



SHORT SCOTTISH SECURE TENANCIES FOR ANTISOCIAL BEHAVIOUR AND OTHER MISCELLANEOUS CHANGES TO SHORT SCOTTISH SECURE TENANCIES

STATUTORY GUIDANCE FOR SOCIAL LANDLORDS

HOUSING (SCOTLAND) ACT 2001 AND 2014



ACKNOWLEDGEMENTS

The Scottish Government would like to thank the stakeholder panel who helped us draft the guidance, and in particular the Antisocial Behaviour Officers' Forum, the Antisocial Behaviour Lawyers' Forum, the Association of Local Authority Chief Housing Officers, Glasgow West of Scotland Forum of Housing Associations, the Chartered Institute of Housing (Scotland), Homeless Action Scotland, the Scottish Federation of Housing Associations, Shelter Scotland, the Scottish Courts and Tribunals Service and the Registered Tenant Organisation Regional Networks.

We also thank all the individuals and organisations from across the social housing sector who contributed their time and expertise during the development of this guidance and those who attended the 16 "Housing Act Guidance Consultation Events" that were held around the country and hosted by the Tenants Information Service and the Tenant Participation Advisory Service (Scotland) on our behalf.

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1. INTRODUCTION AND BACKGROUND

1.1 Tenancy agreements should set out the level of behaviour expected from tenants, members of their household and visitors to their home and make it clear to tenants that they are responsible for the behaviour of others in, or visiting their home. The tenancy agreement and other tenancy information such as tenant handbooks, should also make it clear to tenants that breaking their tenancy agreement as a result of antisocial behaviour may result in legal action to evict them, or a reduction in their tenancy rights. Tenants are responsible for ensuring that they keep to the conditions of their tenancy agreement.

1.2 Antisocial behaviour can have a serious impact on individuals and communities and needs to be clearly defined, identified, and tackled quickly and effectively when it arises. How it will be addressed should be set out in each landlord's¹ Antisocial Behaviour Strategy/Policy. Early identification and close working arrangements between partners such as the police, local authorities, registered social landlords and voluntary sector organisations can help to prevent antisocial behaviour and criminal behaviour escalating and eliminate the need for costly court action at a later stage.

1.3 The Antisocial Behaviour etc. (Scotland) Act 2004 and the Housing (Scotland) Act 2001 ("the 2001 Act") set out a range of measures that landlords or their partner agencies such as the police, can take to help address antisocial behaviour. The [Scottish Social Housing Charter](#) contains outcomes that cover the role of landlords, working with others, in managing antisocial behaviour. It highlights how landlords should carry out their housing activities in a way which complies with equalities legislation.

1.4 To complement the existing measures available to landlords to address antisocial behaviour in, or in the locality of a social housing tenancy, a number of new provisions were introduced in the Housing (Scotland) Act 2014 ("the 2014 Act"). These measures include:

- a new short Scottish secure tenancy for antisocial behaviour²;
- a power for landlords to extend the term of some short Scottish secure tenancies by 6 months, including those related to previous antisocial behaviour, where housing support services are being provided³; and
- a new streamlined eviction process where there has been a recent criminal conviction punishable by imprisonment for tenancy related antisocial or criminal behaviour within the previous 12 months⁴. Further information on this can be found in the guidance '[Streamlined Eviction Process – Criminal or Antisocial Behaviour](#)'.

1.5 This statutory guidance will help landlords use changes to the law on short Scottish secure tenancies (short SSTs) in the 2001 Act as amended by sections 7,9,10 and 11 of the 2014 Act. [The position prior to these changes being made is set out in the guidance for landlords on short SSTs in [SEDD Circular 6/2002 – Housing \(Scotland\) Act 2001 – Scottish Secure and Short Scottish Secure Tenancy](#)].

1 All references to "landlord(s)" in this document means social landlord(s) unless otherwise stated. This covers local authority landlords (see section 11(3) of the 2001 Act) and registered social landlords (see section 111 of the 2001 Act).

2 Section 7 of the 2014 Act inserts a new ground 2A "Other antisocial behaviour" into Schedule 6 to the 2001 Act.

3 Section 35A of the 2001 Act is inserted by section 10 of the 2014 Act.

4 Section 16 of the 2001 Act is amended by section 14(2) of the 2014 Act.

1.6 This guidance, and these new provisions, will take effect from 1 May 2019. [The Housing \(Scotland\) Act 2014 \(Commencement No. 8, Savings, Transitional and Supplemental Provisions\) Order 2018](#) sets 1 May 2019 as the date the provisions at sections 7 (except section 7(1)(b) containing the power to make the guidance which came into force on 20 November 2014), 9, 10 and 11 of the 2014 Act come into force. This guidance and these new provisions do not apply to a short SST where the notice offering the short SST is served before 1 May 2019. The guidance and these new provisions also do not apply where the landlord has already served a notice of proceedings on a tenant under section 36(3) or section 14(2)(a) of the 2001 Act before 1 May 2019 and which is in force on the date court action is raised.

1.7 The Scottish Government has made regulations under the Act which landlords must follow for all short SSTs created on and after 1 May 2019. These are:-

- [The Short Scottish Secure Tenancies \(Notice\) Regulations 2018](#); and
- [The Short Scottish Secure Tenancies \(Proceedings for Possession\) Regulations 2018](#).

1.8 In addition, landlords must also follow [The Scottish Secure Tenancies \(Proceedings for Possession\) \(Form of Notice\) Regulations 2012](#) as amended by [The Scottish Secure Tenancies \(Proceedings for Possession\) \(Form of Notice\) Amendment Regulations 2018](#) when using section 14 of the 2001 Act to recover possession of any short SST (paragraphs [13.21 to 13.29](#) of this guidance refer).

1.9 In summary, the changes introduced by the 2014 Act include:

- Allowing a landlord, without going to court, to give a short SST to a new tenant where that person, or other specified person, has demonstrated the specified antisocial behaviour⁵ within the previous 3 years;
- Similarly, allowing a landlord, without going to court, to convert a Scottish Secure Tenancy (SST) to a short SST, where an existing tenant or other specified person has demonstrated the specified antisocial behaviour⁶ within the previous 3 years;
- Setting a new term of 12 months for a short SST given on any of the antisocial behaviour grounds⁷, 18 months in cases where an extension applies – as set out below;
- Giving landlords the flexibility to extend a 12 month short SST given on any of the antisocial behaviour grounds for a further 6 months where housing support services are in place⁸ and where, for example, sufficient improvement in behaviour has not yet been demonstrated;
- Automatic conversion to a Scottish Secure Tenancy (SST)⁹ at the end of the 12 month term for a short SST given on any of the antisocial behaviour grounds, unless the landlord has taken action to extend the tenancy for a further 6 months, or has taken action to repossess the tenancy;

5 See ground 2A of schedule 6 to the 2001 Act inserted by section 7(4) of the 2014 Act.

6 See section 35(2)(b) of the 2001 Act inserted by section 7(2) of the 2014 Act.

7 Section 34(6A) of the 2001 Act, inserted by section 9(1)(b) of the 2014 Act, specifies the term in relation to a tenancy which is a short SST by virtue of section 35 or paragraph 1,2 or 2A of schedule 6 of the 2001 Act.

8 Section 35A of the 2001 Act is inserted by section 10(1) of the 2014 Act.

9 Section 34(5A) of the 2001 Act is inserted by section 9(1)(a) of the 2014 Act.

- New provisions for cases where a landlord is seeking recovery of possession of a house let under a short SST on *any* grounds. These include the flexibility for landlords to use the procedures at section 14 of the 2001 Act to take possession action at any stage during the term of the tenancy¹⁰, providing the tenant with reasons for the landlord taking action under section 36 of that Act (including in antisocial behaviour cases, the obligations of the tenancy which have been broken)¹¹, and a new right of review for tenants¹².

1.10 These changes are intended to help landlords tackle antisocial behaviour by tenants and others living in social housing by giving more flexibility on when a short SST on antisocial behaviour grounds can be used. They also set out how a short SST on antisocial behaviour grounds should be managed in order to provide the tenant with an opportunity to make positive change and be able to sustain a successful tenancy. In addition, changes to repossession action for any type of short SST, give increased flexibility for landlords and protection for tenants.

1.11 Before deciding to use a short SST for a new or existing tenant who has demonstrated antisocial behaviour within the previous 3 years, landlords will have to consider whether a short SST is appropriate. Guidance for social housing providers on taking measures to address and manage antisocial behaviour is contained in guidance produced by the Equality and Human Rights Commission. [Human Rights at Home – Guidance for Social Housing Providers](#).

1.12 The [Explanatory Notes](#) for Part 2 of the 2014 Act describe in full the purpose and effect of these provisions. Details of the legislative changes made by the 2014 Act are shown in a consolidated way at [Annex A](#).

2. PURPOSE AND USE OF THE SHORT SST FOR ANTISOCIAL BEHAVIOUR

2.1 A short SST is one of a range of measures that landlords can use to tackle antisocial behaviour. It is aimed at encouraging tenants, or members of their household who repeatedly engage in antisocial behaviour, to stop the behaviour and sustain their tenancy, by taking away some of their tenancy rights without the need for court action.

2.2 The 2001 Act gave landlords the power to give a short SST on antisocial behaviour grounds to a prospective tenant in the following circumstances:

- where an eviction order has been made against the prospective tenant (or any one of prospective joint tenants) by the courts in the previous 3 years because of their antisocial behaviour¹³; or
- where the prospective tenant (or any one of prospective joint tenants) or anyone who would live with them, is subject to an antisocial behaviour order¹⁴.

