

Status: Point in time view as at 27/04/2017.

Changes to legislation: Housing (Scotland) Act 1988, Part I is up to date with all changes known to be in force on or before 11 September 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)

SCHEDULES

SCHEDULE 5

GROUND FOR POSSESSION OF HOUSES LET ON ASSURED TENANCIES

PART I

GROUND ON WHICH SHERIFF MUST ORDER POSSESSION

Ground 1

Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the sheriff is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)—

- (a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse's [^{F1}or civil partner's] only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord's interest in the tenancy for value.

Textual Amendments

- F1** Words in Sch. 5 Pt. 1 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 57](#); [S.S.I. 2005/604](#), arts. 2(c), 4

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Ground 2

The house is subject to a heritable security granted before the creation of the tenancy and—

- (a) as a result of a default by the debtor the creditor is entitled to sell the house and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement; and

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- (b) either notice was given in writing to the tenant not later than the date of commencement of the tenancy that possession might be recovered on this Ground or the sheriff is satisfied that it is reasonable to dispense with the requirement of notice.

Ground 3

The house is let under a tenancy for a specified period not exceeding eight months and—

- (a) not later than the date of commencement of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered under this Ground; and
- (b) the house was, at some time within the period of 12 months ending on that date, occupied under a right to occupy it for a holiday;

and for the purposes of this Ground a tenancy shall be treated as being for a specified period—

- (i) not exceeding eight months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of eight months from the commencement of the period of the tenancy; and
- (ii) exceeding eight months, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, exceeds eight months, and it is not determinable as mentioned in paragraph (i) above.

Ground 4

Where the house is let under a tenancy for a specified period not exceeding 12 months and—

- (a) not later than the date of commencement of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground; and
- (b) at some time within the period of 12 months ending on that date the house was subject to such a tenancy as is referred to in paragraph 7(1) of Schedule 4 to this Act;

and for the purposes of this Ground a tenancy shall be treated as being for a specified period—

- (i) not exceeding 12 months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of 12 months from the commencement of the period of the tenancy; and
- (ii) exceeding 12 months, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, exceeds 12 months, and it is not determinable as mentioned in paragraph (i) above.

Ground 5

The house is held for the purpose of being available for occupation by a minister or a full-time lay missionary of any religious denomination as a residence from which to perform the duties of his office and—

- (a) not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) the sheriff is satisfied that the house is required for occupation by such a minister or missionary as such a residence.

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Ground 6

The landlord who is seeking possession or, where the immediate landlord is a registered housing association within the meaning of the ^{M1}Housing Associations Act 1985, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the house or to carry out substantial works on the house or any part thereof or any building of which it forms part and the following conditions are fulfilled (and in those conditions the landlord who is intending to carry out the demolition, reconstruction or substantial works is referred to as “the relevant landlord”)—

- (a) either—
 - (i) the relevant landlord (or, in the case of joint relevant landlords, any one of them) acquired his interest in the house before the creation of the tenancy; or
 - (ii) none of the following persons acquired his interest in the house for value—
 - (A) the relevant landlord (or, in the case of joint relevant landlords, any one of them);
 - (B) the immediate landlord (or, in the case of joint immediate landlords, any one of them), where he acquired his interest after the creation of the tenancy;
 - (C) any person from whom the relevant landlord (or any one of joint relevant landlords) derives title and who acquired his interest in the house after the creation of the tenancy; and
- (b) the relevant landlord cannot reasonably carry out the intended work without the tenant giving up possession of the house because—
 - (i) the work can otherwise be carried out only if the tenant accepts a variation in the terms of the tenancy and the tenant refuses to do so;
 - (ii) the work can otherwise be carried out only if the tenant accepts an assured tenancy of part of the house and the tenant refuses to do so; or
 - (iii) the work can otherwise be carried out only if the tenant accepts either a variation in the terms of the tenancy or an assured tenancy of part of the house or both, and the tenant refuses to do so; or
 - (iv) the work cannot otherwise be carried out even if the tenant accepts a variation in the terms of the tenancy or an assured tenancy of only part of the house or both.

Marginal Citations

M1 1985 c. 69.

Marginal Citations

M1 1985 c. 69.

Ground 7

The tenancy has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than twelve months after the death of the former tenant or, if the sheriff so directs, after the date on which, in his opinion, the landlord (or, where there are joint landlords, any of them) became aware of the former tenant’s death.

For the purposes of this Ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new tenancy, unless the landlord agrees in writing to a change (as compared with the tenancy before the death) in the amount of the rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

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Ground 8

Both at the date of the service of the notice under section 19 of this Act relating to the proceedings for possession and at the date of the hearing, at least three months rent lawfully due from the tenant is in arrears.

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