

‘ It’s a civil matter ... ’

a summary report on the unlawful
eviction of private sector tenants

GOVAN
LAW
CENTRE



Govan Law Centre’s Prevention
of Homelessness Project

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Executive summary

- Govan Law Centre (GLC) has recorded a significant rise in the number of Glasgow clients seeking help following harassment from their private sector landlord, threatened unlawful eviction or actual unlawful eviction.
- Although unlawful eviction has been a criminal offence in Scotland for over 44 years, the police in Scotland commonly tell the public 'it's a civil matter'.
- Where evidence has been sufficient, GLC has been unable to persuade Strathclyde Police to charge any private sector landlord who has unlawfully evicted his or her tenant under the Rent (Scotland) Act 1984 as amended – the legislation which sets out the statutory criminal offences of unlawful eviction and harassment of tenants in Scots law.
- Where evidence has been sufficient, GLC has been unable to persuade the Regional Procurator Fiscal in Glasgow to pursue a prosecution under the Rent (Scotland) Act 1984.
- A significant minority of private sector landlords in Glasgow are routinely ignoring the law on unlawful eviction and getting away with it.
- The Scottish Government's *'Firm Foundations: The Future of Housing in Scotland'* policy proposes a greater role for the private landlord sector in Scotland, particularly for meeting the needs of vulnerable homeless households. GLC is deeply concerned that without tackling the systemic problems identified in this summary report, more vulnerable families will be placed at risk from these proposals.
- GLC believes that urgent strategic action is required at a national level to tackle the problems identified in this summary report; guidance from the Crown Office is needed to ensure that the police and prosecution services apply the law on unlawful eviction in Scotland. Proper resources are needed locally to ensure that law centres, advice agencies and other bodies can assist vulnerable tenants subjected to criminal behaviour.

“ unlawful eviction has been a criminal offence for 44 years but the police tell the public it’s a civil matter ”

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About Govan Law Centre

Govan Law Centre (GLC) is a charitable, community controlled, law centre which tackles unmet legal need by providing free legal advice and representation and a legal information and education programme. Our Scottish charity number is SCO30193.

GLC uses the law to tackle disadvantage and poverty within Glasgow and Scotland. It specialises in the legal fields of housing, debt, education, employment, and more generally public and social welfare law.

GLC uses the experience it has on the ground to influence decision makers and social policy at all levels to work for social justice. It is governed by an active Board of Trustees. It's legal work is undertaken by an independent firm of solicitors.

More information on our work is available at www.govanlc.com.

Introduction

Govan Law Centre (GLC) has seen a significant rise in private sector tenants seeking urgent help for unlawful evictions and harassment over the last few years. Private landlords routinely flout their legal duties and evict tenants illegally and without due process of law. Clients discover that their tenants' rights are rendered meaningless as the police say there is nothing that can be done as unlawful eviction "is a civil matter".

A significant minority of private landlords routinely evict their tenants with little or no period of notice. If the tenant does not leave, they are often threatened with violence, or visited after dark by "heavies". Tenants have reported returning home to find their belongings thrown out onto the street, with the locks changed. Deposits of two months rent or more are routinely withheld.

The law on unlawful eviction is robust and such action, or attempted action, is clearly a criminal offence.¹ Indeed such behaviour has been outlawed as a criminal offence in Scotland and the UK since the Protection of Eviction Act 1964 - and the current law is now contained within the Rent (Scotland) Act 1984, as amended by the Housing (Scotland) Act 1988.

The fact that 44 years later the law is not being applied by most statutory agencies is more than shocking.

For example, when GLC solicitors write to the police, detailing the law and providing supporting evidence, charges are never brought. This disregard for tenants' rights is not confined to the police. Despite lengthy correspondence from GLC solicitors in relation to several cases, the Procurator Fiscal Service in Glasgow has refused to pursue a prosecution.

