



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

General provisions

47 Rent (Scotland) Act 1984 not to apply to tenancies subject to shared ownership agreements.

- (1) In section 5 of the Rent (Scotland) Act 1984 (exclusion from being protected or statutory tenancy) after subsection (5) there shall be inserted the following subsection—

“(5A) A tenancy which is a lease under a shared ownership agreement within the meaning of section 106(2) of the Housing Associations Act 1985 shall not be a protected tenancy.”.

- (2) In section 55 of that Act (tenancies to which sections 55 to 59 of that Act apply) after the word “above” there shall be inserted the words “but do not apply, and shall be deemed never to have applied, to a tenancy which is a lease under a shared ownership agreement within the meaning of section 106(2) of the Housing Associations Act 1985.”.

48 [F¹First-tier Tribunal: procedure and information powers]

- (1) In section 53 of the Rent (Scotland) Act 1984 (regulations of the Secretary of State) at the end of paragraph (b) of subsection (1) (procedure of rent officers ^{F²}...) there shall be added the words “whether under this Act or the Housing (Scotland) Act 1988”.

- (2) The [F³First-tier Tribunal] may by notice in the prescribed form served on the landlord or the tenant require him to give to the [F⁴First-tier Tribunal], within such period of not less than fourteen days from the service of the notice as may be specified in the notice, such information as [F⁵it] may reasonably require for the purposes of [F⁶its] functions.

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- (3) If any person fails without reasonable excuse to comply with a notice served on him under subsection (2) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Where an offence under subsection (3) above 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.

Textual Amendments

- F1** S. 48 heading substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(14)** (with Sch. 1)
- F2** Words in s. 48(1) omitted (1.12.2016) by virtue of The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(13)(a)** (with Sch. 1)
- F3** Words in s. 48(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(13)(b)(i)** (with Sch. 1)
- F4** Words in s. 48(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(13)(b)(ii)** (with Sch. 1)
- F5** Word in s. 48(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(13)(b)(iii)** (with Sch. 1)
- F6** Word in s. 48(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(13)(b)(iv)** (with Sch. 1)

[^{F7}48A] Amounts attributable to services.

In order to assist authorities to give effect to the housing benefit scheme under Part VII of the Social Security Contributions and Benefits Act 1992, where a rent is determined under section 25 or 34 above, the [^{F8}First-tier Tribunal] shall note in their determination the amount (if any) of the rent which, in the opinion of the [^{F9}First-tier Tribunal], is fairly attributable to the provision of services, except where that amount is in [^{F10}its] opinion negligible; and the amounts so noted may be included in the information specified in an order under section 49 below.]

Textual Amendments

- F7** S. 48A inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2, para. 102**
- F8** Words in s. 48A substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 2(15)(a)** (with sch. 1)

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- F9** Words in s. 48A substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 2(15)(b)** (with sch. 1)
- F10** Word in s. 48A substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 2(15)(c)** (with sch. 1)

49 Information as to determination of rents.

- (1) The [^{F11}First-tier Tribunal] shall keep and make publicly available, in such manner as is specified in an order made by the Secretary of State, such information as may be so specified with respect to rents under assured tenancies which have been the subject of, or taken into account on, references or applications to, or determinations by, [^{F12}the First-tier Tribunal].
- (2) A copy of any information kept under subsection (1) above, purporting to be certified under the hand of an authorised officer of the [^{F13}First-tier Tribunal] shall, unless the contrary is shown, be deemed to have been signed by such officer and be sufficient evidence of that information.
- (3) An order under subsection (1) above—
- may prescribe the fees to be charged for the supply of a copy, including a certified copy, of any of the information kept by virtue of that subsection; and
 - may make different provision with respect to different cases or description of case, including different provision for different areas.

Textual Amendments

- F11** Words in s. 49(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **Sch. 2 para. 1(2)(a)** (with Sch. 1 para. 5)
- F12** Words in s. 49(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 2(16)** (with Sch. 1)
- F13** Words in s. 49(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **Sch. 2 para. 1(2)(b)** (with Sch. 1 para. 5)

50 Powers of local authorities for the purposes of giving information.

Any local authority shall have power to publish information, for the assistance of landlords and tenants, as to their rights and duties under the provisions of this Part of this Act and as to the procedure for enforcing those rights or securing the performance of those duties.

