagraph (1) applies if the landlord—
- (a) is entitled to sell the let property, [<sup>F3</sup>and]
  - (b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it<sup>F4</sup>, and
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) Evidence tending to show that the landlord has the intention mentioned in subparagraph (2)(b) includes (for example)—
- (a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,
  - (b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

**Textual Amendments**

- F2** Word in *sch. 3 para. 1(2)* substituted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(a)(i)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F3** Word in *sch. 3 para. 1(2)* repealed (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(a)(ii)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F4** *Sch. 3 para. 1(2)(c)* and word inserted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(a)(iii)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

**Commencement Information**

- I30** *Sch. 3 para. 1* in force at 1.12.2017 by *S.S.I. 2017/346*, reg. 2, **sch.**

*Property to be sold by lender*

- 2 (1) It is an eviction ground that a lender intends to sell the let property.
- (2) The First-tier Tribunal [<sup>F5</sup>must][<sup>F5</sup>may] find that the ground named by subparagraph (1) applies if—
- (a) the let property is subject to a heritable security,

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- (b) the creditor under that security is entitled to sell the property, [<sup>F6</sup>and]
- (c) the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession[<sup>F7</sup>, and
- (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]

#### Textual Amendments

- F5** Word in sch. 3 para. 2(2) substituted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(b)(i)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F6** Word in sch. 3 para. 2(2) repealed (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(b)(ii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F7** Sch. 3 para. 2(2)(d) and word inserted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(b)(iii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

#### Commencement Information

- I31** Sch. 3 para. 2 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

#### *Landlord intends to refurbish*

- 3 (1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.
- (2) The First-tier Tribunal [<sup>F8</sup>must][<sup>F8</sup>may] find that the eviction ground named by subparagraph (1) applies if—
- (a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),
  - (b) the landlord is entitled to do so, [<sup>F9</sup>and]
  - (c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord[<sup>F10</sup>, and
  - (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) Evidence tending to show that the landlord has the intention mentioned in subparagraph (2)(a) includes (for example)—
- (a) any planning permission which the intended refurbishment would require,
  - (b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment.

#### Textual Amendments

- F8** Word in sch. 3 para. 3(2) substituted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(c)(i)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F9** Word in sch. 3 para. 3(2) repealed (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(c)(ii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

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**F10** Sch. 3 para. 3(2)(d) and word inserted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(c)(iii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

#### Commencement Information

**I32** Sch. 3 para. 3 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

#### *Landlord intends to live in property*

- 4 (1) It is an eviction ground that the landlord intends to live in the let property.
- (2) The First-tier Tribunal [<sup>F11</sup>must][<sup>F11</sup>may] find that the ground named by subparagraph (1) applies if [<sup>F12</sup>the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months.]
- [<sup>F12</sup>(a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months][<sup>F13</sup>, and
- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.]
- (3) References to the landlord in this paragraph—
- (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,
- (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.
- (4) Evidence tending to show that the landlord has the intention mentioned in subparagraph (2) includes (for example) an affidavit stating that the landlord has that intention.

#### Textual Amendments

**F11** Word in sch. 3 para. 4(2) substituted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(d)(i)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

**F12** Words in sch. 3 para. 4(2) renumbered as sch. 3 para 4(2)(a) (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(d)(ii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

**F13** Sch. 3 para. 4(2)(b) and word inserted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(d)(iii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

#### Commencement Information

**I33** Sch. 3 para. 4 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

#### *Family member intends to live in property*

- 5 (1) It is an eviction ground that a member of the landlord's family intends to live in the let property.

