

2002 No. 313

HOUSING

The Scottish Secure Tenancies (Abandoned Property) Order 2002

Made 26th June 2002

Laid before the Scottish Parliament 27th June 2002

Coming into force 30th September 2002

The Scottish Ministers, in exercise of the powers conferred by sections 18(4) and 109(2) of the Housing (Scotland) Act 2001(a), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scottish Secure Tenancies (Abandoned Property) Order 2002 and shall come into force on 30th September 2002.

(2) In this Order “the Act” means the Housing (Scotland) Act 2001.

Procedure by landlord

2.—(1) Where property is found in a house to which section 18(1) of the Act applies the landlord shall immediately serve a notice on the tenant that the property is available for delivery into the hands of the tenant or the tenant’s agent at a place specified in the notice on payment of any sum payable in terms of article 5(1) of this Order and that if the property is not collected by the tenant from the specified place on or before the date specified in the notice (being a date not fewer than 28 days from the date of service of the notice and not earlier than the date on which the landlord repossesses the house) it may be disposed of in accordance with this Order.

(2) The notice provided for in paragraph (1) of this article shall be served by posting it to the tenant in a recorded delivery letter addressed to the tenant at the tenant’s last known address or by leaving the notice for the tenant at that address.

3.—(1) Where property in respect of which a notice under article 2 of this Order has been served on the tenant has not been collected by the date specified in the notice, the property shall, subject to paragraph (2) of this article, be stored by the landlord for a period of 6 months from the date on which the landlord took possession of the dwellinghouse and after expiry of the said period the landlord may sell any item remaining in its custody.

(2) Paragraph (1) of this article shall not apply to any property the value of which would not, in the opinion of the landlord, exceed the amount which the landlord would be entitled to deduct under article 6 of this Order from the proceeds of any sale of such item.

Disposal of property

4. Where property to which article 3(1) does not apply and in respect of which a notice under article 2 has been served on the tenant has not been collected by the date specified in the notice the landlord may sell or otherwise dispose of it.

Charges payable

5.—(1) Subject to paragraph (2) of this article, where at any time prior to the sale or disposal of property under this Order the tenant, or any other person who appears to the landlord to have a right of ownership or of possession in the property, arranges for delivery to the tenant or such other person of any item the landlord shall relinquish custody of that item upon receipt of a payment equal to the amount of any costs incurred by the landlord in complying with this Order in relation to that item or such lesser amount (including a nil amount) as the landlord may think fit.

(2) Nothing in this article shall affect the landlord's exercise of its right of hypothec.

6. Where a landlord sells property under article 3 of this Order it may deduct from the proceeds of sale the amount of any costs incurred by it in complying with this Order in relation to that property and, if there is any remainder after deduction of such amount, the amount of any arrears of rent.

Public Health and Safety

7. Nothing in articles 2 to 5 of this Order shall prevent the exercise by any person or authority of any power under any enactment relating to public health or public safety.

Register of abandoned property

8.—(1) Landlords shall maintain a register of houses in which property has been found on the exercise of their powers under section 18 of the Act.

(2) A house shall remain on the register until after the expiry of a period of 5 years from the date on which the landlord took possession of the house.

(3) The landlord shall make the register available for inspection by members of the public at all reasonable times.

MARGARET CURRAN
A member of the Scottish Executive

St Andrew's House,
Edinburgh
26th June 2002

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the procedure to be followed by a landlord in respect of property found in a house which has been re-possessed under section 18 of the Housing (Scotland) Act 2001.

Article 2 provides that the tenant will be advised by notice that if the tenant's property is not collected within a specified time it may be disposed of in accordance with this Order. Article 3 provides that property of a value sufficient to cover the cost of storage will be stored for six months and may thereafter be sold. Article 4 provides that property of a value insufficient to cover the cost of storage may be disposed of.

Article 5 provides that, subject to the landlord's security for unpaid rent, the landlord shall, on receipt of payment of its expenses, surrender any property to which the Order applies to any person appearing to be a person entitled to delivery. Article 6 provides that the landlord may deduct its expenses and the amount of any arrears of rent from the proceeds of sale of any property to which the Order applies.

Article 8 provides that landlords will maintain for five years, in a register open to public inspection, information as to the houses in which property to which the Order applies has been found.

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