

Changes to legislation: Housing (Scotland) Act 1988, Part II is up to date with all changes known to be in force on or before 29 February 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) View outstanding changes

SCHEDULES

SCHEDULE 5

GROUND FOR POSSESSION OF HOUSES LET ON ASSURED TENANCIES

Modifications etc. (not altering text)

- C1** Sch. 5 modified (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 2 para. 5\(4\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#)

PART II

[^{F1}FURTHER GROUNDS ON WHICH FIRST-TIER TRIBUNAL MAY ORDER POSSESSION]

Textual Amendments

- F1** Sch. 5 Pt. 2 heading substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#) (asp 8), [ss. 44\(6\)\(c\)](#), 59(1)

Ground 9

Suitable alternative accommodation is available for the tenant or will be available for him when the order for possession takes effect.

Ground 10

The following conditions are fulfilled—

- (a) the tenant has given a notice to quit which has expired; and
- (b) the tenant has remained in possession of the whole or any part of the house; and
- (c) proceedings for the recovery of possession have been begun not more than six months after the expiry of the notice to quit; and
- (d) the tenant is not entitled to possession of the house by virtue of a new tenancy.

Ground 11

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

Ground 12

Some rent lawfully due from the tenant—

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- (a) is unpaid on the date on which the proceedings for possession are begun; and
- (b) except where subsection (1)(b) of section 19 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

Ground 13

Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed.

Ground 14

The condition of the house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any one of joint tenants or any person residing or lodging with him or any sub-tenant of his; and, in the case of acts of waste by, or the neglect or default of, a person lodging with a tenant or a sub-tenant of his, the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this Ground, “the common parts” means any part of a building containing the house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other houses.

^{F2}[Ground 15]

Textual Amendments

F2 Sch. 5 Ground 15 substituted (1.12.1998) by [1998 c. 37, s. 23\(4\)](#); S.I. 1998/2327, [art. 4](#)

Modifications etc. (not altering text)

C1 Sch. 5 Ground 15 restricted (1.12.1998) by [1998 c. 37, s. 23\(5\)](#); S.I. 1998/2327, [art. 4](#)

^{F3}[The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

- (a) been convicted of—
 - (i) using or allowing the house to be used for immoral or illegal purposes; or
 - (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or
- (b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or
- (c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

Textual Amendments

F3 Sch. 5 Ground 15 substituted (1.12.1998) by [1998 c. 37, s. 23\(4\)](#); S.I. 1998/2327, [art. 4](#)

Modifications etc. (not altering text)

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In this Ground “anti-social”, 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 “tenant” includes any one of joint tenants.]

Textual Amendments

F3 Sch. 5 Ground 15 substituted (1.12.1998) by [1998 c. 37, s. 23\(4\)](#); S.I. 1998/2327, [art. 4](#)

Modifications etc. (not altering text)

C2 Sch. 5 Ground 15 restricted (1.12.1998) by [1998 c. 37, s. 23\(5\)](#); S.I. 1998/2327, [art. 4](#)

Ground 16

The condition of any furniture provided for use under the tenancy has deteriorated owing to ill-treatment by the tenant or any other person residing or lodging with him in the house and, in the case of ill-treatment by a person lodging with the tenant or by a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

Ground 17

The house was let to the tenant in consequence of his employment by the landlord seeking possession or a previous landlord under the tenancy and the tenant has ceased to be in that employment.

[^{F4}For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.]

Textual Amendments

F4 Sch. 5 Ground 17: paragraph added (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 60\(2\)](#), [Sch. 8 Pt. II para. 11](#); S.I. 1990/1329, [art. 2\(8\)](#), [Sch. 3](#)

Textual Amendments

F4 Sch. 5 Ground 17: paragraph added (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 60\(2\)](#), [Sch. 8 Pt. II para. 11](#); S.I. 1990/1329, [art. 2\(8\)](#), [Sch. 3](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)