*Status: Point in time view as at 27/05/2020.*

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

- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) a member of the landlord's family intends to occupy the let property as that person's only or principal home for at least 3 months, and
  - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
- (3) A member of the landlord's family is to be regarded as having the intention mentioned in sub-paragraph (2) if—
- (a) the family member is incapable of having, or expressing, that intention, and
  - (b) the landlord and (if different) a person entitled to make decisions about where the family member lives, intend that the family member will occupy the let property as the family member's only or principal home for at least 3 months.
- (4) For the purposes of this paragraph, a person is a member of the landlord's family if the person is—
- (a) in a qualifying relationship with the landlord,
  - (b) a qualifying relative of the landlord,
  - (c) a qualifying relative of a person who is in a qualifying relationship with the landlord, or
  - (d) in a qualifying relationship with a qualifying relative of the landlord.
- (5) For the purposes of sub-paragraph (4)—
- (a) two people are in a qualifying relationship with one another if they are—
    - (i) married to each other,
    - (ii) in a civil partnership with each other, or
    - (iii) living together as though they were married,
  - (b) “a qualifying relative” means a parent, grandparent, child, grandchild, brother or sister,
  - (c) a relationship of the half blood is to be regarded as a relationship of the whole blood,
  - (d) a person's stepchild is to be regarded as the person's child,
  - (e) a person (“A”) is to be regarded as the child of another person (“B”), if A is being or has been treated by B as B's child.
- (6) In a case where two or more persons jointly are the landlord under a tenancy, references to the landlord in this paragraph are to any one of them.
- (7) Evidence tending to show that a member of the landlord's family has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the person has that intention.

**Commencement Information**

**I34** Sch. 3 para. 5 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Landlord intends to use for non-residential purpose*

- 6 (1) It is an eviction ground that the landlord intends to use the let property for a purpose other than housing.

*Status: Point in time view as at 27/05/2020.*

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

- (2) The First-tier Tribunal [<sup>F14</sup>must][<sup>F14</sup>may] find that the ground named by sub-paragraph (1) applies if [<sup>F15</sup>the landlord intends to use the let property for a purpose other than providing a person with a home.]
- [<sup>F15</sup>(a) the landlord intends to use the let property for a purpose other than providing a person with a home][<sup>F16</sup>, and
- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.]
- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) any planning permission which would be required if the let property is to be used for the intended purpose.

#### Textual Amendments

- F14** Word in sch. 3 para. 6(2) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020](#) (asp 7), s. 17(1), [sch. 1 para. 1\(1\)\(3\)\(e\)\(i\)](#) (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F15** Words in sch. 3 para. 6(2) renumbered as sch. 3 para. 6(2)(a) (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020](#) (asp 7), s. 17(1), [sch. 1 para. 1\(1\)\(3\)\(e\)\(ii\)](#) (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F16** Sch. 3 para. 6(2)(b) and word inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020](#) (asp 7), s. 17(1), [sch. 1 para. 1\(1\)\(3\)\(e\)\(iii\)](#) (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

#### Commencement Information

- I35** Sch. 3 para. 6 in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### *Property required for religious purpose*

- 7 (1) It is an eviction ground that the let property is required for use in connection with the purposes of a religion.
- (2) The First-tier Tribunal [<sup>F17</sup>must][<sup>F17</sup>may] find that the ground named by sub-paragraph (1) applies if—
- (a) the let property is held for the purpose of being available for occupation by a person engaged in the work of a religious denomination as a residence from which the duties of such a person are to be performed,
- (b) the property has previously been occupied by a person engaged in the work of a religious denomination as a residence from which that person's duties were performed, [<sup>F18</sup>and]
- (c) the property is required for the purpose mentioned in paragraph (a)[<sup>F19</sup>, and
- (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) In sub-paragraph (2), reference to a person engaged in the work of a religious denomination includes an imam, a lay missionary, minister, monk, nun, priest and rabbi.

*Status: Point in time view as at 27/05/2020.*

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

### Textual Amendments

- F17** Word in *sch. 3 para. 7(2)* substituted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(f)(i)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F18** Word in *sch. 3 para. 7(2)* repealed (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(f)(ii)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F19** *Sch. 3 para. 7(2)(d)* and word inserted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(f)(iii)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

### Commencement Information

- I36** *Sch. 3 para. 7* in force at 1.12.2017 by *S.S.I. 2017/346*, reg. 2, **sch.**

## PART 2

### TENANT'S STATUS

#### *Not an employee*

- 8 (1) It is an eviction ground that the tenancy was entered into to provide an employee with a home and the tenant is not a qualifying employee.
- (2) The First-tier Tribunal [<sup>F20</sup>must][<sup>F20</sup>may] find that the ground named by sub-paragraph (1) applies if—
- (a) the tenancy was granted to the tenant—
- (i) in consequence of the tenant being an employee of the landlord, or
- (ii) in the expectation that the tenant would become an employee of the landlord,
- (b) the tenant is not employed by the landlord, and
- [<sup>F21</sup>(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) [<sup>F22</sup>The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the conditions set out in sub-paragraph (2)(a) and (b) are met, and
- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order, despite the landlord not applying for one within the period of 12 months mentioned in sub-paragraph (2)(c).]
- (4) In [<sup>F23</sup>sub-paragraphs (2) and (3)][<sup>F23</sup>sub-paragraph (2)] , “landlord” includes any person who has been a landlord under the tenancy.

