



Rent (Scotland) Act 1984

1984 CHAPTER 58

PART X

MISCELLANEOUS AND GENERAL

95 Release from rent regulation

- (1) Where the Secretary of State is satisfied with respect to every part of any area that the number of persons seeking to become tenants there—
 - (a) of dwelling-houses exceeding a specified rateable value, or
 - (b) of any class or description of dwelling-house or of dwelling-house exceeding a specified rateable value,is not substantially greater than the number of such dwelling-houses in that part, he may by order provide that no such dwelling-house in the area shall be the subject of a regulated tenancy.
- (2) An order under this section may contain such transitional provisions, including provisions to avoid or mitigate hardship, as appear to the Secretary of State to be desirable.
- (3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

96 Provisions where tenant shares accommodation with landlord

Where under any contract—

- (a) a tenant has the exclusive occupation of any accommodation, and
- (b) the terms on which he holds the accommodation include the use of other accommodation in common with his landlord or in common with his landlord and other persons, and
- (c) by reason only of the circumstances mentioned in paragraph (b) above or by reason of those circumstances and the operation of section 6 above, the

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accommodation referred to in paragraph (a) above is not a dwelling-house let on a protected tenancy,

Part VII of this Act shall apply to the contract notwithstanding that the rent does not include payment for the use of furniture or for services.

97 Provisions where tenant shares accommodation with persons other than landlord

- (1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as " the separate accommodation ") and
 - (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this section referred to as " the shared accommodation ") in common with another person or other persons, not being or including the landlord, and
 - (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on or subject to a protected or statutory tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on a protected tenancy or, as the case may be, subject to a statutory tenancy and the following provisions of this section shall have effect.
- (2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.
- (3) For the purposes of any provisions of this Act relating to increases of rent, or to the transfer to tenants of burdens or liabilities previously borne by landlords—
 - (a) any such change of circumstances as is mentioned in subsection (4) below, being a change affecting so much of the shared accommodation as is living accommodation, shall be deemed to be an alteration of rent;
 - (b) where, as the result of any such change as is mentioned in paragraph (a) above, the terms on which the separate accommodation is held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased ;
 - (c) any increase of rent in respect of any such change as is mentioned in paragraph (a) above where, as a result of the change and of the increase of rent, the terms on which the separate accommodation is held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent.
- (4) The change of circumstances referred to in subsection (3) above is any increase or diminution of the rights of the tenant to use accommodation in common with others, or any improvement or worsening of accommodation so used by the tenant.
- (5) Subject to subsection (6) below, while the tenant is in possession of the separate accommodation (whether as a protected or statutory tenant), any term or condition of the contract of tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.

- (6) Where the terms and conditions of the contract of tenancy are such that at any time during the tenancy the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied, or their number could be increased, nothing in subsection (5) above shall prevent those terms and conditions from having effect so far as they relate to any such variation or increase.
- (7) Subject to subsection (8) below and without prejudice to the enforcement of any order made thereunder, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 11(1) above shall apply accordingly.
- (8) Without prejudice to subsection (3) above, the sheriff, on the application of the landlord, may make such order, either terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation, or modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation, or otherwise, as the sheriff thinks just:
- Provided that no order shall be made under this subsection so as to effect any termination or modification of the rights of the tenant which, apart from subsection (5) above, could not be effected by or under the terms of the contract of tenancy.
- (9) Any question arising under subsection (3) above shall be determined on the application either of the landlord or of the tenant by the sheriff whose decision shall be final and conclusive.
- (10) In this section, " living accommodation " means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient to prevent the tenancy from constituting a protected or statutory tenancy of a dwelling-house.

