



# Rent (Scotland) Act 1984

## 1984 CHAPTER 58

### PART III

#### PROTECTION AGAINST HARASSMENT AND EVICTION WITHOUT DUE PROCESS OF LAW

#### [<sup>F1</sup>23A Excluded tenancies and occupancy rights.

- (1) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if—
- (a) under its terms the occupier has the use of any accommodation in common with the owner or a member of his family (whether or not in common with other persons); and
  - (b) immediately before the tenancy or right was granted and at all times since then the owner occupied as his only or principal home premises of which the whole or part or the accommodation referred to in paragraph (a) above formed part.

- (2) In subsection (1) above—

- (a) “accommodation” includes neither an area used for storage nor a staircase, passage, corridor or other means of access;
- (b) “owner” means, in relation to a tenancy, the landlord and, in relation to a right to occupy, the person granting it, and in any case where there are joint landlords or grantors any one of them shall be regarded as the “owner”; and
- (c) “occupier” means, in relation to a tenancy, the tenant and, in relation to a right to occupy, its grantee;

and section 83 of the Housing (Scotland) Act <sup>M1</sup>1987 shall apply to determine whether a person is for the purposes of subsection (1) above a member of another’s family as it applies for the purposes of that Act.

- (3) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it was granted as a temporary expedient to a person who entered the premises in question or any other premises without right or title (whether or not before the beginning of that tenancy or grant of that right another tenancy or right to occupy the premises or any other premises had been granted to him).

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Rent (Scotland) Act 1984, Section 23A is up to date with all changes known to be in force on or before 09 April 2024. 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)*

- (4) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it confers on the tenant or occupier the right to occupy the premises for a holiday only.
- [ Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it
- <sup>F2</sup>(4A) was granted, for a term of less than 6 months, to a person—
- (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or
  - (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority’s functions under that paragraph.]]
- (5) Nothing in section 23 or 24 of this Act applies to a right of occupancy which confers rights of occupation in a hostel, within the meaning of the Housing (Scotland) Act 1987, which is provided by—
- (a) a local authority within the meaning of the Local Government (Scotland) Act <sup>M2</sup>1973 or a joint board or joint committee within the meaning of that Act;
  - (b) a development corporation within the meaning of the New Towns (Scotland) Act <sup>M3</sup>1968;
  - (c) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act <sup>M4</sup>1980;
  - (d) the Scottish Special Housing Association;
  - <sup>F3</sup>(e) .....
  - (f) a registered housing association, within the meaning of the Housing Associations Act <sup>M5</sup>1985; or
  - (g) any other person who is, or who belongs to a class of person which is, specified in an order made by the Secretary of State.
- [<sup>F4</sup>(5A) Nothing in section 23 of this Act applies to a tenancy or right of occupancy if it is granted in order to provide accommodation [<sup>F5</sup>under section 4 or Part VI of the Immigration and Asylum Act 1999].]
- <sup>F6</sup>(5B) .....
- (6) The power to make an order under subsection (5)(g) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** S. 23A inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), **ss. 40, 52**
- F2** S. 23A(4A) inserted (30.9.2002) by [2001 asp 10, s. 112, Sch. 10 para. 9\(3\)\(a\)](#); [S.S.I. 2002/321, art. 2, Sch.](#) (subject to transitional provisions and savings in arts. 3-5)
- F3** S. 23A(5)(e) repealed (30.9.2002) by [2001 asp 10, s. 112, Sch. 10 para. 9\(3\)\(b\)](#); [S.S.I. 2002/321, art. 2, Sch.](#) (subject to transitional provisions and savings in arts. 3-5)
- F4** S. 5A inserted (11.11.1999) by [1999 c. 33, ss. 169\(1\), 170\(3\)\(s\)](#), **Sch. 14 para. 79**
- F5** Words in s. 23A(5A) substituted (16.6.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), ss. 43\(4\)\(c\), 62\(1\), \(2\)](#); [S.I. 2006/1497, art. 3, Sch.](#)
- F6** S. 23A(5B) repealed (31.12.2020) by [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019 \(S.I. 2019/745\), reg. 1\(2\), Sch. 3](#); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

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**Marginal Citations**

**M1** 1987 c. 26(61).

**M2** 1973 c. 65(81:2).

**M3** 1968 c. 16(123:4).

**M4** 1980 c. 65(123:1, 2).

**M5** 1985 c. 69(61).

**Status:**

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