### Textual Amendments

- F20** Word in *sch. 3 para. 8(2)* substituted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(g)(i)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))

*Status: Point in time view as at 27/05/2020.*

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

- F21** Sch. 3 para. 8(2)(c) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 1 para. 1\(1\)\(3\)\(g\)\(ii\)](#) (with ss. 11-13, [sch. 1 para. 10](#)) (with saving in [2022 asp 8, s. 48\(1\)\(a\)](#)) (which affecting provision expires (1.10.2022) by virtue of [2020 asp 7, s. 12\(1\)](#))
- F22** Sch. 3 para. 8(3) repealed (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 1 para. 1\(1\)\(3\)\(g\)\(iii\)](#) (with ss. 11-13, [sch. 1 para. 10](#)) (with saving in [2022 asp 8, s. 48\(1\)\(a\)](#)) (which affecting provision expires (1.10.2022) by virtue of [2020 asp 7, s. 12\(1\)](#))
- F23** Words in [sch. 3 para. 8\(4\)](#) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 1 para. 1\(1\)\(3\)\(g\)\(iv\)](#) (with ss. 11-13, [sch. 1 para. 10](#)) (with saving in [2022 asp 8, s. 48\(1\)\(a\)](#)) (which affecting provision expires (1.10.2022) by virtue of [2020 asp 7, s. 12\(1\)](#))

#### Commencement Information

- I37** Sch. 3 para. 8 in force at 1.12.2017 by [S.S.I. 2017/346, reg. 2, sch.](#)

#### *No longer in need of supported accommodation*

- 9 (1) It is an eviction ground that the tenancy was entered into on account of the tenant having an assessed need for community care and the tenant has since been assessed as no longer having that need.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- the tenancy was granted in consequence of the tenant being assessed under section 12A of the Social Work (Scotland) Act 1968 to have needs calling for the provision of community care services,
  - the tenancy would not have been granted to the tenant on the basis of the latest assessment of the tenant's needs under that section, and
  - the Tribunal considers it reasonable to issue an eviction order on account of that fact.
- (3) The condition in sub-paragraph (2)(a) is to be deemed to be met if the tenancy was granted as a result of a local authority taking urgent action by virtue of section 12A(5) of the Social Work (Scotland) Act 1968.

#### Commencement Information

- I38** Sch. 3 para. 9 in force at 1.12.2017 by [S.S.I. 2017/346, reg. 2, sch.](#)

### PART 3

#### TENANT'S CONDUCT

##### *Not occupying let property*

- 10 (1) It is an eviction ground that the tenant is not occupying the let property as the tenant's home.
- (2) The First-tier Tribunal [<sup>F24</sup>must][<sup>F24</sup>may] find that the ground named by sub-paragraph (1) applies if—
- the let property is not being occupied as the only or principal home of—
    - the tenant, or



*Status: Point in time view as at 27/05/2020.*

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- (ii) a person to whom a sub-tenancy of the let property has been lawfully granted, [<sup>F25</sup>and]
  - (b) the property's not being so occupied is not attributable to a breach of the landlord's duties under Chapter 4 of Part 1 of the Housing (Scotland) Act 2006<sup>F26</sup>, and
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) In sub-paragraph (2), the reference to a sub-tenancy being lawfully granted is to be construed in accordance with section 46(3).

#### Textual Amendments

- F24** Word in sch. 3 para. 10(2) substituted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(h)(i)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, **s. 48(1)(a)**) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, **s. 12(1)**)
- F25** Word in sch. 3 para. 10(2) repealed (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(h)(ii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, **s. 48(1)(a)**) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, **s. 12(1)**)
- F26** Sch. 3 para. 10(2)(c) and word inserted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(h)(iii)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, **s. 48(1)(a)**) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, **s. 12(1)**)

#### Commencement Information

- I39** Sch. 3 para. 10 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

#### *Breach of tenancy agreement*

- 11 (1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the tenant has failed to comply with a term of the tenancy, and
  - (b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.
- (3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.

