

2022 No. 307

HOUSING

**The Assured Tenancies and Private Residential Tenancies
(Prescribed Notices and Forms) (Miscellaneous Temporary
Modifications) (Scotland) Regulations 2022**

Made - - - - at 9.35 a.m. on 28th October 2022

Coming into force in accordance with regulation 1(1)

Laid before the Scottish Parliament at 2.00 p.m. on 28th October 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 19(3) and 53(3) of the Housing (Scotland) Act 1988(a), sections 62(1)(d) and 77(1) of the Private Housing (Tenancies) (Scotland) Act 2016(b) and all other powers enabling them to do so.

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Assured Tenancies and Private Residential Tenancies (Prescribed Notices and Forms) (Miscellaneous Temporary Modifications) (Scotland) Regulations 2022 and come into force immediately after they are made.

(2) These Regulations remain in force until the end of 31 March 2023, subject to the suspension or expiry of section 2 and schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 (“the 2022 Act”)(c) on a different date.

(3) Where section 2 and schedule 2 of the 2022 Act are suspended or expired on a date other than the 31 March 2023, these regulations remain in force until that other date.

Modification of the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017

2.—(1) The Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017(d) apply, in relation to a notice to leave given by a landlord to a tenant under section 50(1)(a) (termination by notice to leave and tenant leaving) of the Private Housing

(a) 1988 c. 43. Section 19(3) was amended by paragraph 85(b) of schedule 17 of the Housing Act 1988 (c. 50). Section 55(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(b) 2016 asp 19.

(c) 2022 asp 10. Section 7(1) provides that Part 1 of the 2022 Act expires at the end of 31 March 2023. Section 6(1)(a) provides that the Scottish Ministers may, by regulations, suspend any provision in Part 1. Section 7(3) provides that the Scottish Ministers may, by regulations, extend the provisions of Part 1 to expire on 30 September 2023, and may subsequently further extend those provisions to expire on 31 March 2024. Section 8(1)(b) provides that the Scottish Ministers may, by regulations, bring forward the expiry of any provision of Part 1 to an earlier time as may be specified in regulations.

(d) S.S.I. 2017/297.

(Tenancies) (Scotland) Act 2016, while this regulation is in force, in accordance with the modifications in paragraph 2.

(2) Schedule 5 has effect as if for it there were substituted the form set out in schedule 1 to these Regulations.

Modification of the Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017

3.—(1) The Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017(a) apply, in relation to a notice of proceedings for possession given by a landlord to a tenant under section 19(1)(a) (notice of proceedings for possession) of the Housing (Scotland) Act 1988, while this regulation is in force, in accordance with the modifications in paragraph 2.

(2) The schedule has effect as if for Form AT6 there were substituted the form set out in schedule 2 to these Regulations.

Saving provisions

4. The modifications made by regulations 2 and 3 do not apply in respect of a form or notice to which those regulations apply which was given or served prior to the coming into force of these Regulations.

PATRICK HARVIE

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
At 9.35 a.m. on 28th October 2022

(a) S.S.I. 2017/349.

SCHEDULE 1

Regulation 2

LANDLORD'S NOTICE TO A TENANT TO LEAVE UNDER SECTION 50(1)(a) OF THE PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016

This version of the form is in place while section 2 and schedule 2 to the Cost of Living (Tenant Protection) (Scotland) Act 2022 are in force.

Further information on the emergency measures introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022, including on the moratorium on the enforcement of eviction orders, is available on the Scottish Government website.

This notice has been updated to include three additional grounds for eviction that may be used by a landlord while the emergency measures are in place.

Important information for the Tenant(s) - Please read this notice carefully.

Advice - If you have questions about this notice, speak to your Landlord or contact one of the following:

- your local council
- Shelter Scotland
- your local Citizen's Advice Bureau
- a solicitor (you may be able to get legal aid depending on your income)

Homelessness - Speak to your local council if you're worried about having somewhere to live. They can advise you on your options.

This notice informs you, the Tenant, that your Landlord is giving you notice to leave the Let Property, and if you do not leave the property once the relevant notice period has expired, your Landlord can apply to the First-tier Tribunal for Scotland (the Tribunal) for an eviction order.

Your Landlord must give you a minimum of 28 days' notice, and may be required to give you 84 days' notice, depending on how long you have occupied the Let Property and the grounds on which they intend to apply for eviction.

If the Tribunal issues an eviction order, the enforcement of that order may be delayed during the time the emergency measures are in place for up to 6 months. Whether enforcement is delayed will depend on the grounds for ending the tenancy included in this notice. Further information for landlords and tenants on the moratorium on the enforcement of eviction orders can be found on the Scottish Government website.