¹⁰ Section 36(8) of the 2001 Act, inserted by section 11(f) of the 2014 Act, modifies section 14(4)(b) of the 2001 Act in relation to the recovery of possession of a house let under a short SST.

¹¹ Section 36(3)(aa) of the 2001 Act inserted by section 11(b) of the 2014 Act.

¹² Section 36(4A) of the 2001 Act inserted by section 11(c) of the 2014 Act.

¹³ Paragraph 1 of schedule 6 of the 2001 Act

¹⁴ Paragraph 2 of schedule 6 of the 2001 Act

2.3 The 2001 Act also gave landlords the power to convert an existing SST to a short SST as a result of antisocial behaviour where:

- the tenant (or any one of joint tenants), or a person living with them or lodging with them, or a subtenant of the tenant is subject to an antisocial behaviour order¹⁵.

2.4 These powers enable landlords to make it clear to new and existing tenants in the categories at 2.2 and 2.3 that their past behaviour is not acceptable and that if it is repeated they risk losing their home.

2.5 The changes in the 2014 Act give landlords an equivalent power to give a short SST to a prospective tenant in cases where the prospective tenant, visitors to their current accommodation, or anyone who is likely to live with them in their new property, has within the last 3 years behaved antisocially towards another person living in, visiting or carrying out lawful activity in the locality of a house occupied by the prospective tenant, or by a person who it is proposed will live with the prospective tenant¹⁶.

2.6 For existing tenants, the 2014 Act gives landlords a power to convert an existing SST to a short SST where the tenant, a person living with or lodging with the tenant, a subtenant of the tenant, or any visitors to the house has, within the previous 3 years, behaved antisocially towards another person living in, visiting or carrying out lawful activity in the locality of a house occupied by the person¹⁷. This and the new ground mentioned at paragraph 2.5 are referred to throughout this guidance as the 'other antisocial behaviour' grounds. These new powers do not depend on a court order being obtained.

2.7 Giving a tenant a short SST on any of the antisocial behaviour grounds set out above is a significant step that will have consequences for both tenant and landlord. For tenants this means that their tenancy rights, including security of tenure, will be limited¹⁸. For landlords this means ensuring that any housing support identified by the landlord as being required to help make the tenancy sustainable, is made available¹⁹. If the landlord identifies the need for support but the support cannot be provided, they should instead consider alternative measures to address the antisocial behaviour.

2.8 Landlords will also need to monitor the behaviour regularly to determine whether it has improved sufficiently to allow the tenancy to convert to an SST automatically at the end of the 12 month term. This is likely to include monitoring further complaints and their outcome and maintaining contact with the tenant and with those affected by the antisocial behaviour. Effective monitoring will also ensure that landlords can comply with the legal requirements for extending the term of the tenancy by 6 months or ending the tenancy, if it becomes necessary. Landlords should consider setting timescales for reviews in their case monitoring arrangements.

15 Section 35(2) of the 2001 Act

16 Paragraph 2A of schedule 6 of the 2001 Act

17 Section 35(2)(b) of the 2001 Act

18 Section 34(6) of the 2001 Act.

19 Section 34(7) of the 2001 Act

2.9 Landlords will not routinely want to use a short SST for low-level breaches of tenancy agreements, such as not cleaning stairs, or maintaining gardens and will want to ensure that it is appropriate and proportionate in all the circumstances. Landlords are also likely to have put in place a range of measures to deal with any antisocial behaviour by existing tenants such as official warnings and offer of appropriate support before considering the use of a short SST on the new 'other antisocial behaviour' ground. In deciding what action to take landlords should take into account the impact the behaviour is having on household members, neighbours or others in the community.

2.10 The use of a short SST when any of the antisocial behaviour grounds are met is not mandatory. Landlords wishing to use this power will wish to ensure that they have clear, well-documented evidence which sets out their reasons for giving a short SST. Further guidance on what evidence landlords should consider before using a short SST on 'other antisocial behaviour' grounds is provided at [section 4](#).

3. WHEN A SHORT SST ON 'OTHER ANTISOCIAL BEHAVIOUR' GROUNDS CAN BE USED

Short Scottish Secure Tenancy (Short SST) on Antisocial Behaviour Grounds for New Tenants

3.1 Section 7(4) of the 2014 Act inserts a new ground for granting a short SST on antisocial behaviour grounds into schedule 6 of the 2001 Act. This ground is as follows:

"Other antisocial behaviour"

- 2A(1) A person mentioned in sub-paragraph (2) has, within the period of 3 years preceding the date of service of the notice –
- (a) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, or
 - (b) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.
- (2) The persons are –
- (a) the prospective tenant,
 - (b) any one of prospective joint tenants,
 - (c) a person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, and
 - (d) a person who it is proposed will reside with the prospective tenant.
- (3) In sub-paragraph (1) –
- "antisocial", 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
 - "harassment" is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40)."

3.2 This means that where a prospective tenant, any one of prospective joint tenants, any visitors to their current accommodation, or anyone who is likely to live with them in their new property, has within the last 3 years, behaved antisocially towards anyone living in, visiting or going about their normal everyday activities in the locality of a house (occupied by the prospective tenant or by a person who it is proposed will live with the prospective tenant), or has harassed such a person on more than one occasion, landlords can consider offering a short SST for antisocial behaviour under the new 'other antisocial behaviour' ground.

Conversion of an Existing Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (Short SST) on Antisocial Behaviour Grounds

3.3 Section 7(2) of the 2014 Act inserts a new section 35(2) into the 2001 Act to extend the circumstances in which a landlord can serve a notice on a tenant converting an SST to a short SST, as follows:

(a) for subsection (2) substitute –

“(2) The landlord may serve a notice under subsection (3) only where –

(a) the tenant (or any one of joint tenants) or a person residing or lodging with, or a subtenant of, the tenant is subject to an antisocial behaviour order under –

(i) section 234AA of the Criminal Procedure (Scotland) Act 1995 (c.46), or

(ii) section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or

(b) the tenant (or any one of joint tenants), a person residing or lodging with, or a subtenant of, the tenant, or a person visiting the house has, within the period of 3 years preceding the date of service of the notice –

(i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person, or

(ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.

3.4 New section 35(2)(b) means that where a tenant, any one of joint tenants, a person living with or lodging with the tenant, a subtenant of the tenant or any visitors to the house, has within the last 3 years behaved antisocially towards anyone living in, visiting or going about their normal everyday activities in the locality of a house occupied by the person, or has harassed such a person on more than one occasion, landlords can consider offering a short SST for antisocial behaviour under the new 'other antisocial behaviour' ground.

3.5 Before deciding whether to use the provisions at section 35(2)(b) above, landlords will need to carefully consider the nature and extent of the antisocial behaviour. Section 7(7) of the 2014 Act provides definitions as follows:

“Antisocial” 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 include conduct on at least two occasions, and

“Harassment” is to be read in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).

3.6 Landlords are required to serve a notice on the tenant stating the reasons for converting their tenancy to a short SST ([Section 6 of this guidance](#) refers), and should also consider the range of other factors set out in Section 4 of this guidance.

4. STEPS TO BE TAKEN BEFORE OFFERING A SHORT SST/ CONVERTING AN EXISTING SST TO A SHORT SST ON 'OTHER ANTISOCIAL BEHAVIOUR' GROUNDS

Examples of Antisocial Behaviour and Landlord Action to Resolve It

4.1 Landlords should consider whether either of the existing grounds for granting a short SST as a result of antisocial behaviour are satisfied before considering the use of a short SST on 'other antisocial behaviour' grounds. This is because the existing grounds may be factually established more easily. In summary, the existing grounds are where:

- A prospective or existing tenant or anyone who would live with them, is subject to an antisocial behaviour order²⁰; or
- An eviction order has been made against a prospective tenant (or any one of prospective joint tenants) by the courts in the previous 3 years because of their antisocial behaviour²¹.

4.2 Where neither of the existing antisocial behaviour grounds for giving a short SST are satisfied, landlords will need to consider all of the circumstances of the individual case when deciding whether it is appropriate to offer a prospective tenant a short SST, or convert an existing SST to a short SST on 'other antisocial behaviour' grounds. Landlords will have to balance the need to support the tenant, household member or visitor to change their behaviour and sustain the tenancy, with the impact the antisocial behaviour has had, or continues to have, on neighbours and others in the community.

4.3 Some examples of the type of behaviour that a landlord might consider is antisocial could include where a tenant, or someone living with or visiting them:

- Acts in an threatening, abusive or intimidating manner;
- Vandalises or damages another person's property;
- Drinks or uses drugs which leads to rowdiness or causes trouble to neighbours;
- Carries or uses offensive weapons;
- Causes regular and serious noise nuisance.

4.4 For prospective tenants a landlord may become aware of a history of antisocial behaviour following background checks. Where the landlord is considering whether it would be appropriate to offer the prospective tenant a short SST on 'other antisocial behaviour' grounds, the landlord will want to gather any information available through Information Sharing Protocols from partner agencies such as the police or social work to establish, for example:

- Whether the behaviour is on-going or is likely to be repeated based on previous tenancy history;

²⁰ Paragraph 1 of schedule 6 and section 35(2)(a) of the 2001 Act

²¹ Paragraph 2 of schedule 6 of the 2001 Act

- Whether there has been a positive change in the person's behaviour;
- Whether the person is likely to require support as a result of their behaviour to successfully sustain a tenancy.