#### Commencement Information

- I40** Sch. 3 para. 11 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

#### *Rent arrears*

- 12 (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
- [<sup>F27</sup>(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—

*Status: Point in time view as at 27/05/2020.*

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

- (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—
    - (i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and
    - (ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and
  - (b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.]
- (3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) for three or more consecutive months the tenant has been in arrears of rent, and
  - (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
- [<sup>F28</sup>(3A) Sub-paragraph (3B) applies where the First-tier Tribunal is satisfied—
- (a) that the eviction ground named by sub-paragraph (1) applies, and
  - (b) that all or part of the rent in respect of which the tenant is in arrears as mentioned in that eviction ground relates to the period during which paragraph 5 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is in force.
- (3B) Where this sub-paragraph applies, in considering for the purposes of sub-paragraph (3)(b) whether it is reasonable to issue an eviction order against the tenant, the First-tier Tribunal is to consider the extent to which the landlord has complied with pre-action requirements before applying for the eviction order.]
- (4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- (5) For the purposes of this paragraph—
- (a) references to a relevant benefit are to—
    - (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),
    - (ii) a payment on account awarded under regulation 91 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.

*Status: Point in time view as at 27/05/2020.*

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[<sup>F29</sup>(6) In sub-paragraph (3B), “pre-action requirements” means such requirements as the Scottish Ministers may specify in regulations.

(7) Regulations under sub-paragraph (6) may in particular make provision about—

- (a) information to be provided by a landlord to a tenant including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy,
- (b) steps to be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,
- (c) such other matters as the Scottish Ministers consider appropriate.]

#### Textual Amendments

- F27** Sch. 3 para. 12(2) repealed (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(i)** (with ss. 11-13, sch. 1 para. 10) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 12(1))
- F28** Sch. 3 para. 12(3A)(3B) inserted (temp.) (27.5.2020) by virtue of Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 1 para. 5(2)(a)** (with s. 9) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 9(1))
- F29** Sch. 3 para. 12(6)(7) inserted (temp.) (27.5.2020) by virtue of Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 1 para. 5(2)(b)** (with s. 9) (with saving in 2022 asp 8, s. 48(1)(a)) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. 9(1))

#### Commencement Information

- I41** Sch. 3 para. 12 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, **sch.**

#### *Criminal behaviour*

- 13 (1) It is an eviction ground that the tenant has a relevant conviction.
- (2) The First-tier Tribunal [<sup>F30</sup>must][<sup>F30</sup>may] find that the ground named by sub-paragraph (1) applies if—
- (a) after the tenancy is granted, the tenant receives a relevant conviction, [<sup>F31</sup>and]
  - (b) either—
    - (i) the application for an eviction order that is before the Tribunal was made within 12 months of the tenant's conviction, or
    - (ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period[<sup>F32</sup>, and
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.]
- (3) In sub-paragraph (2), “a relevant conviction” means a conviction for an offence—
- (a) which was committed by using, or allowing the use of, the let property for an immoral or illegal purpose, or
  - (b) which—
    - (i) was committed within or in the locality of the let property, and
    - (ii) is punishable by imprisonment.

*Status: Point in time view as at 27/05/2020.*

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

- (4) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.

#### Textual Amendments

- F30** Word in *sch. 3 para. 13(2)* substituted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(j)(i)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. **48(1)(a)**) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. **12(1)**)
- F31** Word in *sch. 3 para. 13(2)* repealed (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(j)(ii)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. **48(1)(a)**) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. **12(1)**)
- F32** *Sch. 3 para. 13(2)(c)* and word inserted (temp.) (7.4.2020) by virtue of *Coronavirus (Scotland) Act 2020* (asp 7), s. 17(1), **sch. 1 para. 1(1)(3)(j)(iii)** (with ss. 11-13, *sch. 1 para. 10*) (with saving in 2022 asp 8, s. **48(1)(a)**) (which affecting provision expires (1.10.2022) by virtue of 2020 asp 7, s. **12(1)**)