Unless the police enforce the law and the procurator fiscal service prosecutes alleged criminal offences, rogue landlords will continue to unlawfully evict families on a whim, threaten violence, at the same time as they withhold deposits, steal belongings and so on. Inevitably many families are forced to present as homeless as a result.

¹ Section 22 of the Rent (Scotland) Act 1984 as amended; reproduced at page 6 of this report.

Given the financial cost of housing homeless people and the trauma homelessness causes to families as a whole, GLC feel the police should be called to task on their failure to apply the law of the land.

Action must be taken at a strategic level by the Crown Office and the Scottish Government, to address these problems, and at a local level by the Glasgow Homelessness Partnership and Glasgow City Council. GLC is aware that these problems are not isolated to Glasgow and we understand there are other parts of Scotland where unlawful eviction by private sector landlords is common place.

Legal position

Most clients who seek advice regarding unlawful eviction or threatened unlawful eviction are assured or short assured tenants. In order to lawfully evict an assured or short assured tenant a landlord must take two steps:

Statutory requirements

1. Serve a Notice to Quit to terminate the tenancy and serve Form AT6

Firstly the landlord must end the contractual tenancy by serving a Notice to Quit. The Notice to Quit must be in the prescribed form and give the tenant at least four weeks to leave the subjects². The Notice to Quit must also be properly served – that is either by recorded delivery post or by sheriff officer.³

If the Notice does not contain the prescribed information required by statute it will be invalid⁴. GLC finds that many Notices to Quit are defective in some way. The most common defects are not being in the prescribed form, inadequate service, or not corresponding with the "ish" of the lease (in a non-breach of contract case).

Often many leases which purport to be 'Short Assured Tenancies'; with no security of tenure are 'Assured Tenancies' due to the failure of the landlord to serve a Form AT5 prior to the commencement of the lease.

An AT6 Form must also be served upon the tenant. The AT6 must also contain a number of pieces of information⁵. The AT6 will stay in force for six months, during which time an action for repossession may be raised⁶.

If the occupier does not vacate the subjects by the end of the period of Notice, a statutory assured tenancy will come into force. The existence of the statutory tenancy

² *The Assured Tenancy (Notices to Quit) (Prescribed Information) (Scotland) Regulations 1988, Rent (Scotland) Act 1984 ss112(1)*; or 40 days if the lease is silent on the period for Notice to Quit and the lease has a duration of 4 months or more: Sheriff Courts (Scotland) Act 1907, sections 37 and 38.

³ See for example, *Govan Housing Association v. Kane*; <http://www.govanlc.com/kane060701>

⁴ See Explanatory Notes to The Assured Tenancy Regulations *ibid.* 2.

⁵ The Assured Tenancies (Forms) (Scotland) Regulations 1988 SSI No 2109.

⁶ Housing (Scotland) Act 1988 s 19(7).

means that the tenant retains the right to remain in the property. The statutory tenancy lasts as long as the tenant remains in occupation⁷.

2. Raise eviction proceedings at court

If the tenant does not vacate the subjects, then the landlord is required to raise court proceedings and seek a decree for eviction. The landlord is required to lodge the Notice to Quit and AT6 at court so the sheriff can satisfy himself/herself that the correct procedure has been followed. If a landlord is successful in obtaining a decree of ejection, a sheriff officer can then be instructed to recover possession of the subjects.

The procedure for evicting tenants is quite complex. The onus is upon the landlord to satisfy the court that the correct steps have been followed.

Criminal offence

If a tenant or residential occupier is unlawfully evicted they are entitled to raise a civil action for damages against their landlord. However, unlawful eviction and harassment of residential occupiers⁸ are criminal offences under section 22 of the Rent (Scotland) Act 1984:

(1) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof or attempts to do so he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(2) If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

...

(3) A person guilty of an offence under this section shall be liable—

⁷ Housing (Scotland) Act 1988 s. 16.

⁸ Section 22(5) of the 1984 Act defines 'residential occupier' in relation to any premises to mean 'a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises'.

