

SCOTTISH SECURE TENANCY GUIDANCE: DRAFT STRUCTURE

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| <p>➤ Introduction - guidance on new Scottish Secure Tenancy which is to replace existing secure and assured tenancies and on the short Scottish Secure Tenancy</p> <ul style="list-style-type: none">▪ Purpose of circular<ul style="list-style-type: none">- Explaining the provisions of Part II of the 2001 Act in relation to:<ul style="list-style-type: none">- Scottish Secure Tenancy- Short Scottish Secure Tenancy |
| <p>➤ Legislative Framework</p> <ul style="list-style-type: none">▪ Background to 1987 and 1988 Acts<ul style="list-style-type: none">- Council- RSL- 2001 Act- Secondary Legislation |
| <p>Scottish Secure Tenancy (SST) (S11)</p> <ul style="list-style-type: none">- What is it?- separate dwelling- LA/RSL/Water Authority /Sewarage Authority landlord- tenant individual/only or principal home- co-ops and membership- created by order under s11(1)- protections under s11(2)- definition of 'local authority landlord'- joint tenancies/ only or principal home<ul style="list-style-type: none">-link to allocations guidance-applicants to be asked if wish joint tenancy-protection of rights on co-habitation/marriage- Matrimonial Homes Act- reasonable grounds for refusal of joint tenancy - give example- continuation of SST- Decant and SST |
| <p>➤ Tenancies which are not Scottish Secure Tenancies (s11 & Sch 1)</p> <ul style="list-style-type: none">- Premises occupied under contract of employment- Police and fire-service accommodation- Lettings to students- Temporary accommodation during work- Accommodation for homeless persons- Accommodation for offenders- Shared ownership agreements- Agricultural and business premises- Houses within/ part of curtilage of other buildings- Accommodation in property not owned by landlord |
| <p>➤ How SST end? (s12)</p> <ul style="list-style-type: none">- by order of recovery of possession (s16(2))- repossession on abandonment (s18(2))- on succession (s22)- by conversion to short SST (s35)- by written agreement between landlord and tenant, or- by 4 weeks notice given by tenant to landlord- reference to Matrimonial Homes Act |
| <p>➤ Termination of joint tenant's interest in tenancy (s13)</p> <p>Reference to Matrimonial Homes Act</p> |

► **Proceedings for Possession (s14)**

- technical explanation of process
- Serving of notices (s40)
- Annex- The Secure Tenancies (Proceedings for Possession) (Scotland) Order

► **Rights of Qualifying Occupiers (s15)**

- issue of notice
- clear info about movements in household composition

► **Powers of court (S16)**

- no mandatory grounds
- reasonableness test - court now directed to certain things
- clear steers to landlords re collection of evidence etc and making a case

► **Abandoned Tenancies (s17 - s21)**

- reasonable enquiries - family/ employer/health board/ police
- serving notice of repossession
- safe custody and delivery of property
- tenant's recourse to court
- abandonment by joint tenant
- joint tenant's recourse to court
- Annex- The Secure Tenancies (Abandoned Property) (Scotland) Order

► **Succession to SST (s22)**

- explaining new succession arrangements
- informing people what succession rights
- sensitivity post death
- information about household composition
- carers (given up only or principal home requirement)
- co-ops (membership requirement)

► **Tenancy agreement and information (s23)**

- two -tier information system:

landlord must provide

- Written tenancy agreement - free
- model SST and short SST Agreements

Information on

- complaints procedure
- RTB in relation to house which is subject of tenancy and obligations if RTB exercised - before creation of SST
- information about any changes to RTB that affect them

Info provided on request

- terms of tenancy
- landlord's policy and procedures on rent and charges
- landlord's policy and rules on admission to housing list/ allocations/ transfers/exchanges/ repairs & maintenance
- RTB
- obligations tenant likely to incur - council tax/repairs
- tenant participation strategy
- influencing landlords decision making