#### Commencement Information

- I42** *Sch. 3 para. 13* in force at 1.12.2017 by *S.S.I. 2017/346*, reg. 2, **sch.**

#### *Anti-social behaviour*

- 14 (1) It is an eviction ground that the tenant has engaged in relevant anti-social behaviour.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the tenant has behaved in an anti-social manner in relation to another person,
  - (b) the anti-social behaviour is relevant anti-social behaviour, and
  - (c) either—
    - (i) the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or
    - (ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.
- (3) For the purposes of this paragraph, a person is to be regarded as behaving in an anti-social manner in relation to another person by—
- (a) doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance,
  - (b) pursuing in relation to the other person a course of conduct which—
    - (i) causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or
    - (ii) amounts to harassment of the other person.
- (4) In sub-paragraph (3)—
- “conduct” includes speech,
  - “course of conduct” means conduct on two or more occasions,
  - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.
- (5) Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) if the Tribunal is satisfied that it is reasonable to issue an eviction order as a consequence of it, given the nature of the anti-social behaviour and—

*Status: Point in time view as at 27/05/2020.*

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

- (a) who it was in relation to, or
  - (b) where it occurred.
- (6) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.

**Commencement Information**

**I43** Sch. 3 para. 14 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Association with person who has relevant conviction  
or engaged in relevant anti-social behaviour*

- 15 (1) It is an eviction ground that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) a person who falls within sub-paragraph (4)—
    - (i) has received a relevant conviction as defined by paragraph 13(3), or
    - (ii) has engaged in relevant anti-social behaviour,
  - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and
  - (c) either—
    - (i) the application for an eviction order that is before the Tribunal was made within 12 months of the conviction or (as the case may be) the occurrence of the anti-social behaviour, or
    - (ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.
- (3) In sub-paragraph (2)(a)(ii), “relevant anti-social behaviour” means behaviour which, if engaged in by the tenant, would entitle the Tribunal to issue an eviction order on the basis that the tenant has engaged in relevant anti-social behaviour.
- (4) A person falls within this sub-paragraph if the person—
- (a) resides or lodges in the let property,
  - (b) has sub-let the let property (or part of it) from the tenant, or
  - (c) has been admitted to the let property by the tenant on more than one occasion.
- (5) In a case where two or more persons jointly are the tenant under a tenancy, the references in sub-paragraphs (3) and (4) to the tenant are to any one of those persons.

**Commencement Information**

**I44** Sch. 3 para. 15 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Status: Point in time view as at 27/05/2020.*

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

## PART 4

### LEGAL IMPEDIMENT TO LET CONTINUING

#### *Landlord has ceased to be registered*

- 16 (1) It is an eviction ground that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”).
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) the landlord is not entered in the register prepared and maintained for the purposes of Part 8 of the 2004 Act by the local authority within whose area the let property is situated because either—
    - (i) the local authority has refused to enter the landlord in the register, or
    - (ii) the local authority has removed the landlord from the register in accordance with section 88(8) or 89 of the 2004 Act,
  - (b) by continuing to let the property to the tenant the landlord—
    - (i) is committing an offence under subsection (1) of section 93 of the 2004 Act, or
    - (ii) would be doing so but for subsection (6) of that section, and
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

#### **Commencement Information**

**I45** [Sch. 3 para. 16](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### *HMO licence has been revoked*

- 17 (1) It is an eviction ground that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006 (“the 2006 Act”).
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) under section 139(1) or 157(2) of the 2006 Act, the HMO licence for the let property has been revoked, and
  - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

#### **Commencement Information**

**I46** [Sch. 3 para. 17](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), reg. 2, [sch.](#)

#### *Overcrowding statutory notice*

- 18 (1) It is an eviction ground that an overcrowding statutory notice has been served on the landlord.