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; and

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

As shown in the case studies below, the police are reluctant to assist tenants who are illegally evicted, and routinely prejudice tenants due to a misunderstanding of the law and a reluctance to send reports to the Procurator Fiscal unless pushed. Even when GLC solicitors have managed to persuade the police to send a report to the Procurator Fiscal charges have never been brought against a landlord.

In order to address this problem we feel police and the Procurators Fiscal Service require training and guidance in this area of the law. Furthermore the local authority's Private Landlord Registration Team is perfectly placed to prevent a rogue landlord from continuing to carry on their activities.

Glasgow case studies

case study 1

Ms. K lived at a private tenancy nearly Paisley Road West for around four years with her two daughters, aged 11 and 7. After dropping her daughters off at school she returned home to find that the lock to the front door had been changed. She was in receipt of full Housing Benefit. Ms. K suffered from schizophrenia and an undiagnosed nerve condition, understood to be MS.

Ms. K's solicitor phoned the police on her behalf. The call was passed to six different departments who all stated they could not help. The last officer agreed reluctantly to issue an incident reference number. Police went out to visit Ms. K at her Mum's house. Her solicitor provided her with a letter outlining her legal rights, to show to the police. This letter stated that Ms. K was unwell and required urgent access to her home to obtain access to her medication and belongings.

Ms. K phoned GLC the next day to say that the police had called the landlord and accepted his allegation that she was in rent arrears without question. The fact that she was in rent arrears was strongly disputed and, in any event, no notices had been served so the tenancy continued.

Ms. K's Solicitor then faxed Glasgow's Helen Street police station providing a copy of the client's lease, and advising that no Notice to Quit had been served. The solicitor also advised that unlawful eviction was a criminal matter. A number of phone calls with an Inspector at Helen Street followed, which went around in circles. He kept going back to the fact that Ms. K was in rent arrears. Police had seen no evidence that rent had not been paid and took the landlord at face value.

GLC requested that the matter be referred to the Procurator Fiscal and eventually persuaded the police that this should happen. The Inspector stated that in 20 years of work, he had never heard of a conviction for illegal eviction. The Procurator Fiscal refused to bring charges, despite being provided with a copy of the Ms. K's lease.

In the meantime, Ms. K and her daughters had to apply as homeless. She was temporarily housed in the Gorbals. This meant her children had to be taxied to school, at the expense of Glasgow City Council's Education Department. Ms. K was then unable to access family support in the South West of the city.

case study 2

Mrs S resided in a private tenancy with her family. She received a letter from her landlords' mortgage provider stating that the property was being repossessed, due to rising mortgage arrears.

Mrs. S sought advice from GLC to see if she could negotiate with the mortgage providers to allow her some time to find alternative accommodation. The lender's solicitors agreed to this. GLC sent a letter to the landlord informing him of this. The landlord continually threatened and harassed the client. Each time GLC contacted the police informing them that this was a criminal offence and sent the client to the police to report the crime. The police took statements but did nothing further.

Eventually, the client came to GLC in a tearful and distressed state and said that she could take no more and felt she would have to leave despite the fact that the lender's solicitors were allowing her to stay. Her landlord had been shouting at the client in front of her children. The client registered as homeless and now lives in temporary accommodation.

Mrs. S still wants the landlord charged and her solicitor contacted the police again to find out whether her landlord was indeed being charged. The inspector stated that a crime report had been raised in relation to Breach of the Peace. When her solicitor asked why the crime report had not been raised in respect of the Rent (Scotland) Act they stated that it was because this was not a criminal matter. The solicitor informed them that it was also a criminal matter but they were not convinced. They also stated that they could not trace the landlord despite us having provided them with the landlord's details.

Several phone calls ensued, which got nowhere. GLC eventually had to report the matter to the Procurator Fiscal (PF). The PF has now stated that they will not pursue this matter as they have not received a crime report from the police.

case study 3

Mr. J took out a six month short assured tenancy with a private landlord and lived there alone. He came home on Tuesday 6th May 2008 to find that the locks to the front door had been changed. His neighbour told him that a woman and a man had visited the tenancy earlier in the day, forcibly entered the subjects and changed the locks.

