



Housing (Scotland) Act 2014

2014 asp 14

PART 2

SOCIAL HOUSING

Scottish secure tenancy

12 **Assignment, sublet and joint tenancy of Scottish secure tenancy**

(1) In section 11 of the 2001 Act (Scottish secure tenancy)—

- (a) in subsection (6), the words “, or is intended to be,” are repealed, and
- (b) after subsection (6) insert

“(6A) An application under subsection (5) may be made only where the house in question has been the only or principal home of the person falling within subsection (6) throughout the period of 12 months ending with the date of the application.

(6B) For the purposes of subsection (6A) a period may be considered in relation to a person only if, at any time before that period began, the landlord was notified by—

- (a) the person, or
- (b) any other person who was the tenant of the house in question when the notice was given,

that the house in question was the person’s only or principal home.”.

(2) In section 32 of the 2001 Act (assignment, subletting, etc.)—

- (a) in subsection (1)—
 - (i) the word “and” immediately preceding paragraph (b) is repealed,
 - (ii) in paragraph (b), after “been” insert “the tenant’s and”,
 - (iii) in paragraph (b), for “6” substitute “12”, and
 - (iv) after paragraph (b), insert “ and
- (c) in the case of a sublet, only where the house has been the tenant’s only or principal home throughout the period of 12 months ending with the date of the

application for the landlord’s consent to the sublet under paragraph 9 of schedule 5.”,

(b) after subsection (1), insert—

“(1A) For the purposes of an assignation mentioned in subsection (1)(b), a period may be considered in relation to a person only if—

- (a) the person was the tenant of the house throughout that period, or
- (b) at any time before that period began, the landlord was notified by—
 - (i) the person, or
 - (ii) any other person who was the tenant of the house in question when the notice was given,

that the house in question was the person’s only or principal home.

(1B) For the purposes of a sublet mentioned in subsection (1)(c), a period may be considered in relation to a tenant only if—

- (a) the tenant was the tenant of the house throughout that period, or
- (b) at any time before that period began, the landlord was notified by—
 - (i) the tenant, or
 - (ii) any other person who was the tenant of the house in question when the notice was given,

that the house in question was the tenant’s only or principal home.”, and

(c) in subsection (3)—

- (i) the word “or” immediately preceding paragraph (e) is repealed, and
- (ii) after paragraph (e), insert—

“(f) in the case of consent to an assignation by a local authority or a registered social landlord, if the proposed assignee is not a person to whom that local authority or registered social landlord would give a reasonable preference when selecting tenants under section 20(1) of the 1987 Act, or

- (g) in the case of consent to an assignation, if the assignation would in the opinion of the landlord, result in the house being under-occupied.”.

13 Succession to Scottish secure tenancy

In schedule 3 to the 2001 Act (succession to Scottish secure tenancy: qualified persons)

- (a) in paragraph 2(2), for “6” insert “12”,
- (b) in paragraph 3, for “at the time of” substitute “throughout the period of 12 months ending with”,
- (c) in paragraph 4(b), for “at the time of” substitute “throughout the period of 12 months ending with”, and
- (d) after paragraph 4, insert—

“Only or principal home

- 4A For the purposes of paragraph 2, 3 or 4 a period may be considered in relation to a person only if, at any time before that period began, the landlord was notified by—
- (a) the person, or
 - (b) any other person who was the tenant of the house in question when the notice was given,
- that the house in question was the person’s only or principal home.”.

14 Grounds for eviction: antisocial behaviour

- (1) In section 14 of the 2001 Act (proceedings for possession), after subsection (2A) insert—

“(2B) Where such proceedings are to include a ground for recovery of possession set out in paragraph 2 of schedule 2, the landlord must have regard to any guidance published by the Scottish Ministers before raising such proceedings in relation to recovering possession of the house.

(2C) Before publishing any guidance mentioned in subsection (2B), the Scottish Ministers must consult such persons as they consider appropriate.”.

- (2) In section 16 of the 2001 Act (powers of court in possession proceedings)—

- (a) in subsection (2), after paragraph (a) insert—

“(aa) whether or not paragraph (a) applies, that—

- (i) the landlord has a ground for recovery of possession set out in paragraph 2 of that schedule and so specified, and

- (ii) the landlord served the notice under section 14(2) before the day which is 12 months after—

- (A) the day on which the person was convicted of the offence forming the ground for recovery of possession, or

- (B) where that conviction was appealed, the day on which the appeal is dismissed or abandoned,” and

- (b) after subsection (3), insert—

“(3A) Subsection (2) does not affect any other rights that the tenant may have by virtue of any other enactment or rule of law.”.

15 Recovery of possession of properties designed for special needs

In schedule 2 to the 2001 Act (grounds for recovery of possession of house)—

- (a) in paragraph 11(a), the words “longer a” are repealed, and
- (b) in paragraph 12(a), the words “longer a” are repealed.