4.5 In addition, there are a range of other factors at paragraph 4.10 of this guidance which landlords should also consider before reaching a decision to offer a short SST on 'other antisocial behaviour' grounds.

4.6 Where an existing tenant acts antisocially, the landlord's Antisocial Behaviour case management arrangements should be followed. The landlord should also ensure that they make it clear to the tenant the behaviour that must stop and the action that may be taken if it does not. This could include conversion to a short SST with a reduction in their tenancy rights and also potentially eviction action.

4.7 In cases where a landlord is considering converting an existing SST to a short SST on 'other antisocial behaviour' grounds, or offering a prospective tenant a short SST the landlord should have:

- reliable evidence of the antisocial behaviour;
- evidence of the steps taken to manage or resolve the antisocial behaviour; and
- considered what support may be required to manage or resolve the antisocial behaviour and assist in sustaining the tenancy.

4.8 Some examples of the steps taken by the landlord to manage or resolve the antisocial behaviour could include, communication and engagement with the tenant, issue of written warnings, Acceptable Behaviour Contracts/Agreements, consideration of support needs in consultation with the tenant and/or other partner agencies and the uptake of support offered.

4.9 It is likely that the landlord will have given at least one written warning to an existing tenant before a short SST on 'other antisocial behaviour grounds' is considered. The landlord will also have to be satisfied following their investigations into the antisocial behaviour, that a short SST on 'other antisocial behaviour' grounds is a reasonable step to take in any individual case.

Other Factors Which Landlords Should Consider

4.10 In reaching their decision to either offer a short SST or convert an existing SST to a short SST on 'other antisocial behaviour' grounds, there are also a range of other factors which landlords should consider. These could include:

- Who has behaved antisocially and their connection to the property;
- How long the antisocial behaviour has been going on and the persistence of the behaviour;
- The person affected by the antisocial behaviour and their connection to housing;
- Whether and to what extent the behaviour has affected household members, neighbours or others in the community;
- The impact on neighbours and communities over time and the impact on the stability of the community;
- What action, if any, the person behaving antisocially is taking to make positive change;

- Any issues around the vulnerability of the tenant, members of their household or those directly affected by the antisocial behaviour;
- Other steps which have been taken/which could be taken by the landlord or partner agencies to address the antisocial behaviour.

Who Has Behaved Antisocially and Their Connection to the Property

4.11 The new provisions cover the actions of a range of people including – the existing tenant (or any one of the existing joint tenants), members of the tenant’s household, lodgers, subtenants and visitors to the house. For new tenancies the new provisions cover the actions of the prospective tenant, a person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant.

4.12 In some cases it may, for example, be a visitor to the house, an abusive partner/ex-partner, or someone who lives at the property from time to time who has been behaving in an antisocial manner. In such cases, landlords may have limited information from the tenant themselves about the connection that person has to the property and will be investigating this and determining what impact the antisocial behaviour has had on neighbours and the community. There will be situations where neighbours or others in the community are afraid to speak out and other cases where the tenant may be unable, despite their best efforts, to prevent the antisocial person returning to the property due to fears for their own safety. In deciding whether to offer or convert a tenancy to a short SST, the landlord will wish to consider factors such as:

- How frequently the person visits or lives at the property and the effect of the behaviour on neighbours;
- Any action the tenant is taking to stop the person returning to the property;
- Whether it is reasonable in the circumstances for the tenant to try to prevent the person returning to the property.

How Long the Antisocial Behaviour Has Been Going On

4.13 Landlords will need to consider how long the antisocial behaviour has been going on based on the individual circumstances of each case. There is no requirement for the antisocial behaviour to have been sustained over a specific period of time, however landlords can only consider instances of antisocial behaviour that have taken place up to 3 years previously. The law does not allow landlords to take into consideration antisocial behaviour that has taken place more than 3 years before the date the notice offering or converting a tenancy to a short SST is served.

The Person Affected by the Antisocial Behaviour and Their Connection to Housing

4.14 A short SST on ‘other antisocial behaviour’ grounds can only be used where –

- in the case of offering a tenancy to a prospective tenant, the antisocial behaviour is related to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant; or

- in the case of a conversion of an existing tenancy, the antisocial behaviour is related to another person residing in, visiting, or otherwise engaged in lawful activity in the locality of a house occupied by the person who has acted antisocially.

4.15 The person affected by the antisocial behaviour must have some connection to the relevant property. This means by residing in, visiting or carrying out activity in the locality of it. As a result of this it is likely that the antisocial behaviour will either be committed in the house or committed in the locality of the house. A landlord can look back over the 3 year period and consider behaviour towards persons, connected to a house occupied at any point during that period by the relevant person, for example, in the case of an existing tenant this would cover their current or previous accommodation. This does not have to be social housing and could, for example, be privately rented or owner-occupied accommodation.

4.16 Where the antisocial behaviour was committed in relation to people unconnected to the relevant property, landlords cannot use the 'other antisocial behaviour' ground covered in this guidance to offer or convert a tenancy to a short SST. Landlords will instead need to consider using one of the other grounds in schedule 6 of the 2001 Act if they wish to use a short SST.

4.17 As an example, where a tenant is under the influence of alcohol and abusive in a public place towards members of the public, but conducts themselves well in relation to persons in their home and its vicinity, the 'other antisocial behaviour' ground for converting the tenancy to a short SST would not be met.

Whether and to What Extent the Behaviour Has Affected Household Members, Neighbours or Others in the Community

4.18 A key consideration when deciding whether to give a short SST on general antisocial behaviour grounds is whether the antisocial behaviour in question has had a detrimental impact on household members, neighbours or others in the community. Landlords will need to take a view on this based on all of the circumstances of the individual case.

4.19 Some examples of this could include:

- Where someone's frequent misuse of alcohol results in, for example, regular abuse of neighbours, excessive noise and damage to common property;
- Threatening and abusive behaviour towards neighbours or behaviour that causes significant disruption to their lives.

Positive Change

4.20 Following a period of antisocial behaviour, some people will make genuine efforts to resolve their behaviour and this process may be affected by taking action to remove some of their tenancy rights. The antisocial behaviour in question may have been committed a number of months, or even years previously. Landlords will not want to offer a short SST or convert a tenancy to a short SST where they consider that the behaviour has improved sufficiently and has been sustained over a period of time which they consider to be reasonable.

4.21 Some examples of where someone may be trying to make positive change could include:

- Regular and meaningful engagement with support organisations, for example on behavioural management issues;
- Taking part in a rehabilitation programme, for example a drug, alcohol or health treatment programme;
- The behaviour has stopped, and there have been no further, disturbances or complaints.

These examples may indicate positive change and landlords should consider the impact that giving or converting a tenancy to a short SST may have on preventing on-going positive change.

Vulnerabilities

4.22 Landlords should ensure that all tenants are aware that a breach of tenancy conditions as a result of antisocial behaviour may result in the loss of some of their tenancy rights. Landlords will wish to give particularly careful attention to the use of a short SST on 'other antisocial behaviour' grounds in cases where the tenant or a member of their household is vulnerable as a result of mental illness, physical or learning disability, poor health or frailty, or for any other similar reason. This should however be balanced against the impact of the antisocial behaviour on the wellbeing and stability of neighbours and others in the local community. It is likely that landlords will want to be involved in joint case conferences with relevant support agencies in such cases. The use of a short SST with appropriate support may be a useful measure in some cases, to prevent the need for eviction action at a later stage.

Other Steps to Address the Antisocial Behaviour

4.23 As part of their decision making, landlords should also consider any other measures which may have been taken by the landlord and/or partner agencies to address the behaviour and the impact this has had on the behaviour. Landlords will also want to consider whether there are any other options as an alternative to offering or giving a short SST which would resolve the behaviour, while balancing the rights of the individual tenant and their household against those of neighbours and others in the community and the impact the behaviour is having on them.

4.24 Depending on the circumstances of the individual case, some examples of alternative options to a short SST could include, provision of different types of support, the issue of a written warning, an Acceptable Behaviour Contract/Agreement or an ASBO.

5. OPERATION OF SHORT SSTs – 2014 ACT CHANGES

Short SSTs on Antisocial Behaviour Grounds

5.1 The 2014 Act introduces changes to the way a short SST created on any of the antisocial behaviour grounds²² must be operated. These changes mean that many of the rules for operating a short SST for antisocial behaviour are now different to the rules for operating other types of short SSTs²³. These changes are outlined in sections 6 to 13 of this guidance.

Repossession Action – All Types of Short SST

5.2 There are also changes to repossession action where a landlord is seeking recovery of possession of a house let under a short SST on *any* grounds. These are contained in this guidance as follows:

- Using section 14 of the 2001 Act to take possession action – paragraph [13.21](#).
- Providing the tenant with reasons for repossession action under section 36 – paragraph [13.9](#).
- Right of review against a landlord’s decision to take repossession action – paragraph [13.13](#).

Short SST for Homeowners

5.3 Separate explanatory guidance is available on the new short SST for homeowners at section 8 of the 2014 Act – [The Short Scottish Secure Tenancy for Homeowners – Guidance for Social Landlords](#).

6. SERVING A NOTICE GIVING A SHORT SST

New Tenants

6.1 Once landlords have decided to offer a short SST on any of the antisocial behaviour grounds, landlords must issue a notice to the prospective tenant(s) that sets out the grounds for giving a short SST and the term of the tenancy. [The Short Scottish Secure Tenancies \(Notice\) Regulations 2018](#) set out the new notice form for offering a short SST from 1 May 2019. Where a notice offering a short SST is issued prior to 1 May 2019, [The Short Scottish Secure Tenancies \(Notices\) Regulations 2002](#) continue to apply and the terms of the short SST will also be those that were in place at the time the notice was issued, even if the short SST itself is granted on or after 1 May 2019.