Mr. J managed to enter the subjects by the back door and found that many of his belongings had been stolen including his lease, a wallet, £80 in cash and a games console. He phoned the police who attended at the tenancy. The police phoned the landlord who told them Mr. J was in arrears. They advised that they could not assist as it was a civil matter. Mr. J sought advice from GLC as he did not know what to do.

A GLC solicitor phoned Helen Street police station and was advised that the only officers who could speak to GLC were the officers who attended the scene. The solicitor waited on the phone for around fifteen minutes before speaking to two further officers who advised they could not help. The solicitor was eventually advised that Mr. J would have to report the theft separately.

No action has been taken in respect of the alleged unlawful eviction.

APPENDIX – relevant legislation

Rent (Scotland) Act 1984

S112 Minimum length of notice to quit

(1) No notice by a landlord or a tenant to quit any premises let (whether before or after the commencement of this Act) as a dwelling-house shall be valid unless it is in writing and contains such information as may be prescribed and is given not less than four weeks before the date on which it is to take effect.

(2) In this section "prescribed" means prescribed by regulations made by the Secretary of State by statutory instrument, and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Regulations under this section may make different provision in relation to different descriptions of lettings and different circumstances.

Statutory Instrument 1988 No. 2067 (S.197)

The Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988

Regulation 2

INFORMATION TO BE CONTAINED IN THE NOTICE TO QUIT

1. Even after the Notice to Quit has run out, before the tenant can lawfully be evicted, the landlord must get an order for possession from the court.

2. If a landlord issues a Notice to Quit but does not seek to gain possession of the house in question the contractual assured tenancy which has been terminated will be replaced by a statutory assured tenancy. In such circumstances the landlord may propose new terms for the tenancy and may seek an adjustment in rent at annual intervals thereafter.

1. If a tenant does not know what kind of tenancy he has or is otherwise unsure of his rights he can obtain advice from a solicitor. Help with all or part of the cost of legal advice and assistance may be available under the Legal Aid legislation. A tenant can also seek help from a Citizens Advice Bureau or Housing Advisory Centre.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the information to be contained in a Notice to Quit given by a landlord to terminate a tenancy which is an assured tenancy under the Housing (Scotland) Act 1988. Failure to include such information will in terms of section 112 of the Rent (Scotland) Act 1984 render the Notice to Quit invalid.

Housing (Scotland) Act 1988

16 Security of tenure

(1) After the termination of a contractual tenancy which was an assured tenancy the person who, immediately before that termination, was the tenant, so long as he retains possession of the house without being entitled to do so under a contractual tenancy shall, subject to section 12 above and sections 18 and 32 to 35 below—

(a) continue to have the assured tenancy of the house; and

(b) observe and be entitled to the benefits of all the terms and conditions of the original contract of tenancy so far as they are consistent with this Act but excluding any—

(i) which makes provision for the termination of the tenancy by the landlord or the tenant; or

(ii) which makes provision for an increase in rent (including provision whereby the rent for a particular period will or may be greater than that for an earlier period) otherwise than by an amount specified in that contract or by a percentage there specified of an amount of rent payable under the tenancy,

and references in this Part of this Act to a "statutory assured tenancy" are references to an assured tenancy which a person is continuing to have by virtue of this subsection, subsection (1) of section 31 below, or section 3A of the [1984 c. 58.] Rent (Scotland) Act 1984.

(2) A statutory assured tenancy cannot be brought to an end by the landlord except by obtaining an order of the sheriff in accordance with the following provisions of this Part of this Act.

(3) Notwithstanding anything in the terms and conditions of tenancy of a house being a statutory assured tenancy, a landlord who obtains an order for possession of the house as against the tenant shall not be required to give him any notice to quit.

19 Notice of proceedings for possession

(1) The sheriff shall not entertain proceedings for possession of a house let on an assured tenancy unless—

(a) the landlord (or, where there are joint landlords, any of them) has served on the tenant a notice in accordance with this section; or

(b) he considers it reasonable to dispense with the requirement of such a notice.