Part 1 – TENANT’S DETAILS

To:
(Name of tenant(s)):

Of:
(Address of Let Property):

The tenant(s) has lived in the property since:

Part 2 – EVICTION GROUND(S) BEING USED

[I/We*] your [Landlord(s)/Landlord’s Agent*]:

(insert name of Landlord(s)/Agent):

Of:

(address and telephone number of Landlord(s)/Agent):

inform you that if you choose not to leave the Let Property on the date shown in Part 4 of this notice, I/we* intend to apply to the Tribunal for an eviction order in respect of the Let Property on the following ground(s) which is a ground(s) for eviction as set out in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016:

- Your Landlord intends to sell the Let Property
- Your Landlord intends to sell the Let Property to alleviate financial hardship
- The Let Property is to be sold by the mortgage lender
- Your Landlord intends to refurbish the Let Property
- Your Landlord intends to live in the Let Property
- Your Landlord intends to live in the Let Property to alleviate financial hardship
- Your Landlord’s family member intends to live in the Let Property

- Your Landlord intends to use the Let Property for a non-residential purpose
- The Let Property is required for a religious purpose
- You cease to be - or fail to become - an employee of the Landlord
- You no longer need supported accommodation
- You are no longer occupying the Let Property
- You have breached a term(s) of your tenancy agreement
- You are in rent arrears over three consecutive months
- You have substantial rent arrears (equivalent to 6 months' worth of rent)
- You have a relevant criminal conviction
- You have engaged in relevant antisocial behaviour
- You have associated in the Let Property with someone who has a relevant criminal conviction or has engaged in relevant antisocial behaviour
- Your Landlord has had their registration refused or revoked
- Your Landlord's HMO licence has been revoked or renewal has been refused
- An Overcrowding Statutory Notice has been served on your Landlord

Part 3 - DETAILS AND EVIDENCE OF EVICTION GROUND(S)

[I/We*] also inform you that [I/we*] are seeking eviction under the above ground(s) for the following reasons:

[State particulars of how you believe the ground(s) have arisen – continue on additional sheets of paper if required. Please give as much detail as possible including relevant dates, and in cases of rent arrears insert the amount of arrears outstanding and the period over which it has built up.]

It is important that the Tenant fully understands why you are seeking to evict them and that the action you are taking is justified. The provision of supporting evidence with this notice can help do that.

[I/We*] attach the following evidence to support the eviction action:

* delete as appropriate

Part 4 – THE END OF THE NOTICE PERIOD

An application will not be submitted to the Tribunal for an eviction order before _____ (insert date). This is the earliest date that Tribunal proceedings can start and will be at least the day after the end date of the relevant notice period (28 days or 84 days depending on the eviction ground). The date entered here is not affected by the emergency measures in place and should be the same as would ordinarily be entered here.

Signed:
(Landlord(s) or Agent): _____

Dated: _____

THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD KEEP IT IN A SAFE PLACE.

SCHEDULE 2

Regulation 3

FORMAT 6: FOR USE ONLY BY A LANDLORD

ASSURED TENANCIES

AT 6

HOUSING (SCOTLAND) ACT 1988

NOTICE UNDER SECTION 19 OF INTENTION

TO RAISE PROCEEDINGS FOR POSSESSION

IMPORTANT: INFORMATION FOR TENANT(S)

This notice informs you as tenant that your landlord intends to apply to the First-tier Tribunal for Scotland (Housing and Property Chamber) (the Tribunal) for an Order for possession of the house at the address in Part 1, which is currently occupied by you.

This version of the form is in place while section 2 and schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 are in force.

Further information on the emergency measures introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022, including on the moratorium on the enforcement of orders for possession, is available on the Scottish Government website.

This notice has been updated to include two additional grounds for possession that may be used by a landlord while the emergency measures are in place.

Part 1 To (name of tenant (s)) of
.....
.....
.....
..... (address of house)

NOTE 1 TO TENANT.

IF YOU ARE UNCERTAIN ABOUT WHAT THIS NOTICE MEANS, OR IF YOU ARE IN DOUBT ABOUT ANYTHING IN IT, OR ABOUT ITS VALIDITY OR WHETHER IT IS FILLED IN PROPERLY YOU SHOULD IMMEDIATELY CONSULT A SOLICITOR OR AN ORGANISATION WHICH GIVES ADVICE ON HOUSING MATTERS. YOU MAY ALSO FIND IT HELPFUL TO DISCUSS THIS NOTICE WITH YOUR LANDLORD.

Part 2 I/we [on behalf of]* your landlord(s)

.....
(name(s) of landlord(s))

of

.....
.....

.....
(address and telephone number of landlord(s))

inform you that I/we* intend to raise proceedings for possession of the house at the address in part 1 above on the following ground/grounds* being a ground/grounds* for possession as set out in schedule 5 of the Housing (Scotland) Act 1988.

.....
.....
.....

