



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Short assured tenancies

32 Short assured tenancies.

- (1) A short assured tenancy is an assured tenancy—
 - (a) which is for a term of not less than six months; and
 - (b) in respect of which a notice is served as mentioned in subsection (2) below.
- (2) The notice referred to in subsection (1)(b) above is one which—
 - (a) is in such form as may be prescribed;
 - (b) is served before the creation of the assured tenancy;
 - (c) is served by the person who is to be the landlord under the assured tenancy (or, where there are to be joint landlords under the tenancy, is served by a person who is to be one of them) on the person who is to be the tenant under that tenancy; and
 - (d) states that the assured tenancy to which it relates is to be a short assured tenancy.
- (3) Subject to subsection (4) below, if, at the ish of a short assured tenancy—
 - (a) it continues by tacit relocation; or
 - (b) a new contractual tenancy of the same or substantially the same premises comes into being under which the landlord and the tenant are the same as at that ish,

the continued tenancy or, as the case may be, the new contractual tenancy shall be a short assured tenancy, whether or not it fulfils the conditions in paragraphs (a) and (b) of subsection (1) above.

Status: Point in time view as at 31/08/2011.

Changes to legislation: Housing (Scotland) Act 1988, Cross Heading: Short assured tenancies is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Subsection (3) above does not apply if, before the beginning of the continuation of the tenancy or, as the case may be, before the beginning of the new tenancy, the landlord or, where there are joint landlords, any of them serves written notice in such form as may be prescribed on the tenant that the continued or new tenancy is not to be a short assured tenancy.
- (5) Section 25 above shall apply in relation to a short assured tenancy as if in subsection (1) of that section the reference to an assured tenancy were a reference to a short assured tenancy.

33 Recovery of possession on termination of a short assured tenancy.

- (1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the sheriff shall make an order for possession of the house if he is satisfied—
- that the short assured tenancy has reached its ish;
 - that tacit relocation is not operating;
 - that no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
 - that the landlord (or, where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.
- (2) The period of notice to be given under subsection (1)(d) above shall be—
- if the terms of the tenancy provide, in relation to such notice, for a period of more than two months, that period;
 - in any other case, two months.
- (3) A notice under paragraph (d) of subsection (1) above may be served before, at or after the termination of the tenancy to which it relates.
- (4) Where the sheriff makes an order for possession of a house by virtue of subsection (1) above, any statutory assured tenancy which has arisen as at that ish shall end (without further notice) on the day on which the order takes effect.
- [^{F1}(5) For the avoidance of doubt, sections 18 and 19 do not apply for the purpose of a landlord seeking to recover possession of the house under this section.]

Textual Amendments

- F1** S. 33(5) inserted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 34, 41(3)**; [S.S.I. 2011/270](#), **art. 2**, Sch.

34 Reference of rents under short assured tenancies to [^{F2}private rented housing] committee.

- (1) Subject to subsection (2) and section 35 below, the tenant under a short assured tenancy may make an application in the prescribed form to a [^{F3}private rented housing] committee for a determination of the rent which, in the committee's opinion, the landlord might reasonably be expected to obtain under the short assured tenancy.
- (2) No application may be made under this section if the rent payable under the tenancy is a rent previously determined under this section or section 25 above.

Status: Point in time view as at 31/08/2011.

Changes to legislation: Housing (Scotland) Act 1988, Cross Heading: Short assured tenancies is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where an application is made to a [^{F4}private rented housing] committee under subsection (1) above with respect to the rent under a short assured tenancy, the committee shall not make such a determination as is referred to in that subsection unless they consider—
- (a) that there is a sufficient number of similar houses in the locality let on assured tenancies (whether short assured tenancies or not); and
 - (b) that the rent payable under the short assured tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.
- (4) Where, on an application under this section, a [^{F4}private rented housing] committee make a determination of a rent for a short assured tenancy—
- (a) the determination shall have effect from such date as the committee may direct, not being earlier than the date of the application;
 - (b) if at or after the time when the determination takes effect, the rent which, apart from this paragraph, would be payable under the tenancy exceeds the rent so determined, the excess shall be irrecoverable from the tenant; and
 - (c) no further new rent for a tenancy of the house shall take effect under section 24(3) or 25 above until after the first anniversary of the date on which the determination takes effect.
- (5) Subsections (3), (4) and (7) of section 25 above apply in relation to a determination of rent under this section as they apply in relation to a determination under that section.

Textual Amendments

- F2** Words in s. 34 heading substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), Sch. 6 para. 16\(b\)](#) (with s. 193); S.S.I. 2007/270, art. 3
- F3** Words in s. 34(1)(3) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), Sch. 6 para. 16\(a\)](#) (with s. 193); S.S.I. 2007/270, art. 3
- F4** Words in s. 34(3)(4) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), Sch. 6 para. 16\(a\)](#) (with s. 193); S.S.I. 2007/270, art. 3

35 Disapplication of [^{F5}private rented housing] committee's functions under section 34.

- (1) If the Secretary of State by order so provides, section 34 above shall not apply in such cases or to tenancies of houses in such areas or in such other circumstances as may be specified in the order.
- (2) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

Textual Amendments

- F5** Words in s. 35 substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), Sch. 6 para. 16\(b\)](#) (with s. 193); S.S.I. 2007/270, art. 3

Status:

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