(2) The sheriff shall not make an order for possession on any of the grounds in Schedule 5 to this Act unless that ground is specified in the notice under this section; but the grounds specified in such a notice may be altered or added to with the leave of the sheriff.

(3) A notice under this section is one informing the tenant that—

(a) the landlord intends to raise proceedings for possession of the house on one or more of the grounds specified in the notice; and

(b) those proceedings will not be raised earlier than the expiry of the period of two weeks or two months (whichever is appropriate under subsection (4) below) from the date of service of the notice.

(4) The minimum period to be specified in a notice as mentioned in subsection (3)(b) above is—

(a) two months if the notice specifies any of Grounds 1, 2, 5, 6, 7, 9 and 17 in Schedule 5 to this Act (whether with or without other grounds); and

(b) in any other case, two weeks.

(5) The sheriff may not exercise the power conferred by subsection (1)(b) above if the landlord seeks to recover possession on Ground 8 in Schedule 5 to this Act.

(6) Where a notice under this section relating to a contractual tenancy—

(a) is served during the tenancy; or

(b) is served after the tenancy has been terminated but relates (in whole or in part) to events occurring during the tenancy,

the notice shall have effect notwithstanding that the tenant becomes or has become tenant under a statutory assured tenancy arising on the termination of the contractual tenancy.

(7) A notice under this section shall cease to have effect 6 months after the date on or after which the proceedings for possession to which it relates could have been raised.

RENT (SCOTLAND) ACT 1984

PART III PROTECTION AGAINST HARASSMENT AND EVICTION WITHOUT DUE PROCESS OF LAW

22 Unlawful eviction and harassment of occupier

(1) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof or attempts to do so he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(2) If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

[F1(2A) Subject to subsection (2B) below the landlord of any premises or an agent of the landlord shall be guilty of an offence if—

(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household; or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

(2B) A person shall not be guilty of an offence under subsection (2A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.]

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; and

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(4) Nothing in this section shall be taken to prejudice any liability or remedy to which a person guilty of an offence thereunder may be subject in civil proceedings.

(5) In this section "residential occupier", in relation to any premises, means a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises.

Housing (Scotland) Act 1988

18 Orders for possession

- (1) The sheriff shall not make an order for possession of a house let on an assured tenancy except on one or more of the grounds set out in Schedule 5 to this Act.
- (2) The following provisions of this section have effect, subject to section 19 below, in relation to proceedings for the recovery of possession of a house let on an assured tenancy.
- (3) If the sheriff is satisfied that any of the grounds in Part I of Schedule 5 to this Act is established then, subject to subsection (6) below, he shall make an order for possession.
- (4) If the sheriff is satisfied that any of the grounds in Part II of Schedule 5 to this Act is established, he shall not make an order for possession unless he considers it reasonable to do so.
- (5) Part III of Schedule 5 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.
- (6) The sheriff shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless—
 - (a) the ground for possession is Ground 2 or Ground 8 in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9 or Ground 10 or Ground 17; and
 - (b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.
- (7) Subject to the preceding provisions of this section, the sheriff may make an order for possession of a house on grounds relating to a contractual tenancy which has been terminated; and where an order is made in such circumstances, any statutory assured tenancy which has arisen on that termination shall, without any notice, end on the day on which the order takes effect.

SCHEDULE 5 GROUNDS FOR POSSESSION OF HOUSES LET ON ASSURED TENANCIES

PART I GROUNDS ON WHICH SHERIFF MUST ORDER POSSESSION

Ground 1

Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the sheriff is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)—

- (a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse's only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord's interest in the tenancy for value.

Ground 2

The house is subject to a heritable security granted before the creation of the tenancy and—

- (a) as a result of a default by the debtor the creditor is entitled to sell the house and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement; and
- (b) either notice was given in writing to the tenant not later than the date of commencement of the tenancy that possession might be recovered on this Ground or the sheriff is satisfied that it is reasonable to dispense with the requirement of notice.