98 Application of Part VII to tenancies falling within section 6

- (1) If and so long as a tenancy is, by virtue only of section 6 above, precluded from being a protected tenancy, it shall be treated for all purposes as a contract to which Part VII of this Act applies, notwithstanding that the rent may not include payment for the use of furniture or for services.
- (2) In any case where—
- (a) a tenancy which, by virtue only of section 6 above, was precluded from being a protected tenancy ceases to be so precluded and accordingly becomes a protected tenancy, and
 - (b) before it became a protected tenancy a rent was registered for the dwelling-house concerned under Part VII of this Act,
- the amount which is so registered shall be deemed to be registered under Part V of this Act as the rent for the dwelling-house which is let on that tenancy, and that registration shall be deemed to take effect on the day the tenancy becomes a protected tenancy.
- (3) Section 46(3) above shall not apply to an application for the registration under Part V of this Act of a rent different from that which is deemed to be registered as mentioned in subsection (2) above.

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- (4) The reference in section 47(1)(b) above to a rent being registered for a dwelling-house does not include a rent which is deemed to be registered as mentioned in subsection (2) above.
- (5) If, immediately before a tenancy became a protected tenancy as mentioned in subsection (2)(a) above, the rates in respect of the dwelling-house were borne as mentioned in subsection (3) of section 67 above and the fact that they were so borne was noted as required by that subsection, then, in the application of Part V of this Act in relation to the protected tenancy, section 49(4) above shall be deemed to apply.
- (6) If, in a case where a tenancy becomes a protected tenancy as mentioned in subsection (2)(a) above,—
- (a) a notice to quit had been served in respect of the dwelling-house concerned before the date on which the tenancy became a protected tenancy, and
 - (b) the period at the end of which that notice to quit takes effect had, before that date, been extended under Part VII of this Act, and
 - (c) that period has not expired before that date,
- the notice to quit shall take effect on the day following that date (whenever it would otherwise take effect) and, accordingly, on that day the protected tenancy shall become a statutory tenancy.

99 Certain sublettings not to exclude any part of sublessor's premises from protection under the Act

- (1) Where the tenant of any premises, consisting of a house or part of a house, has sublet a part, but not the whole, of the premises, then, as against his landlord or any superior landlord, no part of the premises shall be treated as not being a dwelling-house let on or subject to a protected or statutory tenancy by reason only that—
- (a) the terms on which any person claiming under the tenant holds any part of the premises include the use of accommodation in common with other persons; or
 - (b) part of the premises is let to any such person at a rent which includes payments in respect of board or attendance.
- (2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

100 Obligation to notify sublettings of dwelling-houses let on or subject to protected or statutory tenancies

- (1) If the tenant of a dwelling-house let on or subject to a protected or statutory tenancy sublets any part of the dwelling-house on a protected tenancy, then, subject to subsection (2) below, he shall within 14 days after the subletting supply the landlord with a statement in writing of the subletting giving particulars of occupancy, including the rent charged.
- (2) Subsection (1) above shall not require the supply of a statement in relation to a subletting of any part of a dwelling-house if the particulars which would be required to be included in the statement as to the rent and other conditions of the subtenancy would be the same as in the last statement supplied in accordance with that subsection with respect to a previous subletting of that part.

- (3) A tenant who is required to supply a statement in accordance with subsection (1) above and who, without reasonable excuse,—
- (a) fails to supply a statement, or
 - (b) supplies a statement which is false in any material particular,
- shall be liable to a fine not exceeding level 1 on the standard scale.

101 Landlord's consent to work

- (1) It shall be a term of every protected or statutory tenancy (unless express provision is made to the contrary in the tenancy agreement) that the tenant shall not carry out work, other than interior decoration, in relation to the dwelling-house without the consent in writing of the landlord, which shall not be unreasonably withheld.
- (2) In this section, and in Schedule 4 to the Tenants' Rights, Etc. (Scotland) Act 1980 as it applies to a protected or statutory tenancy, " work " means—
- (a) alteration, improvement or enlargement of the dwelling-house or of any fittings or fixtures;
 - (b) addition of new fittings or fixtures (including wireless or television aerials);
 - (c) erection of a garage, shed or other structure,
- but does not include repairs or maintenance of any of these.
- (3) The provisions of Schedule 4 to the Tenants' Rights, Etc. (Scotland) Act 1980 shall have effect as terms of every protected or statutory tenancy as they have effect as terms of secure tenancies.