Existing Tenants

6.2 Where landlords have decided to convert an existing SST to a short SST they must issue a notice to the tenant advising them that their SST is being converted to a short SST because of antisocial behaviour. The 2001 Act does not prescribe the form of notice landlords should use to do this. Landlords will have already developed their own form for this purpose and will need to amend this form for conversion cases to include the new information at paragraph 6.3 below which is required by the 2014 Act²⁴.

²² Section 35 and paragraphs 1,2 and 2A of the Housing (Scotland) Act 2001

²³ Paragraphs 3-7A of the 2001 Act.

²⁴ Section 35(3) of the Housing (Scotland) Act 2001 as amended by section 7(2)(b) of the 2014 Act

6.3 A notice converting an SST to a short SST as a result of antisocial behaviour from 1 May 2019 must now set out all of the following:

- that the SST to which it relates becomes a short SST by service of the notice;
- the name of the tenant or other person who is subject to an antisocial behaviour order; or
- in cases where no antisocial behaviour order applies:
 - the name of the tenant or other person who has behaved antisocially;
 - the actions of the tenant or other person which the landlord has taken into account; and
 - the landlord's reasons for serving the notice.
- an explanation of the tenant's right of appeal to the court if they are not satisfied with the landlord converting an SST to a short SST.

Appeals About Being Given a Short SST

6.4 Landlords will want to have clear and well-publicised internal review mechanisms in place for dealing with such cases. Tenants also have a right of appeal to the courts if they are not satisfied with the type of tenancy offered by the landlord²⁵ or with the conversion of their existing SST to a short SST²⁶.

7. HOUSING SUPPORT SERVICES

Short SSTs on 'Other Antisocial Behaviour Grounds' and Provision of Housing Support

7.1 Section 7(1)(a) of the 2014 Act amends section 34(7) of the 2001 Act to add short SSTs created under the new 'other antisocial behaviour ground'²⁷ to those short SSTs where landlords have a duty to consider whether housing support services are needed to enable the tenancy to convert to an SST at the end of the term. This is different to the housing support services which landlords are under a duty to provide if their assessment of a homeless household indicates that the household is in need of support²⁸.

7.2 The changes made by section 7(1)(a) of the 2014 Act mean that when offering or converting a tenancy to a short SST on any of the antisocial behaviour grounds, the landlord must ensure that any housing support it considers to be appropriate is made available for each case. This is to encourage and support a positive change in behaviour to help the tenant to sustain their tenancy and have their tenancy converted to an SST at the end of the 12 month term. Landlords will need to decide what support is required in consultation with other agencies and support services.

7.3 Housing support services that may help the tenancy to convert to an SST at the end of the term include any service which provides support, help, advice or counselling to an individual with particular needs so that individuals are able to occupy, or continue to occupy, a house as their home²⁹. Some examples of this could include drug or alcohol rehabilitation programmes, or social work support.

25 Section 38(1)(c) of the 2001 Act.

26 Section 35(5) of the 2001 Act.

27 Section 35 and paragraph 2A of schedule 6 of the 2001 Act

28 <http://www.gov.scot/Publications/2013/06/3279>

29 The definition of "housing support services" is contained in section 91(8) of the 2001 Act.

7.4 For cases where the term of the short SST for antisocial behaviour is being extended, landlords should see [section 11 of this guidance](#) on providing housing support services.

Refusal or Failing to Engage with Support Offered

7.5 Where a prospective tenant refuses support or might fail to take up or engage with the support being made available, the landlord will need to decide whether it wishes to offer the short SST on the basis that the behaviour will improve without support. Alternatively the landlord may, if they wish, decide to make acceptance of support a condition of the short SST offer.

7.6 If antisocial behaviour escalates it is no longer possible to bring a short SST on any of the antisocial behaviour grounds to an end after 6 months using the special repossession procedures for short SSTs³⁰. The special repossession procedures can now only be used at the end of the term. The term is 12 months³¹ following the creation of the tenancy unless the term has been extended in terms of section 35A. It is therefore important that the landlord ensures that any support it considers appropriate to assist the tenant to change their behaviour and sustain the tenancy is made available from the outset.

7.7 The landlord can however still take eviction action against the tenant during the 12 month term (or 18 month term in the case of an extension) of the short SST if it becomes necessary, by using the procedures at section 14 of the 2001 Act. Further information on repossession can be found at [section 13 of this guidance](#).

8. SHORT SSTs ON ANTISOCIAL BEHAVIOUR GROUNDS AND DISCHARGE OF HOMELESSNESS DUTIES

8.1 Local authorities have duties under the Housing (Scotland) Act 1987 to provide settled accommodation to unintentionally homeless applicants. The 1987 Act includes a list of the types of accommodation³² which are considered to be permanent accommodation to discharge a landlord's homelessness duties. This list includes short SSTs granted where an order for recovery of possession has been made in the last 3 years because of antisocial behaviour and short SSTs granted because an Antisocial Behaviour Order (ASBO) is in place.

8.2 Section 7(5) of the 2014 Act amends this list to include short SSTs on 'other antisocial behaviour' grounds. This change means that a short SST granted on any of the antisocial behaviour grounds³³ discharges a landlord's homelessness duty.

30 Section 36(5) of the 2001 Act

31 See section 34(6A) and 35(3A) of the 2001 Act inserted by sections 9(1)(b) and 11(d) of the 2014 Act.

32 Section 31(5) of the 1987 Act

33 Section 35 and paragraphs 1,2 and 2A of the 2001 Act

9. OTHER CHANGES TO THE GROUNDS FOR GRANTING A SHORT SST – ACCOMMODATION FOR A PERSON REQUIRING HOUSING SUPPORT SERVICES

9.1 The 2001 Act includes a ground³⁴ which allows landlords to give a short SST to let a house on a temporary basis to a person requiring or in receipt of housing support services. Section 7(4)(b) of the 2014 Act amends this ground. The amended ground reads as follows:

Paragraph 6

“Accommodation for person in receipt of housing support

The house is to be let expressly on a temporary basis to a person –

- (a) to whom no other paragraph of schedule 6 applies, and
- (b) who is in receipt of a housing support service.”

9.2 This change means that where any of the other grounds for granting a short SST in schedule 6 of the 2001 Act apply, (such as any of the antisocial behaviour grounds), the ‘Accommodation for person in receipt of housing support’ ground cannot be used to give a prospective or existing tenant a short SST from 1 May 2019 onwards.

9.3 It also means that it is no longer sufficient for a person to require housing support services for this ground to be used to give a short SST from 1 May 2019. The prospective or existing tenant must actually be receiving a housing support service.

10. TERM OF A SHORT SST FOR ANTISOCIAL BEHAVIOUR

New Term for all Short SSTs on Antisocial Behaviour Grounds

10.1 Section 9 of the 2014 Act introduces a change to the term of all short SSTs granted on antisocial behaviour grounds. These short SSTs must be for a term of 12 months from the day the tenancy is granted³⁵ or, the date the landlord serves the tenant with a notice converting the tenancy from an SST to a short SST³⁶. There is no change to the term of any other type of short SST which can be given for 6 months or more³⁷.

End of the 12 Month Term – Short SST on Antisocial Behaviour Grounds

10.2 At the end of the 12 month term, a short SST on any of the antisocial behaviour grounds cannot be continued by tacit relocation (silent renewal of the tenancy) or by express agreement with the tenant³⁸. The tenancy automatically becomes an SST at the end of the 12 month term unless the landlord has taken steps to either:

- extend the term of the short SST by a further 6 months ([see section 11 of this guidance](#)); or
- recover possession of the tenancy ([see section 13 of this guidance](#))³⁹.

³⁴ Paragraph 6 of schedule 6 of the 2001 Act.

³⁵ Section 34(6A) of the 2001 Act as inserted by section 9(1)(b) of the 2014 Act

³⁶ Section 35(3A) of the 2001 Act as inserted by section 9(2)(a) of the 2014 Act

³⁷ Section 34(1)(b) of the 2001 Act.

³⁸ Section 34(5A) of the 2001 Act as inserted by section 9(1)(a) of the 2014 Act

³⁹ Section 36 of the 2001 Act as amended by section 11 of the 2014 Act

10.3 The 2014 Act does not make any changes to what happens when short SSTs on any of the other grounds at schedule 6 of the 2001 Act come to an end. These can still be continued by tacit relocation or by express agreement with the tenant⁴⁰. Landlords will have systems in place to monitor these short SSTs and to identify whether they continue to be appropriate.

Term of an SST Following Conversion from a Short SST on Antisocial Behaviour Grounds

10.4 Section 9(3) of the 2014 Act clarifies that the term of an SST following conversion from a short SST for antisocial behaviour (i.e. at the end of the 12 month period or 18 month period in the case of extension), is the same term as the original SST which was in place immediately before the tenancy became a short SST⁴¹.

11. EXTENSION TO THE TERM OF A SHORT SST FOR ANTISOCIAL BEHAVIOUR

11.1 A new power for landlords which allows them to apply a one-off extension of 6 months to a 12 month short SST given on antisocial behaviour grounds in certain circumstances, is introduced by section 10 of the 2014 Act which inserts a new section 35A in the 2001 Act. This flexibility to extend the term of a short SST on any of the antisocial behaviour grounds could for example, give more time for housing support services to have an effect where the tenant's behaviour has not yet reached the standard required for a permanent tenancy. Where the behaviour has not improved sufficiently, landlords can consider whether to give a 6 month extension to the short SST or seek repossession of the property.

