



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Assured tenancies—rents and other terms

23 Limited prohibition on assignation etc. without consent.

- (1) Subject to subsection (2) below, it shall be an implied term of every assured tenancy that, except with the consent of the landlord, the tenant shall not—
 - (a) assign the tenancy (in whole or in part); or
 - (b) sublet or part with possession of the whole or any part of the house let on the tenancy.
- (2) Subsection (1) above does not apply if, under the terms of the tenancy, there is provision prohibiting or permitting (whether absolutely or conditionally) assignation, subletting or parting with possession by the tenant.

24 Increases of rent under assured tenancies.

- (1) For the purpose of securing an increase in the rent under [^{F1}a statutory] assured tenancy, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect—
 - (a) if the tenancy was [^{F2}at the time of service of the notice] a contractual tenancy (whether or not renewed by operation of tacit relocation), immediately after its termination; or
 - (b) if the tenancy was [^{F2}at the time of service of the notice] not such a contractual tenancy, at any time during the tenancy, but not earlier than the expiry of the minimum period after the date of service of the notice.
- (2) The minimum period referred to in subsection (1) above is—

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- (a) if the assured tenancy is for 6 months or more, 6 months;
 - (b) if the assured tenancy is for less than 6 months, the duration of the tenancy or one month (whichever is the longer).
- (3) Where a notice is served under subsection (1) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the period to which the new rent relates—
- (a) the tenant refers the notice to a rent assessment committee in the prescribed form; or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (4) Where a notice is served under subsection (1) above but the rent under the tenancy has previously been increased (whether by agreement or by virtue of a notice under subsection (1) above or a determination under section 25 below) the new rent shall take effect not earlier than the first anniversary of the date on which that increase took effect.
- (5) Nothing in this section
- [^{F3}(a) extends to a statutory assured tenancy of which there is a term] which makes provision for an increase in rent (including provision whereby the rent for a particular period will or may be greater than that for an earlier period) by an amount specified in [^{F4}, or fixed by reference to factors specified in,] the tenancy contract or by a percentage there specified [^{F4}, or fixed by reference to factors there specified,] of an amount of rent payable under the tenancy [^{F5}or
 - (b) affects the operation of any term of a contractual tenancy which makes provision for an increase in rent (including provision whereby the rent for a particular period will or may be greater than that for an earlier period)]
- [^{F6}(6) The factors referred to in subsection (5) above must be—
- (a) factors which, once specified, are not wholly within the control of the landlord; and
 - (b) such as will enable the tenant at all material times to ascertain without undue difficulty any amount or percentage falling to be fixed by reference to them.]

Textual Amendments

- F1** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 100\(a\)](#)
- F2** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 100\(a\)](#)
- F3** S. 24(5)(a) substituted for words by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 100\(b\)\(i\)](#)
- F4** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 100\(b\)\(ii\)\(iii\)](#)
- F5** “or” and s. 24(5)(b) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 100\(b\)\(iv\)](#)
- F6** S. 24(6) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 11 para. 100\(c\)](#)

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25 Determination of rent by rent assessment committee.

- (1) Where, under subsection (3)(a) of section 24 above, a tenant refers to a rent assessment committee a notice under subsection (1) of that section, the committee shall determine the rent at which, subject to subsections (2) and (3) below, the committee consider that the house might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—
 - (a) which begins at the beginning of the period to which the new rent specified in the notice relates;
 - (b) the terms of which (other than those relating to rent) are the same as those of the tenancy to which the notice relates; and
 - (c) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 5 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded any effect on the rent attributable to—
 - (a) the granting of a tenancy to a sitting tenant;
 - (b) an improvement carried out by the tenant or a predecessor in title of his unless the improvement was carried out in pursuance of the terms of the tenancy; and
 - (c) a failure by the tenant to comply with any terms of the tenancy.
- (3) In this section “rent” includes any sums payable by the tenant to the landlord on account of the use of furniture or for services, whether or not those sums are separate from the sums payable for the occupation of the house concerned or are payable under separate agreements.
- (4) Where any rates in respect of the house concerned are borne by the landlord or a superior landlord, the rent assessment committee shall make their determination under this section as if the rates were not so borne.
- (5) In any case where—
 - (a) a rent assessment committee have before them at the same time the reference of a notice under section 17(2) above relating to a tenancy (in this subsection referred to as “the section 17 reference”) and the reference of a notice under section 24(1) above relating to the same tenancy (in this subsection referred to as “the section 24 reference”); and
 - (b) the date specified in the notice under section 17(2) above is not later than the first day of the new period specified in the notice under section 24(1) above; and
 - (c) the committee propose to hear the two references together,the committee shall make a determination in relation to the section 17 reference before making their determination in relation to the section 24 reference and, accordingly, in such a case the reference in subsection (1)(b) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 17 reference.
- (6) Where a notice under section 24(1) above has been referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, the rent determined by the committee (together with, in a case where subsection (4) above applies, the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the period to which the new rent specified in the notice relates or, if it appears to the rent assessment committee that that would