51 Application to Crown.

- (1) Subject to subsection (2) below and paragraph 10 of Schedule 4 to this Act, this Part of this Act applies 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 relation to which no such interest subsists or ever subsisted.

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- (2) Sections 36 and 37 of this Act do not bind the Crown but sections 38 to 40 of this Act bind the Crown to the extent provided for in section 26 of the ^{M1}Rent (Scotland) Act 1984.
- (3) In this section “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

Marginal Citations

M1 1984 c. 58.

52 Saving for common law as to effect of notice of termination upon tacit relocation.

Nothing in this Part of this Act prejudices any rule of law relating to the effect of the giving of notice of termination of a lease upon the operation of tacit relocation.

53 Orders and regulations.

- (1) Any power of the Secretary of State to make orders or regulations under this Part of this Act shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulation under this Part, other than an order under section 35 or 41 above [^{F14}or regulations under section 18(4A)(b)] [^{F15}or regulations under section 25ZA], shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Orders or regulations under this Part may make different provision for different cases or circumstances or different areas and may contain such incidental, supplemental or transitional provisions as the Secretary of State thinks fit.

Textual Amendments

F14 Words in s. 53(2) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#) (asp 8), [ss. 47\(3\), 59\(1\)](#)

F15 Words in s. 53(2) inserted (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 3 para. 2\(3\)](#) (with s. 11)

Modifications etc. (not altering text)

C1 [S. 53\(2\)](#) modified (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 1 para. 2\(1\)\(2\)\(8\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), 2(2))

54 Notice under Part II.

A notice served under this Part of this Act on a person or notice so given to him may be served or given —

- (a) by delivering it to him;
- (b) by leaving it at his last known address; or
- (c) by sending it by recorded delivery letter to him at that address.

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55 Interpretation of Part II.

- (1) In this Part of this Act, except where the context otherwise requires—
- [^{F16}“council tax” means the tax payable under the Local Government Finance Act 1992;]
 - [^{F17}“First-tier Tribunal” means the First-tier Tribunal for Scotland;]
 - [^{F18}“First-tier Tribunal” means the First-tier Tribunal for Scotland Housing and Property Chamber;]
 - “house” includes a part of a house;
 - “landlord” includes any person from time to time deriving title from the original landlord and also includes, in relation to a house, any person other than a tenant who is, or but for the existence of an assured tenancy would be, entitled to possession of the house;
 - “let” includes “sub-let”;
 - “order for possession” means decree of removing or warrant of ejection or other like order; and “proceedings for possession” shall be construed accordingly;
 - “prescribed” means prescribed by regulations made by the Secretary of State;
^{F19}
 - “statutory assured tenancy” shall be construed in accordance with section 16(1) of this Act;
 - “tenancy” includes “sub-tenancy” and an agreement for a tenancy or sub-tenancy; ^{F20} ...
 - “tenant” includes a sub-tenant and any person deriving title from the original tenant or sub-tenant^{F21}; and
^{F19}
- (2) Any reference in this Part of this Act to the beginning of a tenancy is a reference to the day when the lease of the house let on the tenancy commences.
- (3) Where two or more persons jointly constitute either the landlord or the tenant in relation to a tenancy, then, except where otherwise provided, any reference in this Part of this Act to the landlord or to the tenant is a reference to all the persons who jointly constitute the landlord or the tenant, as the case may require.

Textual Amendments

- F16** Definition inserted (1.4.1993) by [S.I. 1993/658, art. 2, Sch. 2 para. 11](#)
- F17** Words in s. 55(1) inserted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 47](#); [S.S.I. 2017/330, art. 3, sch.](#)
- F18** Words in s. 55(1) inserted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), Sch. 2 para. 2\(17\) \(with Sch. 1\)](#)
- F19** Words in s. 55(1) repealed (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\), art. 1, Sch. para. 6\(3\)](#)
- F20** S. 55(1): Word repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 157\(4\)\(b\), Sch. 14 \(with s. 128\(8\)\); S.I. 1996/323, art. 4](#)
- F21** S. 55(1): Word and definition of “water authority” inserted (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 157\(4\)\(c\) \(with s. 128\(8\)\); S.I. 1996/323, art. 4](#)

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