11.2 The short SST can be extended by 6 months from the date which would otherwise have been the expiry of the 12 month tenancy. Section 35A(2) of the 2001 Act however states that such an extension may not be made unless –

- “(a) the tenant is in receipt of housing support services, and
- (b) the landlord has, on or before the day which is 2 months before the day which would otherwise be the day of expiry of the tenancy, served on the tenant a notice informing the tenant of –
 - (i) the extension, and
 - (ii) the reasons for the extension”

11.3 Landlords will therefore have to review the existing provision of housing support services well in advance of the expiry of the 12 month tenancy in cases where they are considering applying a 6 month extension. This is to allow sufficient time for housing support services to be in place if this is not already the case. It is also to give sufficient time to provide the tenant with the 2 months' notice of the extension and the reasons for this, to prevent the tenancy automatically converting to an SST at the end of the 12 months.

⁴⁰ Section 34(5) of the 2001 Act

⁴¹ Section 37(6) of the 2001 Act as inserted by section 9(3) of the 2014 Act

11.4 Section 35A of the 2001 Act does not prescribe the form of notice to be issued to the tenant informing them about the extension and landlords will need to develop their own form for this purpose.

11.5 Section 35A(3) of the 2001 Act states that-

“A landlord may not give notice if the landlord has previously given a notice under subsection (2) in relation to that short Scottish secure tenancy”.

11.6 This means that a 6 month extension can only be used once for any short SST given for antisocial behaviour.

12. CONVERSION TO A SCOTTISH SECURE TENANCY (SST)

Circumstances for Automatic Conversion

12.1 Section 37 of the 2001 Act sets out the circumstances when a short SST given on any of the antisocial behaviour grounds is automatically converted to an SST.

12.2 Section 10(2) of the 2014 Act amends section 37 to reflect the fact that a short SST can be extended. The amendments ensure that where a tenancy is a short SST given on any of the antisocial behaviour grounds and the landlord has not served a notice of proceedings for recovery of possession of the tenancy on the tenant before the expiry of the “relevant period”, the tenancy becomes an SST with effect from the expiry of the “relevant period”.

12.3 Section 37(1A) of the 2001 Act defines the “relevant period” for the purposes of conversion to an SST as follows:

“The “relevant period” is:

- (a) the period of 12 months following the creation of the tenancy, or
- (b) if an extension notice has been served under section 35A of the 2001 Act, the period of 18 months following the creation of the tenancy.”

Cases Where a Notice of Proceedings Has Been Served

12.4 Where the tenancy is a short SST on any of the antisocial behaviour grounds and the landlord has served a notice of proceedings for recovery of possession of the tenancy on the tenant within 12 months of creation of the tenancy (or 18 months in cases where an extension notice has been served following creation of the short SST),⁴² and either the notice:

- is no longer in force;⁴³ or
- has been withdrawn by the landlord without eviction proceedings having been raised

⁴² Section 35A of the 2001 Act as inserted by section 10 of the 2014 Act

⁴³ Section 14(5) or 36(4) of the 2001 Act

the tenancy becomes an SST with effect from the date on which:

- the notice ceased to be in force;
- the notice was withdrawn; or
- the expiry of the 12 month period from the creation of the tenancy (or the expiry of 18 months from the creation of the tenancy in cases where an extension notice has been served), whichever is the later.

Cases Where an Eviction Decree is not Granted by the Courts

12.5 If eviction proceedings have been raised in relation to a tenancy which is a short SST on any of the antisocial behaviour grounds but an eviction decree is not granted by the courts, the tenancy becomes an SST with effect from:

- the date on which the proceedings were finally determined; or
- the expiry of the 12 months from the creation of the short SST for antisocial behaviour (18 months in cases where an extension notice has been served following the creation of the short SST),

whichever is the later.

12.6 Proceedings are finally determined when the appeal period has expired without an appeal being lodged, or where an appeal is lodged the appeal is withdrawn or finally determined.

Notifying Tenants When a Short SST Becomes an SST

12.7 As is currently the case, when a short SST becomes an SST, the landlord must notify the tenant of this and of the date on which the tenancy becomes an SST⁴⁴. To ensure the tenant has a record of the conversion of their tenancy to an SST, landlords will want to advise the tenant of this in writing, for example, by letter or email. Landlords will also want to take the opportunity to meet with the tenant to reinforce the rights and responsibilities they have under the SST and the consequences of further antisocial behaviour.

12.8 Where an SST is converted to a short SST on antisocial behaviour grounds and then converted back to an SST after a period of 12 months (18 months in cases where an extension applies), the provisions of the 2001 Act which were excluded by section 34(6) whilst the tenancy was a short SST, will then apply to the SST.

12.9 If antisocial behaviour recurs after the tenancy converts to an SST, it is for the landlord to decide on the most appropriate course of action. This could include applying for an ASBO or taking eviction action⁴⁵.

Monitoring Progress

12.10 As conversion to an SST takes place automatically at the end of the 12 month term for all short SSTs on antisocial behaviour grounds (unless extended), landlords will want to have systems in place to monitor this, and in particular, to have systems in place to review the tenancy to allow for 2 months' notice if the landlord wishes to extend the tenancy by a further 6 months or end the tenancy.

⁴⁴ Section 34(7) of the 2001 Act.

⁴⁵ Section 14 of the Housing (Scotland) Act 2001.

13. SHORT SSTs – RECOVERY OF POSSESSION

Requirements for Recovery of Possession

13.1 The 2014 Act makes a number of changes to the law around recovery of possession of a house let using a short SST. In particular, landlords will wish to note that different processes now apply depending on whether recovery of possession action is being taken at the end of the term of a short SST (section 36 of the 2001 Act) or during the term of the short SST (section 14 of the 2001 Act).

Recovery of Possession – Section 36 of the 2001 Act

13.2 Section 11(a) of the 2014 Act amends section 36(2) of the 2001 Act and sets out a new requirement on landlords before proceedings for recovery of possession can be raised under section 36 of the 2001 Act for a house let using a short SST on any of the antisocial behaviour grounds. This new requirement is added as a new paragraph (aa) and is as follows:

“(aa) in the case of a short Scottish secure tenancy created by virtue of section 35 or paragraph 1,2, or 2A of schedule 6, the landlord considers that any obligation of the tenancy has been broken.”

13.3 This means that in the case of a short SST given on any of the antisocial behaviour grounds, court proceedings for eviction cannot be raised under section 36 unless all of the following are satisfied⁴⁶:

- the landlord has served a notice of recovery of possession on the tenant which is in the form prescribed by Scottish Ministers in regulations (see paragraph 13.11 of this guidance);
- the landlord considers that any of the obligations of the short SST have been broken;
- the proceedings are raised on or after the date specified in the notice; and
- the notice is in force at the time when the proceedings are raised.

13.4 The obligations of the short SST are the requirements on the tenant set out in their tenancy agreement, such as the requirement not to act in an antisocial manner.

13.5 It is the tenant’s responsibility to ensure that they comply with the terms of their tenancy agreement. Where a landlord has given the tenant a further opportunity to sustain a successful tenancy under a short SST and the tenancy requirements continue to be breached, landlords may then consider raising court proceedings for eviction as the most appropriate course of action.

13.6 When using section 36 of the 2001 Act to raise court proceedings for eviction at the end of the 12 month term (18 months where an extension applies), landlords should be satisfied that taking this action is proportionate. This includes situations where any other obligation of the tenancy unrelated to the antisocial behaviour has been broken, such as payment of rent.

⁴⁶ Section 36(2) of the 2001 Act as amended by section 11(a) of the 2014 Act

13.7 Before deciding to take action to end the tenancy because of antisocial behaviour, landlords will wish to consider their monitoring records, the support provided and the impact the antisocial behaviour has had, or continues to have, on household members, neighbours or others in the community.

13.8 The whole aim of giving a short SST for antisocial behaviour is to encourage the behaviour to stop and the tenancy to be sustained. It is therefore envisaged that this will result in many short SSTs being converted to an SST at the end of the 12 month term (or 18 months when an extension applies).

13.9 Section 11(b) of the 2014 Act amends section 36(3) of the 2001 Act and sets out a requirement for landlords to include new information in the notice of proceedings form as follows:

“(aa) state the reason why the landlord is seeking recovery of possession (including, in a case where subsection (2)(aa) applies, the obligations which the landlord considers to have been broken),”

13.10 The effect of this new requirement is that the notice must now⁴⁷:

- state that the landlord requires possession of the house;
- state the reason why the landlord is seeking recovery of possession (including in the case of a short SST created on any of the antisocial behaviour grounds, the tenancy obligations which the landlord considers to have been broken);
- specify a date not earlier than –
 - (i) 2 months, or such longer period as the tenancy agreement may provide, from the date of service of the notice; or
 - (ii) the date on which the tenancy could have been brought to an end by a notice to quit had it not been a short SST,

whichever is later, on or after which the landlord may raise proceedings for recovery of possession.

13.11 [The Short Scottish Secure Tenancies \(Proceedings for Possession\) Regulations 2018](#) set out the form of notice to be used for notifying the tenant of the landlord’s intention to raise proceedings for possession of the house under section 36(3) of the 2001 Act from 1 May 2019. The regulations contain 2 different forms of notice at schedule 1 and schedule 2. The form of notice at schedule 1 must be used where the the short SST was created on any of the antisocial behaviour grounds. The form of notice at schedule 2 must be used where the short SST was created on other grounds.