► **Variation (s24)**

- how vary

► **Increase in rent or charges (s25)**

- notice
- consultation
- taking account of views

► **Variation of tenancy by court order (s26)**

- landlord
- tenant
- court

► **Repairs and Improvements (s27 - s31)**

- explain new provisions re pre-inspection, notification
- right to repair (cross refer to 1994 Regulations) - policy to be developed
- Landlord's consent to work - guidance on standards
- reimbursement of cost of work
- right to compensation for improvement (cross refer to 1994 Regulations) - policy to be developed
 - in cases of stock transfer should compensation be paid by old or new landlord? Concern duplicate payment.
- effect of work on rent

► **Assignment, subletting and exchanges (s32 and s33)**

- emphasise 6 month rule for assignment
- co-ops membership requirement
- reasonable grounds for refusing
- clear policies/ processes for refusing
- short SSTs
- references

► **Short Scottish Secure Tenancy (s34)**

- What is it?
 - short form of SST created in certain circumstances by notice served by landlord
- How short?
 - not less than 6 months
- What rights?
 - All core rights of full SST except for security of tenure, succession rights and the right to buy.

► **Types of short Scottish Secure Tenancies (s34 and Sch 6)**

- Previous anti-social behaviour:
 - for those evicted for ASB in last 3 years - tease out tenancy issues
 - evidence, records, references, declarator
- Anti-social behaviour order:
 - only ASBO taken out after commencement
 - broader- anyone in household with ASBO
 - must be named
 - evidence, records, references, declarator
 - name people who are subject to ASBO
- Temporary letting to person seeking accommodation:
 - read across to allocations circular
- Temporary letting pending development
 - expand on "development" definition explain not "decant"
- Accommodation for homeless persons
 - cross reference to Part 1
- Accommodation for persons requiring housing support services
 - define support services

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| <ul style="list-style-type: none"> - tie in to allocations process, e.g. assessing support needs, good referral arrangements, medical priority - need for landlords to have a policy on length of time/ support/ future (intensive to independent)/ Care packages - expand on 'requiring' as opposed to 'in receipt of' services - assessed as having need - assessment - when support delivered - who deliver (not necessarily landlord) - how long • Accommodation in property not owned by landlord <ul style="list-style-type: none"> - example: property leased by voluntary body and landlord - main contract between voluntary body and landlord. |
| <p>►Process of offering short SST (s34)</p> <ul style="list-style-type: none"> - Serving of notice by landlord - Reason given why short SST - Applicant told about right of appeal - 'Probationary' short SST - additional information about support services and conversion to full SST, inc landlord's expectations to achieve conversion - Executive guidance -offer and term of tenancy to be based on model short SST - definitions 'ish', tacit relocation |
| <p>►Options at 'ish' (s34)</p> <ul style="list-style-type: none"> - tenancy may continue by tacit relocation, or by express agreement - short SST continues even if subsection 1 not operating - offer full tenancy where possible - 'probationary' short SSTs convert automatically to full SST after 12 months |
| <p>►Support for 'probationary' short SSTs (s34)</p> <ul style="list-style-type: none"> - landlord decide what appropriate - landlord provide or ensure provision - protocols in place to govern - support must enable conversion |
| <p>► Conversion to short SST due to ASBO (s35)</p> <ul style="list-style-type: none"> - named subject of ASBO - disclosure? - for applicant on application form? - link to local authority/ RSL - protocol for sharing of information (Data Protection) |
| <p>►Recovery of Possession (s36)</p> <ul style="list-style-type: none"> - Proceedings - Notice - Grounds- s36 <ul style="list-style-type: none"> - tenancy has reached 'ish' - tacit relocation not operating - no further contractual tenancy in existence - notice has been properly served - date for recovery of possession - Other Grounds as in Scottish Secure Tenancy ss 14& 16. See under SST below |
| <p>►Conversion to full SST (s37)</p> <ul style="list-style-type: none"> - Landlords give tenants notice of conversion and new rights, succession/ RTB & information/ consultation - Automatic conversion means vital for landlords to have systems in place to convert or end - Review before 2 months notice stage |
| <p>► Appeals (s38)</p> <ul style="list-style-type: none"> -Follow model short SST Agreement |

