

2020 No. 425

PUBLIC HEALTH

**The Health Protection (Coronavirus) (Protection from Eviction)
(Scotland) Regulations 2020**

Approved by the Scottish Parliament

Made - - - -at 12.12 p.m. on 10th December 2020

Laid before the Scottish Parliament at 2.45 p.m. on 10th December 2020

Coming into force - - 11th December 2020

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraphs 1(1) and 5(3)(b) of schedule 19 of the Coronavirus Act 2020(a) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 and come into force on 11 December 2020.

Residential Tenancies (Protection from Eviction)

2.—(1) No person may attend at a dwelling house for the purpose of—

- (a) serving a charge for removing, or
- (b) executing a decree for removing from heritable property.

(2) Paragraph (1) does not apply where the charge for removing relates to a decree for removing from heritable property, or where the decree for removing from heritable property is, granted wholly or partly on the basis that possession is sought in the circumstances as specified in—

- (a) Case 2 (nuisance, annoyance or conviction for using or allowing the dwelling-house to be used for immoral or illegal purposes) in schedule 2 of the Rent (Scotland) Act 1984(a),
- (b) Ground 15 (conviction for certain offences, acting in an anti-social manner or pursuing a course of anti-social conduct) in schedule 5 of the Housing (Scotland) Act 1988(b),
- (c) Paragraphs 2 (conviction for certain offences), 7 (anti-social behaviour or harassment) or 8 (nuisance, annoyance or harassment) of schedule 2 of the Housing (Scotland) Act 2001(c), or
- (d) Grounds 13 (criminal behaviour), 14 (anti-social behaviour) or 15 (association with person who has relevant conviction or engaged in relevant anti-social behaviour) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016(d).

(3) In this regulation—

“the 2007 Act” means the Bankruptcy and Diligence etc. (Scotland) Act 2007(e),

“a charge for removing” means a charge to remove from subjects or premises, as required by section 216(1) of the 2007 Act, in the case of a decree or order for removing from heritable property of a type mentioned in paragraphs (f), (g) or (k) of section 214(2) of the 2007 Act, and

“a decree for removing from heritable property” means a decree or order of a type mentioned in paragraphs (f), (g) or (k) of section 214(2) of the 2007 Act.

Consequential provision

3.—(1) Any day for which regulation 2 is in force, including the day on which the regulation first comes into force, is not to be counted for the purpose of calculating the maximum period.

(2) In this regulation, “the maximum period” means the period prescribed by article 2(1) and (2) of the Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012(f) for the purposes of section 16(5A)(c) of the Housing (Scotland) Act 2001(g) (powers of court in possession proceedings).

Expiry of regulation 2

4. Regulation 2 expires on 22 January 2021.

KEVIN STEWART

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh

At 12.12 p.m. on 10th December 2020

(a) 1984 c.58.

(b) 1988 c.43. Ground 15 was substituted by section 23(4) of the Crime and Disorder Act 1998 (c.37).

(c) 2001 asp 10.

(d) 2016 asp 19.

(e) 2007 asp 3. Section 216(1) is amended by section 58(5) and (6) and paragraph 92(a) of schedule 5 of the Criminal Finances Act 2017 (c.22).

(f) S.S.I. 2012/128.

(g) 2001 asp 10. Subsection (5A) was inserted by section 153(a) of the Housing (Scotland) Act 2010 (asp 17).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prevent, except in specified circumstances, attendance at a dwelling house for the purpose of serving a charge for removing or executing a decree for removing from heritable property (giving notice of or carrying out eviction order in relation to a residential tenancy of a dwelling house).

The specified circumstances are where possession of the dwelling house is sought on the basis of nuisance, annoyance or conviction for using or allowing the dwelling-house to be used for immoral or illegal purposes, anti-social behaviour, certain convictions or association with a person who has relevant convictions or a person who has engaged in relevant anti-social behaviour.

The Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 prescribes the maximum period (6 months) for which a landlord's right to recover possession of a house in pursuance of a court order under section 16(2) of the Housing (Scotland) Act 2001 is to have effect. Regulation 3 provides that the period for which regulation 2 is in force does not count towards this maximum period.

Regulation 2 expires on 22 January 2021.

No impact assessment has been prepared for these Regulations.

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