13.12 Where a landlord has served a notice on the tenant prior to 1 May 2019 and the notice is still in force on the date court action is raised, this guidance and these new provisions do not apply.

⁴⁷ Section 36(3) of the 2001 Act as amended by section 11(b) of the 2014 Act

Right of Review – All Types of Short SST

13.13 Section 11(c) of the 2014 Act inserts a new subsection (4A) into section 36 of the 2001 Act which gives all tenants with a short SST under *any* of the grounds set out in schedule 6 to the 2001 Act a right to request that their landlord review the decision to seek recovery of possession before the case goes to court. The new right of review is as follows:

“(4A) a tenant may, before the end of the period of 14 days beginning with the day of service of a notice under subsection (2), apply to the landlord for a review of a decision to seek recovery of possession of the house which is the subject of the tenancy”.

13.14 This means that any tenant with a short SST has 14 days from the date of service of the notice of proceedings to apply for a review of the landlord’s decision to seek recovery of possession of the house. Landlords should set out clearly in their tenancy information:

- which methods of application for a review they will accept, for example, telephone, email or in writing;
- who the application should be made to;
- what information should be provided, for example the reasons why the tenant thinks the decision to take action to recover possession of the property is wrong, and any evidence for the landlord to consider;
- their timescale for carrying out the review;
- how the review will be carried out;
- who will carry out the review (this should be carried out by a member of staff who was not involved in making the original decision to take repossession action);
- how the landlord will advise the tenant of their decision; and
- whether or not they will consider a request for a review received out-with the 14 day timescale and if so, how it will be dealt with.

13.15 Section 11(c) of the 2014 Act also inserts a new subsection (4C) into section 36 of the 2001 Act which sets out certain requirements on landlords following receipt of an application for a review of a decision to seek recovery of possession of a house let under a short SST. These requirements are as follows:

“(4B) If an application for a review under subsection (4A) is made, the landlord must, before the day specified in the notice by virtue of subsection (3)(b) –

- confirm its decision to seek recovery of possession or withdraw its notice of proceedings⁴⁸,
- notify the tenant of its decision on the review, and
- where its decision on the review is to confirm the decision to seek recovery of possession, notify the tenant of the reasons.”

⁴⁸ Section 36(2) of the 2001 Act

13.16 This means that the landlord must notify the tenant of its decision on the review before the earliest date that eviction proceedings can be raised as set out by the landlord in the notice of proceedings form⁴⁹. Where the landlord's decision is to take eviction action, the landlord must also notify the tenant of the reasons for this decision.

13.17 As the tenant's home is at risk, wherever possible, landlords should aim to carry out the review and let the tenant know the outcome within 14 days of receiving the request.

Circumstances When The Court Must Make An Order for Recovery of Possession (Section 36 of the 2001 Act)

13.18 Section 11(d) of the 2014 Act amends section 36 of the 2001 Act to set out the circumstances when the court must make an order for recovery of possession of a house when the tenancy is a short SST given under any of the antisocial behaviour grounds. An order for recovery of possession must be made where it appears to the court that –

- a short SST on antisocial behaviour grounds has reached the end of the term applicable to the tenancy (i.e. the 12 month term, or in the case of an extension 18 month term);
- tacit relocation is not operating (i.e. the tenancy has not been automatically renewed for the same length of time);
- no further contractual tenancy (whether or not a short SST) is in existence; and
- a notice of proceedings has been served following the correct procedures.⁵⁰

13.19 Landlords will want to monitor the progress of a short SST given on antisocial behaviour grounds on a regular basis to ensure that the notice requirements for recovery of possession of the tenancy can be met should this become necessary. Landlords also have the option to use the procedures at paragraphs 13.21-13.29 below to recovery of possession of the property at any time during the term of the tenancy.

13.20 Due to the fact that tacit relocation cannot operate in the case of a short SST given on any of the antisocial behaviour grounds⁵¹ a Notice to Quit is not required for these cases.

Using the Procedures Available Under the Full SST (Section 14 of the 2001 Act) to Recover Possession of Any Short SST

13.21 The 2014 Act makes changes to section 14 of the 2001 Act to allow landlords to take action to recover possession of a house let under *any* type of short SST at any point during the term of the tenancy using the procedure for SSTs. This could be used where for example, antisocial behaviour escalates or rent arrears accumulate.

13.22 Section 11(f) of the 2014 Act amends the requirements around the serving of a notice to allow the procedure to be used for recovery of possession of *any* short SST. The notice of proceedings must however specify:

“a date, not earlier than 4 weeks from the date of service of the notice on or after which the landlord may raise proceedings for recovery of possession,”.

⁴⁹ Section 36(3) of the 2001 Act

⁵⁰ Section 36(2) of the 2001 Act as amended by section 11(a) of the 2014 Act

⁵¹ Section 34(5A) of the 2001 Act as inserted by section 9(1)(a) of the 2014 Act.

13.23 This change means that eviction proceedings can be raised using the procedures available under the full SST where one of the grounds for recovery of possession in schedule 2 of the 2001 Act exists. The landlord will have to comply with all of the requirements of section 14 when raising proceedings. This includes pre-action requirements in cases where the grounds for recovery of possession include rent arrears. The landlord will also have to give the tenant at least 4 weeks' notice of their intention to raise proceedings for possession of the house.

13.24 Where the landlord has already served a notice of proceedings on a tenant under section 14 of the 2001 Act before 1 May 2019, the amendment made by section 11(f) of the 2014 Act specifying the date which must be inserted in a notice in relation to the recovery of possession of a house let using a short SST does not apply.

13.25 When using the procedures at section 14 it will be up to the court to decide whether it is reasonable to grant an eviction order where the landlord has a ground for recovery of possession set out in any of paragraphs 1 to 7 of schedule 2 to the 2001 Act. However in cases where another court has already convicted a tenant of using the house for immoral or illegal purposes, or of an offence punishable by imprisonment, committed in, or in the locality of the house, the landlord may wish to consider whether it would be appropriate to use the new streamlined eviction process to recover possession⁵². The streamlined eviction process removes the requirement that the court considers whether it is reasonable to make an eviction order, in cases where the landlord has a ground for recovery of possession set out in paragraph 2 to schedule 2 to the 2001 Act and a notice of proceedings has been served before the specified day. Further information about the streamlined eviction process is contained in the statutory guidance [Streamlined Eviction Process - Criminal or Antisocial Behaviour](#).

13.26 [The Scottish Secure Tenancies \(Proceedings for Possession\) \(Form of Notice\) Amendment Regulations 2018](#) make changes to the form of notice to be used by the landlord when notifying a tenant and any qualifying occupier under a Scottish secure tenancy (or short Scottish secure tenancy where section 14 of the 2001 Act is being used) that the landlord may raise proceedings in court to repossess the house.

13.27 The 2018 Amendment Regulations make changes to the Guidance Notes to each of the forms of notice contained in schedule 1 and schedule 2 of [The Scottish Secure Tenancies \(Proceedings for Possession\) \(Form of Notice\) Regulations 2012](#) to reflect the terms of the streamlined eviction process.

13.28 Landlords should adapt the 'Guidance Notes' section of the notice to the specific circumstances of each case. This is so that the notice is as easy for the recipient to understand as possible. The landlord should only include the appropriate text for either a tenant or a qualifying occupier. In cases where the ground(s) specified by the landlord in the notice include ground 2, the landlord should include the text provided for ground 2, along with any appropriate text, depending on the circumstances of the case.

13.29 The table on pages 26 and 27 summarises the key requirements and differences between using either section 36 or section 14 of the 2001 Act to take repossession action where the tenancy agreement in place is a short SST on any of the antisocial behaviour grounds.

⁵² Section 16(2)(aa) of the 2001 Act inserted by section 14(2) of the 2014 Act.

Summary of Key Requirements For Taking Repossession Action – Short SSTs on Antisocial Behaviour Grounds Created Under Section 35 or Paragraph 1,2 or 2A of Schedule 6 of the Housing (Scotland) Act 2001

Requirements	Section 14 of the 2001 Act	Section 36 of the 2001 Act	Notes
Timescale For Using Specific Provisions in the 2001 Act To Take Repossession Action	At any point during the 12 month term of the short SST (18 months in cases where an extension applies).	When the 12 month tenancy (18 months where an extension applies) is coming to an end and no further contractual tenancy with the landlord (whether or not a short SST) is in place.	A short SST on any of the antisocial behaviour grounds cannot tacitly relocate (silent renewal of the tenancy). It does not automatically renew for the same length of time.
Circumstances When Repossession Action May Be Appropriate	One of the grounds for recovery of possession in schedule 2 of the 2001 Act exists. The sheriff will consider whether the requirements of section 16(2) of the 2001 Act are satisfied in these cases. Where recovery of possession is sought on one of the grounds set out in paragraph 1 to 7 of schedule 2 the sheriff must decide whether it is reasonable to grant an eviction order, unless the streamlined eviction process at section 16(2)(aa) of the 2001 Act is being used.	The landlord considers that any obligations of the tenancy have been broken. When using section 36 the landlord needs to have decided that it is not appropriate to allow the tenancy to be converted to an SST at the end of the 12 month term, or that it is not appropriate for the short SST to be extended for a one-off period of 6 months.	Examples of obligations of the tenancy agreement include the requirement not to act in an antisocial manner and the requirement to pay rent.
Notice Period to be Provided To The Tenant Of Landlord's Intention To Take Repossession Action	Tenant to be given minimum of 4 weeks' notice.	Tenant to be given 2 months' notice (or such longer period as the tenancy agreement may provide) which cannot be given earlier than when a notice to quit could have been given had it not been a short SST.	