*Status: Point in time view as at 27/05/2020.*

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

- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) an overcrowding statutory notice in respect of the let property has been served on the landlord under section 17(3) of the Private Rented Housing (Scotland) Act 2011, and
  - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

**Commencement Information**

**I47** [Sch. 3 para. 18](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

SCHEDULE 4

*(introduced by section 74)*

CONSEQUENTIAL MODIFICATIONS

*Land Tenure Reform (Scotland) Act 1974*

- 1 After section 8(3) of the Land Tenure Reform (Scotland) Act 1974, there is inserted—
- “(3ZA) The condition contained in subsection (1) above does not apply in relation to a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I48** [Sch. 4 para. 1](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

*Rent (Scotland) Act 1984*

- 2 (1) The Rent (Scotland) Act 1984 is amended as follows.
- (2) In section 43A(2) and (7), for the words “section 70 of the Housing (Scotland) Act 1988” there is substituted “ Chapter 2 of Part 4 of the Private Housing (Tenancies) (Scotland) Act 2016 ”.
- (3) In section 53(1)(b), for the words “or the Housing (Scotland) Act 1988” there is substituted “ , the Housing (Scotland) Act 1988 or Chapter 2 of Part 4 of the Private Housing (Tenancies) (Scotland) Act 2016 ”.

**Commencement Information**

**I49** [Sch. 4 para. 2](#) in force at 1.12.2017 by [S.S.I. 2017/346](#), [reg. 2](#), [sch.](#)

*Status: Point in time view as at 27/05/2020.*

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

*Bankruptcy (Scotland) Act 1985*

- 3 In section 31(9) of the Bankruptcy (Scotland) Act 1985, after paragraph (c) there is inserted “, or
- (d) a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I50** Sch. 4 para. 3 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Housing (Scotland) Act 1987*

- 4 (1) The Housing (Scotland) Act 1987 is amended as follows.
- (2) In section 20B(6), after paragraph (c) there is inserted—
- “(ca) an eviction order within the meaning of the Private Housing (Tenancies) (Scotland) Act 2016 has been issued against the person,”.
- (3) In section 24(5), after paragraph (d) there is inserted—
- “(e) secured by a private residential tenancy.”.
- (4) In section 31(5)—
- (a) paragraph (b) is repealed,
- (b) after paragraph (c) there is inserted—
- “(d) secured by a private residential tenancy.”.
- (5) In section 43, after the definition of “private accommodation offer” there is inserted—
- ““private residential tenancy” has the meaning given by the Private Housing (Tenancies) (Scotland) Act 2016;”.
- (6) In section 128—
- (a) for the words “the Rent (Scotland) Act 1984 or in Part II of the Housing (Scotland) Act 1988” there is substituted “ an enactment mentioned in subsection (2) ”,
- (b) the existing text becomes subsection (1),
- (c) after that subsection, there is inserted—
- “(2) The enactments referred to in subsection (1) are—
- (a) the Rent (Scotland) Act 1984;
- (b) Part II of the Housing (Scotland) Act 1988;
- (c) the Private Housing (Tenancies) (Scotland) Act 2016.”,
- (d) the title of the section becomes “ **Recovery of possession of house subject to statutorily regulated tenancy** ”.
- (7) In section 145—
- (a) in paragraph (a), for the words “the Rent (Scotland) Act 1984 or in Part II of the Housing (Scotland) Act 1988” there is substituted “ an enactment mentioned in subsection (2) ”,
- (b) the existing text becomes subsection (1),



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(c) after that subsection, there is inserted—

“(2) The enactments referred to in subsection (1) are—

- (a) the Rent (Scotland) Act 1984;
- (b) Part II of the Housing (Scotland) Act 1988;
- (c) the Private Housing (Tenancies) (Scotland) Act 2016.”.

(8) In section 311(2), in the definition of “interest”, for the words from “a tenant for a year or any less period” to the end there is substituted—

- “(i) a tenant for a year or any shorter period;
- (ii) a statutory tenant within the meaning of the Rent (Scotland) Act 1984;
- (iii) a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988;
- (iv) a tenant under a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016;”.

**Commencement Information**

**I51** Sch. 4 para. 4 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

PROSPECTIVE

*Social Security Contributions and Benefits Act 1992*

5 In section 130C(2) of the Social Security Contributions and Benefits Act 1992, before paragraph (a) there is inserted—

- “(za) an eviction order issued under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 on the ground—
  - (i) that the tenant has a relevant conviction,
  - (ii) that the tenant has engaged in relevant anti-social behaviour, or
  - (iii) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour;”.

*Requirements of Writing (Scotland) Act 1995*

6 After section 1(7) of the Requirements of Writing (Scotland) Act 1995, there is inserted—

“(7A) A private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016 is not a “real right in land” for the purposes of this section.”.

