



# Housing (Scotland) Act 2010

## 2010 asp 17

### PART 16

#### MISCELLANEOUS

#### 155 Scottish secure tenancy: rent arrears pre-action requirements

The Housing (Scotland) Act 2001 ([asp 10](#)) is amended as follows—

(a) in section 14—

(i) after subsection (2) insert—

“(2A) Where such proceedings are to include the ground that rent lawfully due from the tenant has not been paid (as set out in paragraph 1 of schedule 2)—

(a) the notice under subsection (2) must not be served unless the landlord has complied with the pre-action requirements in section 14A, and

(b) the proceedings may not be raised unless the landlord has confirmed to the court in such form as the Scottish Ministers may prescribe by regulations that those requirements have been complied with.”,

(ii) the word “and” immediately following subsection (4)(a) is repealed, and

(iii) in subsection (4), at the end of paragraph (b) insert “, and

(c) where subsection (2A) applies, the steps taken by the landlord which the landlord considers to constitute compliance with the pre-action requirements in section 14A.”,

(b) after section 14, insert—

#### “14A Pre-action requirements where grounds for possession include rent arrears

(1) The pre-action requirements referred to in section 14(2A) are set out in subsections (2) to (7) below.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The landlord must provide the tenant with clear information about—
  - (a) the terms of the tenancy agreement, and
  - (b) outstanding rent and any other outstanding financial obligation of the tenancy.
- (3) The landlord must make reasonable efforts to provide the tenant with advice and assistance on the tenant’s eligibility to receive—
  - (a) housing benefit, and
  - (b) other types of financial assistance (for example, other benefits or grants).
- (4) The landlord must provide the tenant with information about sources of advice and assistance in relation to management of debt.
- (5) The landlord must make reasonable efforts to agree with the tenant a reasonable plan for future payments to the landlord, such plan to include proposals in respect of—
  - (a) future payments of rent, and
  - (b) outstanding rent and any other outstanding financial obligation of the tenancy.
- (6) The landlord must not serve a notice under section 14(2) if—
  - (a) an application for housing benefit for the tenant—
    - (i) has been made but has not yet been determined, and
    - (ii) is, in the opinion of the landlord, likely to result in the benefit being paid at a level allowing the tenant to pay, or reduce by an amount acceptable to the landlord, the outstanding rent and any other outstanding financial obligation of the tenancy,
  - (b) the tenant is taking other steps which, in the opinion of the landlord, are likely to result in the payment to the landlord within a reasonable time of—
    - (i) the outstanding rent, and
    - (ii) any other outstanding financial obligation of the tenancy, or
  - (c) the tenant is complying with the terms of a plan agreed to in accordance with subsection (5).
- (7) The landlord, unless it is a local authority landlord, must encourage the tenant to contact the local authority in whose area the house is situated.
- (8) In complying with the pre-action requirements the landlord must have regard to any guidance issued by the Scottish Ministers.
- (9) The Scottish Ministers may by order make further provision about the pre-action requirements, including provision—
  - (a) specifying particular steps to be taken, or not to be taken, by a landlord in complying with any requirement;
  - (b) modifying or removing any requirement.

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

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- (10) In this section, “housing benefit” has the same meaning as in section 123 of the Social Security Contributions and Benefits Act 1992 (c.4).”, and
- (c) in section 109—
  - (i) in subsection (4), after “7(3)” insert “, 14A(9)”, and
  - (ii) in subsection (6), after second “section” insert “14A(9) or”.