102 Jurisdiction

- (1) The sheriff shall have jurisdiction, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question as to the application of this Act or as to any matter which is or may become material for determining any such question.
- (2) The sheriff shall have jurisdiction to deal with any claim or other proceeding arising out of any provision of this Act which falls to be dealt with by a court unless that provision stipulates that the Court of Session shall have jurisdiction.
- (3) If under any provision of this Act a person takes proceedings in the Court of Session which he could have taken before the sheriff, he shall not be entitled to recover any expenses.

103 Application to sheriff

- (1) Any application to the sheriff under any of the provisions referred to in subsection (2) below shall be a summary application and shall be made by way of a summary cause within the meaning of the Sheriff Courts (Scotland) Act 1971.
- (2) The provisions of this Act referred to in this subsection are sections 7(2), 31(2), 32(4), 42(2), 54(2), and 93(1) and paragraph 7 of Schedule I.

104 Rules as to procedure

The Court of Session may make such act of sederunt and give such directions as they think fit for the purpose of giving effect to the provisions of this Act and may, by such act of sederunt or directions, provide—

- (a) for the conduct so far as desirable in private of any proceedings for the purposes of those provisions and for the remission of any fees; and
- (b) for any question arising under or in connection with those provisions being referred by consent of the parties interested for final determination by the sheriff sitting as an arbiter or by an arbiter appointed by the sheriff.

105 Powers of local authorities for the purposes of giving information

- (1) Any local authority shall have power—
 - (a) to publish information, for the assistance of landlords and tenants, as to their rights and duties under the provisions of this Act and as to the procedure for enforcing those rights or securing the performance of those duties; and
 - (b) to furnish particulars as to the availability, extent and character of alternative accommodation.
- (2) Any expenses incurred under this section by a local authority or by a committee of the authority with the permission or approval of the authority shall be defrayed out of the rates.

106 Consent of tenant

- (1) Where a dwelling-house which does not satisfy the qualifying conditions is subject to a statutory tenancy and the tenant is unwilling to give his consent to the carrying out of the works required for those conditions to be satisfied, then, if those works were specified in an application for a grant under Part II of the Housing (Financial Provisions) (Scotland) Act 1968 or Part I of the Housing (Scotland) Act 1974 and the application has been approved, the sheriff may, on the application of the landlord, make an order empowering him to enter to carry out the works.
- (2) An order under subsection (1) above may be made subject to such conditions as to the time at which the works are to be carried out and as to any provision to be made for the accommodation of the tenant and his household while they are carried out as the sheriff may think fit; and where such an order is made subject to any condition as to time, compliance with that condition shall be deemed to be also compliance with any condition imposed by the local authority under section 27(6A) or section 41(6) of the said Act of 1968 or section 4(2) of the said Act of 1974.
- (3) In determining whether to make such an order and, if it is made, subject to what, if any, conditions, the sheriff shall have regard to all the circumstances (other than the means of the tenant) and, in particular, to any disadvantage to the tenant that might be expected to result from the works and the accommodation that might be available for him while the works are carried out.
- (4) For the purpose of this section, a dwelling-house satisfies the qualifying conditions if it is provided with all the standard amenities, it is in good repair having regard to its age, character and locality and disregarding internal decorative repair, and it meets the tolerable standard.

- (5) In this section, " standard amenities " has the same meaning as in section 39(1) of the said Act of 1968, and "the tolerable standard " has the same meaning as in section 2 of the Housing (Scotland) Act 1969.

107 Prosecution of offences

- (1) Offences under this Act are punishable summarily unless the context otherwise requires.
- (2) For the avoidance of doubt it is declared that conduct in respect of which a person is made liable to a fine by this Act is an offence.
- (3) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