Requirements	Section 14 of the 2001 Act	Section 36 of the 2001 Act	Notes
Specific Information Landlord Must Provide In The Notice of Proceedings Form	No change made to the existing position by the 2014 Act other than in relation to the date which must be specified.	Landlord must state the reasons why recovery of possession is being sought also the obligations (requirements) of the tenancy agreement which the landlord considers to have been broken.	
Right of Review Against the Landlord's Decision to Seek Recovery of Possession	No	Yes - tenant has 14 days from date of service of notice of proceedings to request a review of landlord's decision.	
Notice to Quit Required	No	No	Tacit relocation cannot operate in any short SST for antisocial behaviour case.
Raising Court Proceedings	Court proceedings can be raised on or after the date specified in the notice and the notice must still be in force at the time when proceedings are raised.	Court proceedings can be raised on or after the date specified in the notice and the notice must still be in force at the time when proceedings are raised.	

ANNEX A – CONSOLIDATED LEGISLATION

This Annex has been prepared to assist the reader of this guidance. Its accuracy is not guaranteed and should not be relied upon.

SECTIONS 34-37 OF THE HOUSING (SCOTLAND) ACT 2001: AS AMENDED BY SECTIONS 7-11 OF THE HOUSING (SCOTLAND) ACT 2014

34 Short Scottish secure tenancies

- (1) A tenancy of a house is a short Scottish secure tenancy if–
- (a) it would have been a Scottish secure tenancy but for this section,
 - (b) it is for a term of not less than 6 months, and
 - (c) before its creation, the prospective landlord serves on the prospective tenant a notice under subsection (4).
- (2) A prospective landlord may serve a notice under subsection (4) only where any of the paragraphs of schedule 6 is satisfied.
- (3) The Scottish Ministers may by order modify that schedule.
- (4) A notice under this subsection–
- (a) must be in such form as the Scottish Ministers may prescribe by regulations,
 - (b) must state that the tenancy to which it relates is to be a short Scottish secure tenancy and specify the paragraph of that schedule which is satisfied in relation to it, and
 - (c) must specify the term of the tenancy.
- (5) At the end of the tenancy it may continue–
- (a) by tacit relocation, or
 - (b) by express agreement,
- and the continued tenancy is a short Scottish secure tenancy despite subsection (1) not being satisfied.
- (5A) Subsection (5) does not apply to a tenancy mentioned in subsection (6A).
- (6) The provisions of this Chapter, except sections 11(2) and (4), 12 and 22 and schedules 1 and 3, apply to a short Scottish secure tenancy as they do to a Scottish secure tenancy.
- (6A) A tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 has a term of 12 months from the day on which the tenancy is granted.
- (7) Where a tenancy is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 the landlord must provide, or ensure the provision of, such housing support services as it considers appropriate with a view to enabling the conversion of the tenancy to a Scottish secure tenancy by virtue of section 37.
- (8) The Scottish Ministers may issue guidance as to the housing support services which are appropriate for the purposes of subsection (7).

- (9) A landlord must have regard to any guidance published by the Scottish Ministers—
- (a) before creating a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, and
 - (b) when taking any steps in relation to such a tenancy with a view to—
 - (i) extending the term of the tenancy under section 35A, or
 - (ii) raising proceedings for the recovery of possession of the house under section 36.
- (10) Before publishing any guidance mentioned in subsection (9), the Scottish Ministers must consult such persons as they consider appropriate.

35 Conversion to short Scottish secure tenancy

(1) A Scottish secure tenancy of a house becomes a short Scottish secure tenancy by virtue of this section immediately on the landlord serving on the tenant a notice under subsection (3).

(2) The landlord may serve a notice under subsection (3) only where—

- (a) the tenant (or any one of joint tenants) or a person residing or lodging with, or a subtenant of, the tenant is subject to an antisocial behaviour order under—
 - (i) section 234AA of the Criminal Procedure (Scotland) Act 1995 (c.46), or
 - (ii) section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or
- (b) the tenant (or any one of joint tenants), a person residing or lodging with, or a subtenant of, the tenant, or a person visiting the house has, within the period of 3 years preceding the date of service of the notice—
 - (i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person, or
 - (ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.

(3) A notice under this subsection must—

- (a) state that the Scottish secure tenancy to which it relates becomes a short Scottish secure tenancy by virtue of service of the notice,
- (b) specify the tenant or other person who is subject to the anti-social behaviour order or, as the case may be, has behaved as described in subsection (2)(b),
- (c) if the notice is served under subsection (2)(b), specify—
 - (i) the actions of the tenant or other person which the landlord has taken into account, and
 - (ii) the landlord's reasons for serving the notice, and
- (d) explain the right of appeal conferred by subsection (5).

(3A) A short Scottish secure tenancy created by virtue of this section has a term of 12 months from the day on which the landlord serves a notice under subsection (3).

(4) Where a tenancy becomes a short Scottish secure tenancy by virtue of this section—

- (a) subsection (5) of section 34 does not apply to the tenancy, but
- (b) otherwise subsection (6) of that section does apply to the tenancy.

(5) Where a Scottish secure tenancy becomes a short Scottish secure tenancy by virtue of this section, a tenant who is aggrieved by the conversion may raise proceedings by summary application.

(6) In such proceedings the court may, if it considers that there are good grounds for doing so, grant a declarator that the notice under subsection (3) is of no effect.

“(7) In this section –

“*antisocial*”, 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

“*harassment*” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).

35A Extension of term of short Scottish secure tenancy

(1) The landlord under a tenancy which is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6 may extend the term of that tenancy by 6 months from the day which would otherwise be the day of expiry of the tenancy.

(2) Such an extension may not be made unless–

(a) the tenant is in receipt of housing support services, and

(b) the landlord has, on or before the day which is 2 months before the day which would otherwise be the day of expiry of the tenancy, served on the tenant a notice informing the tenant of–

(i) the extension, and

(ii) the reasons for the extension.

(3) A landlord may not give a notice if the landlord has previously given a notice under subsection (2) in relation to that short Scottish secure tenancy.

36 Recovery of possession

(1) The landlord under a short Scottish secure tenancy may raise proceedings by way of summary cause for recovery of possession of the house which is the subject of the tenancy.

(2) Such proceedings may not be raised unless–

(a) the landlord has served on the tenant a notice complying with subsection (3),

(aa) in the case of a short Scottish secure tenancy created by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, the landlord considers that any obligation of the tenancy has been broken,

(b) the proceedings are raised on or after the date specified in the notice, and

(c) the notice is in force at the time when the proceedings are raised.

(3) A notice under subsection (2) must be in such form as the Scottish Ministers may prescribe by regulations, and must–

(a) state that the landlord requires possession of the house,

(aa) state the reason why the landlord is seeking recovery of possession (including, in a case where subsection (2)(aa) applies, the obligations which the landlord considers to have been broken),

(b) specify a date, not earlier than—

- (i) 2 months, or such longer period as the tenancy agreement may provide, from the date of service of the notice, or
- (ii) the date on which the tenancy could have been brought to an end by a notice to quit had it not been a short Scottish secure tenancy,

whichever is later, on or after which the landlord may raise proceedings for recovery of possession.

(4) A notice under subsection (2) ceases to be in force 6 months after the date specified in it in accordance with subsection (3)(b) or when it is withdrawn by the landlord, whichever is earlier.

(4A) A tenant may, before the end of the period of 14 days beginning with the day of service of a notice under subsection (2), apply to the landlord for a review of a decision to seek recovery of possession of the house which is the subject of the tenancy.

(4B) If an application for a review under subsection (4A) is made, the landlord must, before the day specified in the notice by virtue of subsection (3)(b)—

- (a) confirm its decision to seek recovery of possession or withdraw its notice under subsection (2),
- (b) notify the tenant of its decision on the review, and
- (c) where its decision on the review is to confirm the decision to seek recovery of possession, notify the tenant of the reasons.

(4C) The Scottish Ministers may by regulations make further provision about the procedure to be followed in connection with a review following an application under subsection (4A).

(5) The court must make an order for recovery of possession if it appears to the court that—

- (a) the tenancy has reached the ish referred to in section 34(5) or, in a case where subsection (2)(aa) applies, the end of the term applicable to the tenancy in accordance with section 34(6A), 35(3A) or 35A(1),
- (b) tacit relocation is not operating,
- (c) no further contractual tenancy (whether or not a short Scottish secure tenancy) is in existence, and
- (d) subsection (2) has been complied with.

(6) An order under subsection (5) must appoint a date for recovery of possession and has the effect of—

- (a) terminating the tenancy, and
- (b) giving the landlord the right to recover possession of the house, at that date.

(6A) Where a landlord raises proceedings under this section, the landlord must give notice of the raising of the proceedings to the local authority in whose area the house in question is situated, unless the landlord is that local authority.

(6B) Notice under subsection (6A) is to be given in the form and manner prescribed under section 11(3) of the Homelessness etc. (Scotland) Act 2003 (asp 10).

(7) This section is without prejudice to sections 14 and 16, but subject to the modification mentioned in subsection (8).

(8) In relation to the recovery of possession of the house which is the subject of a short Scottish secure tenancy, section 14(4) is to be read as if for paragraph (b) there were substituted—

“(b) a date, not earlier than 4 weeks from the date of service of the notice on or after which the landlord may raise proceedings for recovery of possession.”.