**Commencement Information**

**I52** Sch. 4 para. 6 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Status: Point in time view as at 27/05/2020.*

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

*Housing (Scotland) Act 2001*

- 7 (1) The Housing (Scotland) Act 2001 is amended as follows.
- (2) In section 7(2)(b) after sub-paragraph (iv) there is inserted—  
“(v) a private residential tenancy or what would be a private residential tenancy but for paragraph 6 of schedule 1 of the 2016 Act.”.
- (3) In section 32(7), after paragraph (b) there is inserted “, or  
(c) a private residential tenancy,”.
- (4) In section 111—  
(a) after the definition of “the 1988 Act”, insert—  
““the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,”,  
(b) after the definition of “local authority landlord”, insert—  
““private residential tenancy” has the meaning given by the 2016 Act,”.
- (5) In schedule 2, in paragraph 16(a), for the words “an assured tenancy” there is substituted “a private residential tenancy”.
- (6) In paragraph 1 of schedule 6—  
(a) after the word “possession” there is inserted “ or an eviction order ”,  
(b) after the word “made” there is inserted “ or issued ”,  
(c) after paragraph (f) there is inserted—  
“(g) under the 2016 Act on the ground—  
(i) that the tenant has a relevant conviction,  
(ii) that the tenant has engaged in relevant anti-social behaviour, or  
(iii) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.”.

**Commencement Information**

**I53** Sch. 4 para. 7 in force at 1.12.2017 by S.I. 2017/346, reg. 2, sch.

*Homelessness etc. (Scotland) Act 2003*

- 8 In section 11(5) of the Homelessness etc. (Scotland) Act 2003, after paragraph (g) there is inserted—  
“(h) section 56 of the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I54** Sch. 4 para. 8 in force at 1.12.2017 by S.I. 2017/346, reg. 2, sch.

*Status: Point in time view as at 27/05/2020.*

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

### *Housing (Scotland) Act 2006*

- 9 (1) The Housing (Scotland) Act 2006 is amended as follows.
- (2) In section 38—
- (a) in subsection (10), for the words from “the Rent” to “(c. 43)” there is substituted “ an enactment mentioned in subsection (11) ”,
- (b) after subsection (10), there is inserted—
- “(11) The enactments referred to in subsection (10) are—
- (a) the Rent (Scotland) Act 1984,
- (b) Part 2 of the Housing (Scotland) Act 1988,
- (c) the Private Housing (Tenancies) (Scotland) Act 2016.”.
- (3) In paragraph 3 of schedule 5—
- (a) in sub-paragraph (10), for the words from “the Rent” to “(c. 43)” there is substituted “ an enactment mentioned in sub-paragraph (11) ”,
- (b) after sub-paragraph (10), there is inserted—
- “(11) The enactments referred to in sub-paragraph (10) are—
- (a) the Rent (Scotland) Act 1984,
- (b) Part 2 of the Housing (Scotland) Act 1988,
- (c) the Private Housing (Tenancies) (Scotland) Act 2016.”.

#### **Commencement Information**

**I55** Sch. 4 para. 9 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

### *Bankruptcy and Diligence etc. (Scotland) Act 2007*

- 10 (1) The Bankruptcy and Diligence etc. (Scotland) Act 2007 is amended as follows.
- (2) In section 214(2)—
- (a) the word “and” after paragraph (i) is repealed,
- (b) at the end of paragraph (j) there is inserted “; and
- (k) an eviction order issued under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016,”.
- (3) In section 216—
- (a) in subsection (2A)—
- (i) after the word “tenancy” there is inserted “ or private residential tenancy ”,
- (ii) the words “(within the meaning of Part II of the Housing (Scotland) Act 1988 (c.43))” are repealed,
- (b) after subsection (2A), there is inserted—
- “(2B) In subsection (2A)—
- “assured tenancy” has the same meaning as in Part 2 of the Housing (Scotland) Act 1988,
- “private residential tenancy” has the same meaning as in the Private Housing (Tenancies) (Scotland) Act 2016.”.