108 Service of notices on landlord's agents

- (1) Subject to subsection (5) and section 114 below, any document required or authorised by this Act to be served by the tenant of a dwelling-house on the landlord thereof shall be deemed to be duly served on him if it is served—
- (a) on any agent of the landlord named as such in the rent book or other similar document; or
 - (b) on the person who receives the rent of the dwelling-house.
- (2) Where a dwelling-house is subject to a regulated tenancy, subsection (1) above shall apply also in relation to any document required or authorised by this Act to be served on the landlord by a person other than the tenant.
- (3) Subject to subsection (5) below, if for the purpose of any proceedings (whether civil or criminal) brought or intended to be brought under this Act, any person serves upon any such agent or other person as is referred to in paragraph (a) or paragraph (b) of subsection (1) above a notice in writing requiring the agent or other person to disclose to him the full name and place of abode or place of business of the landlord, that agent or other person shall forthwith comply with the notice.
- (4) If any such agent or other person as is referred to in subsection (3) above fails or refuses forthwith to comply with a notice served on him under that subsection, he shall be liable to a fine not exceeding level 4 on the standard scale, unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.
- (5) Subsections (1) to (4) above shall not apply to any document required or authorised to be served by, or to any proceedings brought or intended to be brought under, Part VII or Part VIII of this Act, other than proceedings under section 89 above.

109 Rents of subsidised private houses

- (1) Any condition which—

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- (a) is mentioned in any of the enactments specified in subsection (2) below, or
- (b) has effect by virtue of any undertaking or agreement entered into in pursuance of any such enactment,

shall, in so far as it relates to the rent to be charged in respect of any dwelling-house, limit that rent, and if such condition was imposed before 6th July 1957, shall have effect as if it limited that rent, to the amount specified in subsection (3) below.

- (2) The enactments referred to in subsection (1) above are—
 - (a) section 2 of the Housing (Financial Provisions) Act 1924;
 - (b) section 3 of the Housing (Rural Workers) Act 1926;
 - (c) section 101 of the Housing (Scotland) Act 1950;
 - (d) Schedule 4 to the Housing (Financial Provisions) (Scotland) Act 1968.
- (3) The amount of rent specified in this subsection shall be an amount equal to the rent which might be properly charged in respect of the dwelling-house by virtue of any such condition as is mentioned in subsection (1) above together with any sum recoverable in respect thereof by way of repairs increase or section 50 increase within the meanings assigned to those expressions in section 133(1) of the Rent (Scotland) Act 1971.

110 Restriction on diligence and expenses

No diligence shall be done in respect of the rent of any dwelling-house let on a protected tenancy or subject to a statutory tenancy except with the leave of the sheriff; and the sheriff shall, with respect to any application for such leave, have the same or similar powers with respect to adjournment, sist, suspension, postponement and otherwise as are conferred by section 12 above in relation to proceedings for possession of such a dwelling-house.

111 Implied condition in all protected tenancies

It shall be a condition of a protected tenancy of a dwelling-house that the tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

112 Minimum length of notice to quit

- (1) No notice by a landlord or a tenant to quit any premises let (whether before or after the commencement of this Act) as a dwelling-house shall be valid unless it is in writing and contains such information as may be prescribed and is given not less than four weeks before the date on which it is to take effect.
- (2) In this section "prescribed" means prescribed by regulations made by the Secretary of State by statutory instrument, and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under this section may make different provision in relation to different descriptions of lettings and different circumstances.

113 Rent book to be provided

- (1) Where under a protected or statutory tenancy rent is payable weekly, it shall be the duty of the landlord to provide a rent book or other similar document for use in respect of the dwelling-house.
- (2) If at any time the landlord fails to comply with the requirements of this section he, and any person who on his behalf demands or receives rent in respect of the tenancy, shall be liable to a fine not exceeding level 4 on the standard scale.

114 Service of notices

- (1) A notice or other document which requires to be served on a person under any provision of this Act may be given to him—
 - (a) by delivering it to him ;
 - (b) by leaving it at his proper address ; or
 - (c) by sending it by recorded delivery post to him at that address.
- (2) For the purposes of this section and of section 7 of the Interpretation Act 1978 (references to service by post) in its application to this section, a person's proper address shall be his last known address.

