

Scottish Secure Tenancy: Section 9 (2) Order

Provision has been made within the Housing (Scotland) Bill for the making of an order to ensure that rights of the landlord, the tenant and any other person under or in relation to a tenancy which becomes a Scottish secure tenancy are not adversely affected on conversion to the new tenancy.

The Group are asked to consider which rights need to be protected under the order and the undernoted table seeks to detail these.

9(2) Order making power to protect existing rights not being carried into new tenancy arrangements

New Scottish Secure Tenancy right	Secure Tenancy right	Assured Tenancy right	Protection required for tenants under 9(2)	Protection required for landlords and others under 9 (2)
Joint tenancy where house principal home of each partner	Joint tenancy where principal home of only one partner	No statutory right	Right of existing secure joint tenants where not principal home of both.	
Assignment of tenancy where only or principal home of assignee for 6 months prior to date of assignation	Assignment without 6 month rule		Right of existing secure tenants where no 6 month rule	
Conversion to SSST where ASBO in force	ASBO has no effect on secure tenancy status	ASBO has no effect on assured tenancy status	Right of existing secure and assured tenants where ASBO in force	
Succession - new 2 nd right of succession. No residency test for qualifying family members or carers, 6 month residency for co-habitees	No 6 month residency test for co-habitees under secure tenancy regime		Right of existing co-habitees (i.e. those living as husband and wife) under secure tenancy regime where no 6 month rule applies.	
Right to repair		No statutory		<i>Implications</i>

		requirement but voluntary schemes operating.		<i>for landlords under assured tenancy where no statutory right to repair scheme.</i>
Abandonment - landlord can serve notice repossessing house without court order		Assured tenants cannot be evicted without court order	Implications for existing assured tenants who cannot be evicted on abandonment without court order.	
Repossession - by court order where the sheriff is satisfied that it is reasonable 'Harassment' added to conduct grounds	Repossession - by court order where the sheriff is satisfied that it is reasonable - grounds 1-7 of Schedule 3 to Housing (Scotland) Act 1987- or where suitable alternative accommodation is available - Grounds 8 -16	Repossession - by court order under mandatory grounds 1-8 of Schedule 5 to the Housing (Scotland) Act 1998 or discretionary grounds 9-17. Suitable alternative accommodation requirement under ground 9		Protection needed for lenders in relation to ground 2 of 1998 Act. <i>Loss to RSLs of mandatory grounds for repossession, (particularly 3 months rent arrears) and of discretionary ground of persistent rent arrears</i>
Rent or charges-Fixed by landlord on 4 weeks notice to tenant. Landlords must consult those affected and take account of views expressed.	Fixed by landlord after 4 weeks notice or for pre 1989 secure tenants of housing associations, by the Rent Officer (every 3 years)	Set by landlord once a year only. Right for statutory assured tenants to apply to a rent assessment committee. Weekly rent payers have right to a rent book	Need to protect pre-1989 HA secure tenants and right of existing statutory assured tenants to apply to rent assessment committee and weekly rent payers to have rent book.	<i>Implications for landlords re consultation on rent and service charges.</i>
	Short assured		Need to	

	tenancies		preserve to <i>ish</i> . Thereafter convert to SST or short SST	
Modernised Right to Buy - changes to Discounts Eligibility period Arrears of council tax etc Demolition Rent to loan scheme Lender of last resort.			Need to protect rights of existing secure tenants and existing assured tenants with preserved RTB in relation to discounts, eligibility period, rent to loan scheme and lender of last resort	