(Give the ground number(s) and fully state ground(s) as set out in schedule 5 of the Housing (Scotland) Act 1988: continue on additional sheets of paper if required)

NOTE 2 TO TENANT.
A FULL LIST OF THE 19 GROUNDS FOR POSSESSION IS IN SCHEDULE 5 OF THE HOUSING (SCOTLAND) ACT 1988. THIS INCLUDES 2 ADDITIONAL GROUNDS, INTRODUCED BY THE COST OF LIVING (TENANT PROTECTION) (SCOTLAND) ACT 2022. INFORMATION ON YOUR RIGHTS AND RESPONSIBILITIES AS A TENANT IS AVAILABLE FROM THE SCOTTISH GOVERNMENT WEBSITE.

*delete as appropriate

Part 3. I/we also inform you that I/we are seeking possession under the above ground/grounds* for the following reasons:-

.....
.....
.....
.....

(State particulars of how you believe the ground(s) have arisen:
continue on additional sheets of paper if required)

NOTE 3 TO TENANT.
YOUR LANDLORD MUST GIVE YOU PROPER NOTICE BETWEEN SERVING THIS NOTICE AND RAISING PROCEEDINGS IN THE TRIBUNAL. IF ANY OF GROUNDS 1, 1A, 2, 5, 6, 7, 8A, 9 AND 17 APPLY, WITH OR WITHOUT OTHER GROUNDS, 2 MONTHS' NOTICE MUST BE GIVEN. YOUR LANDLORD MUST ALSO GIVE YOU 2 MONTHS NOTICE IF YOUR TENANCY IS A SHORT ASSURED TENANCY AND YOUR LANDLORD IS SEEKING REPOSSESSION ON THE GROUND THAT THE TENANCY PERIOD HAS EXPIRED. IF ONLY THE OTHER GROUNDS APPLY, ONLY 2 WEEKS NOTICE NEED BE GIVEN.

*delete as appropriate

Part 4. Proceedings will not be raised before (date) (which is the earliest date at which proceedings can be raised under Section 19 of the Housing (Scotland) Act 1988)

Signed
(Landlord(s) or Landlord's agent)

Date

NOTE 4 TO TENANT.

IF YOUR LANDLORD DOES NOT RAISE PROCEEDINGS IN THE TRIBUNAL THIS NOTICE AT6 WILL CEASE TO HAVE EFFECT 6 MONTHS AFTER THE EARLIEST DATE ON WHICH PROCEEDINGS COULD HAVE BEEN RAISED (SEE PART 4 OF THE NOTICE).

NOTE 5 TO TENANT.

IF YOU WANT TO CONTEST YOUR LANDLORD'S INTENTION TO REPOSSESS YOUR HOME, YOU ARE STRONGLY ADVISED TO TAKE LEGAL ADVICE WITHOUT DELAY AND BEFORE THE EXPIRY OF THE TIME LIMIT GIVEN BY THE NOTICE. HELP WITH ALL OR PART OF THE COST OF LEGAL ADVICE MAY BE AVAILABLE UNDER THE LEGAL AID LEGISLATION.

NOTE 6 TO TENANT.

REMEMBER BEFORE YOU MUST LEAVE YOUR HOME, YOUR LANDLORD MUST HAVE DONE 3 THINGS:

1. SERVED ON YOU A NOTICE TO QUIT (NOTE CAREFULLY THAT THIS MAY HAVE BEEN SERVED AT AN EARLIER STAGE IN THE TENANCY TO CHANGE THE TENANCY FROM A CONTRACTUAL TO A STATUTORY ASSURED TENANCY); AND
2. SERVED ON YOU AN AT6 (THIS NOTICE); AND
3. OBTAINED AN ORDER FROM THE TRIBUNAL.

NOTE 7 TO TENANT.

THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD KEEP IT IN A SAFE PLACE.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations temporarily modify the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017 and the Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017 in response to emergency measures introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022, which comes into force on 28 October 2022 and is due to expire on 31 March 2023, unless amended.

Regulation 2 and schedule 1 modify the notice to leave form which is required to be issued to tenants under the Private Housing (Tenancies) (Scotland) Act 2016. The modified form includes additional, temporary grounds for eviction which were introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Regulation 3 and schedule 2 modify Form AT6 which is required to be issued by a landlord who intends to raise proceedings for possession to a tenant of an assured tenancy under the Housing (Scotland) Act 1988. The modified form includes additional, temporary grounds for eviction which were introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022.

These Regulations make changes to certain forms and notices in light of emergency measures introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022, which was subject to a Business Regulatory Impact Assessment. No further impact on business is foreseen as a result of these Regulations. A copy of all impact assessments for the Act can be obtained online at www.legislation.gov.uk.

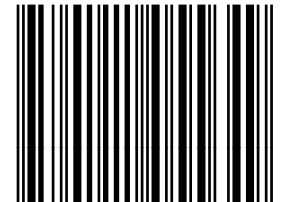
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