Ground 3

The house is let under a tenancy for a specified period not exceeding eight months and—

- (a) not later than the date of commencement of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered under this Ground; and
- (b) the house was, at some time within the period of 12 months ending on that date, occupied under a right to occupy it for a holiday;

and for the purposes of this Ground a tenancy shall be treated as being for a specified period—

(i) not exceeding eight months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of eight months from the commencement of the period of the tenancy; and

(ii) exceeding eight months, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, exceeds eight months, and it is not determinable as mentioned in paragraph (i) above.

Ground 4

Where the house is let under a tenancy for a specified period not exceeding 12 months and—

(a) not later than the date of commencement of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground; and

(b) at some time within the period of 12 months ending on that date the house was subject to such a tenancy as is referred to in paragraph 7(1) of Schedule 4 to this Act;

and for the purposes of this Ground a tenancy shall be treated as being for a specified period—

(i) not exceeding 12 months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of 12 months from the commencement of the period of the tenancy; and

(ii) exceeding 12 months, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, exceeds 12 months, and it is not determinable as mentioned in paragraph (i) above.

Ground 5

The house is held for the purpose of being available for occupation by a minister or a full-time lay missionary of any religious denomination as a residence from which to perform the duties of his office and—

(a) not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this ground; and

(b) the sheriff is satisfied that the house is required for occupation by such a minister or missionary as such a residence.

Ground 6

The landlord who is seeking possession or, where the immediate landlord is a registered housing association within the meaning of the [1985 c. 69.] Housing Associations Act 1985, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the house or to carry out substantial works on the house or any part thereof or any building of which it forms part and the following conditions are fulfilled (and in those conditions the landlord who is intending to carry out the demolition, reconstruction or substantial works is referred to as "the relevant landlord")—

(a) either—

(i) the relevant landlord (or, in the case of joint relevant landlords, any one of them) acquired his interest in the house before the creation of the tenancy; or

(ii) none of the following persons acquired his interest in the house for value—

(a) the relevant landlord (or, in the case of joint relevant landlords, any one of them);

(b) the immediate landlord (or, in the case of joint immediate landlords, any one of them), where he acquired his interest after the creation of the tenancy;

(c) any person from whom the relevant landlord (or any one of joint relevant landlords) derives title and who acquired his interest in the house after the creation of the tenancy; and

(b) the relevant landlord cannot reasonably carry out the intended work without the tenant giving up possession of the house because—

(i) the work can otherwise be carried out only if the tenant accepts a variation in the terms of the tenancy and the tenant refuses to do so;

(ii) the work can otherwise be carried out only if the tenant accepts an assured tenancy of part of the house and the tenant refuses to do so; or

(iii) the work can otherwise be carried out only if the tenant accepts either a variation in the terms of the tenancy or an assured tenancy of part of the house or both, and the tenant refuses to do so; or

(iv) the work cannot otherwise be carried out even if the tenant accepts a variation in the terms of the tenancy or an assured tenancy of only part of the house or both.

Ground 7

The tenancy has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than twelve months after the death of the former tenant or, if the sheriff so directs, after the date on which, in his opinion, the landlord (or, where there are joint landlords, any of them) became aware of the former tenant's death.

For the purposes of this Ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new tenancy, unless the landlord agrees in writing to a change (as compared with the tenancy before the death) in the amount of the rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

Ground 8

Both at the date of the service of the notice under section 19 of this Act relating to the proceedings for possession and at the date of the hearing, at least three months rent lawfully due from the tenant is in arrears.

PART II GROUNDS ON WHICH SHERIFF MAY ORDER POSSESSION

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—

- (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.

Ground 15

The tenant or any other person residing or lodging with him in the house has been guilty of conduct in or in the vicinity of the house which is a nuisance or annoyance, or has been convicted of using the house or allowing the house to be used for immoral or illegal purposes.

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.

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