



# Housing (Scotland) Act 2014

## 2014 asp 14

### PART 2

#### SOCIAL HOUSING

##### *Short Scottish secure tenancy*

#### **7 Creation of short Scottish secure tenancy: antisocial behaviour**

- (1) In section 34 of the 2001 Act (short Scottish secure tenancies)—
- (a) in subsection (7), for “or 2” substitute “, 2 or 2A ”, and
  - (b) after subsection (8), insert—
    - “(9) A landlord must have regard to any guidance published by the Scottish Ministers—
      - (a) before creating a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, and
      - (b) when taking any steps in relation to such a tenancy with a view to—
        - (i) extending the term of the tenancy under section 35A, or
        - (ii) raising proceedings for the recovery of possession of the house under section 36.
- (10) Before publishing any guidance mentioned in subsection (9), the Scottish Ministers must consult such persons as they consider appropriate.”.
- (2) In section 35 of the 2001 Act (conversion to a short Scottish secure tenancy)—
- (a) for subsection (2) substitute—
    - “(2) The landlord may serve a notice under subsection (3) only where—
      - (a) the tenant (or any one of joint tenants) or a person residing or lodging with, or a subtenant of, the tenant is subject to an antisocial behaviour order under—

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*Changes to legislation: Housing (Scotland) Act 2014, Section 7 is up to date with all changes known to be in force on or before 27 May 2023. 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) View outstanding changes*

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- (i) section 234AA of the Criminal Procedure (Scotland) Act 1995 (c.46), or
    - (ii) section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or
  - (b) the tenant (or any one of joint tenants), a person residing or lodging with, or a subtenant of, the tenant, or a person visiting the house has, within the period of 3 years preceding the date of service of the notice—
    - (i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person, or
    - (ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.”
- (b) in subsection (3)—
  - (i) the word “and” immediately preceding paragraph (b) is repealed,
  - (ii) in paragraph (b), after “order” insert “ or, as the case may be, has behaved as described in subsection (2)(b) ”, and
  - (iii) after paragraph (b), insert—
    - “(c) if the notice is served under subsection (2)(b), specify—
      - (i) the actions of the tenant or other person which the landlord has taken into account, and
      - (ii) the landlord's reasons for serving the notice, and
    - (d) explain the right of appeal conferred by subsection (5).”, and
- (c) after subsection (6), insert—
  - “(7) In this section —
    - “antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
    - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and
    - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).”.
- (3) In section 37(1) of the 2001 Act (conversion to Scottish secure tenancy), in paragraph (a) for “or 2” substitute “, 2 or 2A ”.
- (4) In schedule 6 to the 2001 Act (grounds for granting short Scottish secure tenancy)—
  - (a) after paragraph 2 insert—

## 2A “Other antisocial behaviour

- (1) A person mentioned in sub-paragraph (2) has, within the period of 3 years preceding the date of service of the notice—

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- (a) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, or
  - (b) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.
- (2) The persons are—
- (a) the prospective tenant,
  - (b) any one of prospective joint tenants,
  - (c) a person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, and
  - (d) a person who it is proposed will reside with the prospective tenant.
- (3) In sub-paragraph (1)—
- “antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
  - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and
  - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).”, and
- (b) for paragraph 6 substitute—

**6 “Accommodation for person in receipt of housing support**

The house is to be let expressly on a temporary basis to a person—

- (a) to whom no other paragraph of this schedule applies, and
  - (b) who is in receipt of a housing support service.”.
- (5) In section 31(5) of the 1987 Act (permanent accommodation where duty to secure accommodation for persons found to be homeless), in paragraph (c) for “or 2” substitute “ , 2 or 2A ”.

**Commencement Information**

- I1** S. 7(1)(a)(2)-(5) in force at 1.5.2019 by [S.S.I. 2018/153](#), [art. 2](#), [sch.](#) (with [arts. 3, 9](#))
- I2** S. 7(1)(b) in force at 20.11.2014 by [S.S.I. 2014/264](#), [art. 2](#), [Sch.](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I. 2016/412, art. 3(1)  
(a) by [S.S.I. 2017/330 art. 2](#)
- specified provision(s) amendment to earlier commencing SSI 2015/272 Sch. by  
[S.S.I. 2015/349 art. 2\(2\)](#)