



Tenants' Rights, Etc. (Scotland) Act 1980

1980 CHAPTER 52

PART IV

PROVISIONS RELATING TO PRIVATE SECTOR TENANCIES

Short tenancies

34 Short tenancies

- (1) A protected tenancy (within the meaning of section 1 of the 1971 Act) created after the commencement of this Act is a short tenancy for the purposes of this Part of this Act where—
- (a) immediately before the creation of the tenancy the tenant was not a protected or statutory tenant of the dwelling-house, except where he was then a tenant under a short tenancy or a statutory tenant following on the expiry of a short tenancy ;
 - (b) the tenancy is for a period specified in the tenancy agreement of not less than one year nor more than 5 years;
 - (c) the tenancy agreement does not contain any provision whereby the landlord may terminate the tenancy before the expiry of the said specified period other than for non-payment of rent or for breach of any other obligation of the tenancy;
 - (d) before the creation of the tenancy the landlord has served on the tenant notice in writing informing him that the tenancy will be a short tenancy for the purposes of this Part of this Act; and
 - (e) either—
 - (i) there is, at the commencement of the tenancy, a rent registered for the dwelling-house which is the subject of the tenancy in the register of rents kept for the purposes of Part IV of the 1971 Act, or
 - (ii) the landlord has applied for and been granted a certificate of fair rent under section 41 of the 1971 Act and has, within 14 days after the

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

commencement of the tenancy, made an application for that fair rent to be registered under subsection (4) of that section.

- (2) Where a short tenancy has been created in a case to which sub-paragraph (e)(ii) of subsection (1) above applies, the application referred to in that sub-paragraph may not be withdrawn and, notwithstanding the provisions of section 44(1) and (4) of the 1971 Act, the rent registered for the dwelling-house shall take effect from the commencement of the tenancy.
- (3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament dispense with the requirements of subsection (1)(e) above in relation to any registration area within the meaning of section 37 of the 1971 Act.
- (4) The Secretary of State may by order made by statutory instrument prescribe the form of notice required under subsection (1)(d) above.

35 Effect of tenancy being short tenancy

- (1) At the expiry of the period of a short tenancy as specified in the tenancy agreement, the landlord shall, subject to section 36 of this Act, be entitled to recover possession of the dwelling-house.
- (2) The tenant under a short tenancy may terminate it by giving to the landlord—
 - (a) where the period of the tenancy specified in the tenancy agreement is 2 years or less, one month's notice ;
 - (b) in any other case, 3 months' notice.
- (3) Notwithstanding anything contained in any enactment or rule of law, but subject to subsection (5) below, a landlord under a short tenancy who becomes entitled to recover possession of the dwelling-house which is the subject of the short tenancy shall be entitled to enforce his right to recover possession against any assignee or sub-tenant or against any statutory tenant who has succeeded to the tenancy.
- (4) Notwithstanding anything contained in the tenancy agreement, a tenant under a short tenancy shall not be liable to pay to the landlord on termination of the tenancy any sum greater than the outstanding rent (if any) together with any sum due by the tenant to the landlord in respect of damage to the dwelling-house or its contents or in respect of any household accounts incurred by the tenant for which the landlord is or has become responsible.
- (5)
 - (a) Where a short tenancy is terminated by the death of the tenant before the expiry of the period specified in the tenancy agreement any statutory tenant by succession within the meaning of Schedule 1 to the Rent (Scotland) Act 1971 shall be entitled to retain possession of the premises until the expiry of that period only.
 - (b) Where a short tenancy is terminated for any reason before the expiry of the period specified in the tenancy agreement, any subtenant of the dwelling-house shall be entitled to retain possession of the premises until the expiry of that period only.
- (6) For the purposes of subsection (5) above " subtenant" means any person deriving title from the original tenant or from a subtenant, provided that his title has not been granted in contravention of the tenancy agreement.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

36 Conditions applying to landlord's right to recovery of possession

- (1) A landlord under a short tenancy who seeks recovery of possession of the dwelling-house on or after termination of the tenancy, subject to subsection (2) below, may recover possession of the dwelling-house in accordance with Case 11D of Schedule 3 to the 1971 Act.
- (2) A landlord who at any time seeks an order under the said Case 11D shall, either before or not later than 3 months after the expiry of the period specified in the tenancy agreement, or, in a case to which subsection (4) below applies, not later than 3 months after the expiry of any period of 12 months for which the tenancy is continued under that subsection, serve on the tenant a notice in writing of his intention to apply for the order, and the relative application shall be made not less than 3 nor more than 6 months after service of the said notice.
- (3) In Part II of Schedule 3 to the 1971 Act (cases in which the court must order possession of a dwelling-house subject to a regulated tenancy) the following Case shall be inserted after Case 11C—

“Case 11D

Where—

 - (a) the dwelling-house was let on a short tenancy within the meaning of section 34 of the Tenants' Rights, Etc. (Scotland) Act 1980 ; or
 - (b) in the opinion of the Court it is just and equitable that the tenancy should be treated as a short tenancy within the meaning of the said section 34, notwithstanding that a requirement of subsection (1)(d) or (e) of that section has not been complied with,

and the short tenancy has terminated:

Provided that, where a further tenancy has been created by agreement between the landlord and the tenant no application for an order for possession under this Case shall be made before the end of the period of that tenancy.”.
- (4) Where a landlord fails timeously to serve a notice in compliance with subsection (2) above, the tenancy shall be continued as a short tenancy for a period of 12 months beginning with the expiry of the period specified in the tenancy agreement or with the expiry of any period of 12 months for which the tenancy is continued under this subsection.