*Status: Point in time view as at 27/05/2020.*

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

**Commencement Information**

**I56** Sch. 4 para. 10 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

*Housing (Scotland) Act 2014*

- 11 In section 94(1) of the Housing (Scotland) Act 2014, after paragraph (c) there is inserted—
- “(de) a function conferred on, or transferred to, the Tribunal by virtue of the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I57** Sch. 4 para. 11 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

SCHEDULE 5

*(introduced by section 75)*

TRANSITION FROM REGIMES UNDER EARLIER ENACTMENTS

**PART 1**

NO NEW ASSURED TENANCIES

*No new assured tenancies*

- 1 (1) Section 12 of the Housing (Scotland) Act 1988 is amended as follows.
- (2) In subsection (1), after the word “subsection” there is inserted “ (1A) or ”.
- (3) After subsection (1) there is inserted—
- “(1A) A tenancy cannot be an assured tenancy if it is granted on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force.”.
- (4) In schedule 4, after paragraph 13(3) there is inserted—
- “(4) A tenancy which is a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I58** Sch. 5 para. 1 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch. (with reg. 6)

*No new short assured tenancies*

- 2 (1) The Housing (Scotland) Act 1988 is amended as follows.

*Status: Point in time view as at 27/05/2020.*

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

- (2) In section 32—
- (a) in subsection (3)—
    - (i) paragraph (b) and the word “or” immediately preceding it are repealed,
    - (ii) the words “or, as the case may be, the new contractual tenancy” are repealed,
  - (b) in subsection (4)—
    - (i) the words “or, as the case may be, before the beginning of the new tenancy” are repealed,
    - (ii) the words “or new” are repealed.
- (3) In section 33(1)—
- (a) the word “ and ” is inserted at the end of paragraph (b),
  - (b) paragraph (c), including the word “and” at the end of it, is repealed.

**Commencement Information**

**I59** Sch. 5 para. 2 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch. (with reg. 6)

**PART 2**

**CONVERSION OF TENANCIES UNDER PREVIOUS REGIMES**

*Change of tenancy status by agreement*

- 3 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) After section 12(2) there is inserted—
- “(3) Subsection (1) is subject to section 46A.”.
- (3) After section 46 there is inserted—

*“Phasing out of assured tenancies*

**46A Change to private residential tenancy by agreement**

- (1) The landlord and the tenant under an assured tenancy may agree that on a day specified by them, the tenancy will cease to be an assured tenancy.
- (2) On the day specified by the landlord and the tenant under subsection (1), the tenancy—
  - (a) ceases to be an assured tenancy, and
  - (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).
- (3) But an agreement under subsection (1) is of no effect if, for a reason other than the tenancy being an assured tenancy, it is one which schedule 1 of the 2016 Act states cannot be a private residential tenancy.”.

*Status: Point in time view as at 27/05/2020.*

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

**Commencement Information**

**I60** Sch. 5 para. 3 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch. (with reg. 6)

*Change of tenancy status on succession*

4 After section 3A of the Rent (Scotland) Act 1984 there is inserted—

**“3B Succession after the Private Housing (Tenancies) (Scotland) Act 2016 comes into force**

- (1) Subsection (2) applies where—
  - (a) the sole tenant of a dwelling-house under a protected tenancy or a statutory tenancy dies on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force, and
  - (b) as a result of that death, an individual becomes the tenant of the dwelling-house by virtue of section 3(1)(b) or 3A above.
- (2) As soon as the individual becomes the tenant, the individual's tenancy of the dwelling-house—
  - (a) ceases to be a statutory tenancy or a statutory assured tenancy (as the case may be), and
  - (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I61** Sch. 5 para. 4 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

5 After section 31 of the Housing (Scotland) Act 1988 there is inserted—

**“31A Succession after the Private Housing (Tenancies) (Scotland) Act 2016 comes into force**

- (1) Subsection (2) applies where—
  - (a) a sole tenant under an assured tenancy dies on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force, and
  - (b) an individual succeeds to the tenancy.
- (2) As soon as the individual becomes the tenant, the tenancy—
  - (a) ceases to be an assured tenancy (if, but for this section, it would have been one), and
  - (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

**Commencement Information**

**I62** Sch. 5 para. 5 in force at 1.12.2017 by S.S.I. 2017/346, reg. 2, sch.

**Status:**

Point in time view as at 27/05/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the Private Housing (Tenancies) (Scotland) Act 2016.