115 Interpretation

- (1) In this Act, except where the context otherwise requires,—
 - " agricultural land " means land used only for agricultural or pastoral purposes or used as woodlands, market gardens, orchards, allotments or allotment gardens and any lands exceeding one-quarter of an acre used for the purpose of poultry farming, but does not include any lands occupied together with a house as a park, garden or pleasure ground or any land kept or preserved mainly or exclusively for sporting purposes ;
 - " the appropriate day " has the meaning assigned to it by section 7(3) above ;
 - " converted tenancy " means a tenancy which became a regulated tenancy by virtue of Part VI of, or paragraph 5 of Schedule 2 to, the Rent (Scotland) Act 1971, section 34 of the Housing (Financial Provisions) (Scotland) Act 1972 or section 46(1) of the Tenants' Rights, Etc. (Scotland) Act 1980; and " the conversion " means the time when the tenancy became a regulated tenancy;
 - " heritable security " has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by ex facie absolute disposition or assignation and a standard security within the meaning of Part II of the Conveyancing and Feudal Reform (Scotland) Act 1970;
 - " landlord " includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part II of this Act would be, entitled to possession of the dwelling-house ;
 - " let " includes " sub-let " ;
 - " local authority " means an islands council or district council ;
 - " order for possession " means decree of removing or warrant of ejection or other like order; and " action for possession " and " proceedings for possession " shall be construed accordingly;
 - " Part VII contract " has the meaning assigned to it in section 63(7) above;

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" premium " includes any fine or other like sum and any other pecuniary consideration in addition to rent;

" prescribed " means prescribed by regulations made by the Secretary of State by statutory instrument;

"protected furnished tenancy", "regulated furnished tenancy " and " statutory furnished tenancy" mean a protected or, as the case may be, regulated or statutory tenancy—

(a) under which the dwelling-house concerned is bona fide let at a rent which includes payments in respect of the use of furniture, and

(b) in respect of which the amount of rent which is fairly attributable to such use, having regard to the value of that use to the tenant, forms a substantial part of the whole rent;

" protected tenant" and " protected tenancy " shall be construed in accordance with section 1 above ;

" rateable value " shall be construed in accordance with section 7 above;

" rates " means any charges payable in respect of a rate as defined in the Local Government (Scotland) Act 1947 ;

" regulated tenancy " shall be construed in accordance with section 8 above;

" rent assessment committee " has the meaning assigned to it by section 44 above ;

" the standard scale " means the standard scale of fines set out in section 298G of the Criminal Procedure (Scotland) Act 1975 ;

" the statutory maximum " means the prescribed sum as defined in section 289B(6) of the Criminal Procedure (Scotland) Act 1975;

" statutory tenant " and " statutory tenancy " shall be construed in accordance with section 3 above;

" tenancy " includes " sub-tenancy " ;

" tenancy at a low rent" has the meaning assigned to it by section 2(3) above ;

" tenant " includes statutory tenant and also includes a subtenant and any person deriving title under the original tenant or sub-tenant.

- (2) Any reference in any enactment to a rent tribunal shall have effect as if it were a reference to a rent assessment committee within the meaning of section 44 above.
- (3) Except in so far as the context otherwise requires, any reference in this Act to, or to anything done or omitted under, any provision of this Act shall be construed as including a reference to, or to anything done or omitted under, any enactment which (being repealed) is substantially re-enacted in the said provision.

116 Application to Crown property

- (1) Subject to sections 4 and 63(3)(a) above, this Act shall apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as it applies in relation to premises in which no such interest subsists or ever subsisted.
- (2) In this section " Crown interest" means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

- (3) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, for the purposes of this Act the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.
- (4) Where an interest belongs to the Duchy of Cornwall, for the purposes of this Act the Secretary of the Duchy of Cornwall shall be deemed to be the owner of the interest.

117 Amendments, transitional provisions, repeals, etc.

- (1) Subject to subsection (2) below, the enactments specified in Schedule 8 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The savings and transitional provisions in Schedule 9 to this Act shall have effect.
- (3) Subject to subsection (2) above, the enactments specified in Schedule 10 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

118 Short title, commencement and extent

- (1) This Act may be cited as the Rent (Scotland) Act 1984.
- (2) This Act shall come into force at the end of the period of three months beginning with the date on which it is passed.
- (3) This Act shall extend to Scotland only.