



Housing (Scotland) Act 2001

2001 asp 10

PART 2

TENANTS OF SOCIAL LANDLORDS

CHAPTER 1

SCOTTISH SECURE TENANCIES

Creation and termination of tenancy

16 Powers of court in possession proceedings

- (1) The court may, as it thinks fit, adjourn proceedings under section 14 on a ground set out in any of paragraphs 1 to 7 and 15 of schedule 2 for a period or periods, with or without imposing conditions as to payment of outstanding rent or otherwise.
- (2) Subject to subsection (1), in proceedings under section 14 the court must make an order for recovery of possession if it appears to the court—
 - (a) that—
 - (i) the landlord has a ground for recovery of possession set out in any of paragraphs 1 to 7 of that schedule and specified in the notice required by section 14, and
 - (ii) it is reasonable to make the order,
 - (b) that—
 - (i) the landlord has a ground for recovery of possession set out in any of paragraphs 8 to 14 of that schedule and so specified, and
 - (ii) other suitable accommodation will be available for the tenant when the order takes effect, or
 - (c) that—
 - (i) the landlord has a ground for recovery of possession set out in paragraph 15 of that schedule and so specified,
 - (ii) it is reasonable to make the order, and

Status: This is the original version (as it was originally enacted).

- (iii) other suitable accommodation will be available for the tenant when the order takes effect.
- (3) For the purposes of subsection (2)(a)(ii) the court is to have regard, in particular, to—
- (a) the nature, frequency and duration of—
 - (i) where the ground for recovery of possession is one set out in any of paragraphs 1 and 3 to 7 of schedule 2, the conduct taken into account by the court in concluding that the ground is established,
 - (ii) where the ground for recovery of possession is that set out in paragraph 2 of that schedule, the conduct in respect of which the person in question was convicted,
 - (b) the extent to which that conduct is or was conduct of, or a consequence of acts or omissions of, persons other than the tenant,
 - (c) the effect which that conduct has had, is having and is likely to have on any person other than the tenant, and
 - (d) any action taken by the landlord, before raising the proceedings, with a view to securing the cessation of that conduct.
- (4) Part 2 of schedule 2 has effect to determine whether accommodation is suitable for the purposes of subsection (2)(b) or (c).
- (5) An order under subsection (2) must appoint a date for recovery of possession and has the effect of—
- (a) terminating the tenancy, and
 - (b) giving the landlord the right to recover possession of the house, at that date.
- (6) Where, in proceedings under section 14 on the ground set out in paragraph 10 of schedule 2, it appears to the court that the landlord intends that—
- (a) substantial work will be carried out on the building (or a part of the building) which comprises or includes the house, and
 - (b) the tenant should return to the house after the work is completed,
- the court must make an order that the tenant is entitled to return to the house after the work is completed; and subsection (5)(a) does not apply in such a case.