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cause undue hardship to the tenant, with effect from such date as the committee may direct (being a date after the beginning of that period but not after the date when the committee determined the rent).

- (7) Nothing in this section requires a rent assessment committee to continue with their determination of a rent for a house if the tenancy has been brought to an end by order of the sheriff under this Part of this Act or if the landlord and tenant give notice in writing that they no longer require such a determination.
- (8) Nothing in this section or section 24 above affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

VALID FROM 01/04/1993

[^{F7}25A Assured tenancies: transitional provisions

- (1) This section applies in the case where an assured tenancy to which section 24 above applies, or an agreement relating to the tenancy, provides for the payment by the tenant to the landlord of sums in respect of council tax; and
- (a) the first anniversary of the date on which the rent has previously been increased (whether by agreement or by virtue of a notice under section 24(1) above or a determination under section 25) has not occurred; or
 - (b) a notice is served before 1st April 1993 under section 24(1) above for the purpose of securing an increase in the rent but the new rent has not yet taken effect either by virtue of the notice or a determination under section 25 above.
- (2) At any time before—
- (a) 1st April 1994; or
 - (b) the first anniversary of the date when the existing rent took effect,
- whichever is the earlier, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take account of any sums payable by the tenant to the landlord in respect of council tax and specifying a date when the new rent shall take effect.
- (3) The date specified in subsection (2) above shall, unless either of the conditions mentioned in subsection (4) below applies, be a date not earlier than one month after the date of service of the notice under this section.
- (4) The conditions referred to in subsection (3) above are that before the date specified in the notice—
- (a) the tenant by an application in the prescribed form refers the notice to a rent assessment committee; or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (5) Nothing in this section or section 25B affects the right of the landlord and tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).
- (6) No more than one notice in respect of any tenancy may be served under this section.]

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Textual Amendments

F7 S. 25A inserted (1.4.1993) by [S.I. 1993/658, art. 2, Sch. 2 para.5](#)

VALID FROM 01/04/1993

^{F8}25B Determination of rent by rent assessment committee where section 25A applies

- (1) Where a tenant refers to a rent assessment committee a notice under section 25A, the committee shall determine the amount by which the existing rent might reasonably be increased to take into account the tenant's liability to make payments to the landlord in respect of council tax.
- (2) A determination under subsection (1) above shall, unless the landlord and tenant otherwise agree, have effect—
 - (a) from the date specified in the notice under section 25A(2); or
 - (b) if it appears to the committee that such effect would cause undue hardship to the tenant, from such later date (being not later than the date of the determination) as the committee may direct.
- (3) In any case where—
 - (a) a rent assessment committee have before them at the same time a section 24 reference and a section 25A reference relating to the same tenancy; and
 - (b) the date specified in the notice under section 24(1) is not later than the date specified in the notice under section 25A; and
 - (c) the committee propose to hear the two references together,the committee shall make a determination in relation to the section 24 reference before making their determination in relation to the section 25A reference.
- (4) In any case where paragraphs (a) and (c), but not paragraph (b), of subsection (3) above are satisfied—
 - (a) the committee shall make a determination in relation to the section 24 reference before the section 25A reference; and
 - (b) the rent determined for the purposes of the section 25A reference shall take effect from the date specified in the notice given under that section.
- (5) In this section—
 - (a) “section 24 reference” means the reference of a notice under section 24(1);
 - (b) “section 25A reference” means the reference of a notice under section 25A; and
 - (c) “rent” has the same meaning as in section 25.
- (6) Section 25(2) applies to a determination under this section as it applies to a determination under that section.

Textual Amendments

F8 S. 25B inserted (1.4.1993) by [S.I. 1993/658, art. 2, Sch. 2 para.5](#)

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26 Access for repairs.

It shall be an implied term of every assured tenancy that the tenant shall afford to the landlord reasonable access to the house let on the tenancy and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

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