37 Conversion to Scottish secure tenancy

(1) Where—

(a) a tenancy is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6, and

(b) the landlord has not served on the tenant a notice under section 14(2) or 36(2) before the expiry of the relevant period,

the tenancy becomes, by virtue of this section, a Scottish secure tenancy with effect from the expiry of the relevant period.

(1A) In this section, the “*relevant period*” is—

(a) the period of 12 months following the creation of the tenancy, or

(b) if an extension notice has been served under section 35A, the period of 18 months following the creation of the tenancy.

(2) Where subsection (1)(a) applies and the landlord has, in the relevant period, served a notice referred to in subsection (1)(b), then—

(a) if the notice—

(i) has ceased to be in force in accordance with section 14(5) or, as the case may be, 36(4), or

(ii) has been withdrawn by the landlord without proceedings for recovery of possession having been raised,

the tenancy becomes, by virtue of this section, a Scottish secure tenancy with effect from the date on which the notice ceased to be in force or was withdrawn or the expiry of the relevant period, whichever is the later,

(b) if proceedings for recovery of possession have been raised and have been finally determined in favour of the tenant, the tenancy becomes, by virtue of this section, a Scottish secure tenancy with effect from the date on which the proceedings were finally determined or the expiry of the relevant period, whichever is the later.

(3) For the purposes of subsection (2)(b) proceedings are finally determined when—

(a) the period for appealing against the interlocutor disposing of the proceedings has expired without an appeal being lodged, or

(b) where an appeal has been lodged, the appeal is withdrawn or finally determined.

(4) Where a tenancy becomes a Scottish secure tenancy by virtue of this section, the landlord must notify the tenant of that fact and of the date on which the tenancy became a Scottish secure tenancy.

(5) Subsection (6) applies to a tenancy which—

(a) became a short Scottish secure tenancy by virtue of section 35, and

(b) becomes a Scottish secure tenancy by virtue of this section.

(6) The term of the tenancy is the term which applied immediately before the tenancy became a short Scottish secure tenancy.

SECTION 31 OF THE HOUSING (SCOTLAND) ACT 1987: AS AMENDED BY SECTION 7(5) OF THE HOUSING (SCOTLAND) ACT 2014

31 Duties to persons found to be homeless.

(1) This section applies where a local authority are satisfied that an applicant is homeless.

(2) Where they are not satisfied that he became homeless intentionally, they shall, unless they notify another local authority in accordance with section 33 (referral of application on ground of local connection) secure that permanent accommodation becomes available for his occupation.

(2A) In a restricted case the local authority shall cease to be subject to the duty under subsection (2) if the applicant, having been informed of the matters mentioned in subsection (2B)–

- (a) accepts a private accommodation offer, or
- (b) refuses such an offer.

(2B) The matters are–

- (a) the possible consequence of refusal of the offer, and
- (b) that the applicant has the right to request a review of the decisions mentioned in section 35A(2)(e).

(2C) In this section “a restricted case” means a case falling within subsection (2) where the local authority would not be satisfied as mentioned in subsections (1) and (2) without having had regard to a restricted person.

(2D) For the purposes of this Part an offer is a private accommodation offer if–

- (a) it is an offer of a short assured tenancy made by a landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant’s occupation,
- (b) it is made, with the approval of the local authority, in pursuance of arrangements made by them with the landlord with a view to bringing their duty under subsection (2) to an end, and
- (c) the tenancy being offered is for a period of at least 12 months.

(2E) The local authority shall not approve a private accommodation offer unless they are satisfied that it is reasonable for the applicant to accept the offer.

(2F) For the purposes of subsection (2E) an applicant may reasonably be expected to accept an offer even though he is under contractual or other obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.

(2G) In a restricted case the local authority shall, so far as reasonably practicable, bring their duty under subsection (2) to an end as mentioned in subsection (2A).

(2H) Subsections (2A) to (2G) are without prejudice to any other way in which the local authority can cease to be subject to the duty under subsection (2).

(3) In a case not falling within subsection (2), the local authority shall–

- (a) secure that accommodation is made available for the applicant’s occupation for such period as they consider will give him a reasonable opportunity of himself securing accommodation for his occupation; and

(b) furnish him with advice and assistance of such type as may be prescribed, in any attempts he may make to secure that accommodation becomes available for his occupation.

(4) . . .

(5) For the purposes of subsection (2), “permanent accommodation” includes accommodation—

(a) secured by a Scottish secure tenancy,

(b) secured by an assured tenancy that is not a short assured tenancy,

(c) where paragraph 1, 2 or 2A of schedule 6 to the Housing (Scotland) Act 2001 (asp10) is satisfied in relation to the applicant, secured by a short Scottish secure tenancy.

SECTION 14 OF THE HOUSING (SCOTLAND) ACT 2001: SHOWING THE SUBSTITUTION OF SECTION 14(4)(b) REQUIRED BY SECTION 36(8) OF THE 2001 ACT (AS INSERTED BY SECTION 11(F) OF THE 2014 ACT) IN RESPECT OF SHORT SCOTTISH SECURE TENANCIES

14 Proceedings for possession

(1) The landlord under a Scottish secure tenancy may raise proceedings by way of summary cause for recovery of possession of the house.

(2) Such proceedings may not be raised unless—

(a) the landlord has served on the tenant and any qualifying occupier a notice complying with subsection (4),

(b) the proceedings are raised on or after the date specified in the notice, and

(c) the notice is in force at the time when the proceedings are raised.

(2A) Where such proceedings are to include the ground that rent lawfully due from the tenant has not been paid (as set out in paragraph 1 of schedule 2)—

(a) the notice under subsection (2) must not be served unless the landlord has complied with the pre-action requirements in section 14A, and

(b) the proceedings may not be raised unless the landlord has confirmed to the court in such form as the Scottish Ministers may prescribe by regulations that those requirements have been complied with.

(2B) Where such proceedings are to include a ground for recovery of possession set out in paragraph 2 of schedule 2, the landlord must have regard to any guidance published by the Scottish Ministers before raising such proceedings in relation to recovering possession of the house.

(2C) Before publishing any guidance mentioned in subsection (2B), the Scottish Ministers must consult such persons as they consider appropriate.

(3) Before serving a notice under subsection (2) the landlord must make such inquiries as may be necessary to establish so far as is reasonably practicable whether there are any qualifying occupiers of the house and, if so, their identities.

(4) A notice under subsection (2) must be in such form as the Scottish Ministers may prescribe by regulations, and must specify–

- (a) the ground, being a ground set out in Part 1 of schedule 2, on which proceedings for recovery of possession are to be raised;
- (b) a date, not earlier than 4 weeks from the date of service of the notice on or after which the landlord may raise proceedings for recovery of possession
- (c) where subsection (2A) applies, the steps taken by the landlord which the landlord considers to constitute compliance with the pre-action requirements in section 14A.

(5) A notice under subsection (2) ceases to be in force 6 months after the date specified in it in accordance with subsection (4)(b) or when it is withdrawn by the landlord, whichever is earlier.

(5A) Where a landlord raises proceedings under this section, the landlord must give notice of the raising of the proceedings to the local authority in whose area the house in question is situated, unless the landlord is that local authority.

(5B) Notice under subsection (5A) is to be given in the form and manner prescribed under section 11(3) of the Homelessness etc. (Scotland) Act 2003 (asp 10).

(6) In this section and section 15, “qualifying occupier” means a person who occupies the house as that person’s only or principal home and who is–

- (a) a member of the tenant’s family aged at least 16 years,
- (b) a person to whom the tenant has, with the landlord’s consent under section 32(1), assigned, sublet or otherwise given up possession of the house or any part of it, or
- (c) a person whom the tenant has, with such consent, taken in as a lodger.

SCHEDULE 6 OF THE HOUSING (SCOTLAND) ACT 2001 ACT: AS AMENDED BY SECTIONS 7(4) AND 8 OF THE 2014 ACT

Previous anti-social behaviour

1 An order for recovery of possession has, within the period of 3 years preceding the date of service of the notice, been made against the prospective tenant (or any one of prospective joint tenants) in proceedings–

- (a) under the Housing (Northern Ireland) Order 1983 (S.I.1983/1118) on ground 2 of Schedule 3,
- (b) under the Housing Act 1985 (c.68), on ground 2 of Schedule 2,
- (c) under the 1987 Act, on a ground set out in paragraph 2 or 7 of Schedule 3,
- (d) under the 1988 Act, on ground 15 of Schedule 5,
- (e) under the Housing Act 1988 (c.50), on ground 14 of Schedule 2,
- (f) under this Act on a ground set out in paragraph 2 or 7 of schedule 2.

Anti-social behaviour order

2 The prospective tenant (or any one of prospective joint tenants) or a person who it is proposed will reside with the prospective tenant is subject to an anti-social behaviour order–

- (a) under section 234AA of the Criminal Procedure (Scotland) Act 1995 (c. 46); or
- (b) under section 4 of the Antisocial Behaviour etc (Scotland) Act 2004 (asp 8).

Other antisocial behaviour

2A(1) A person mentioned in sub-paragraph (2) has, within the period of 3 years preceding the date of service of the notice—

- (a) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, or
- (b) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.

(2) The persons are—

- (a) the prospective tenant,
- (b) any one of prospective joint tenants,
- (c) a person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant, and
- (d) a person who it is proposed will reside with the prospective tenant.

(3) In sub-paragraph (1)—

“antisocial”, 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

“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).

Temporary letting to person seeking accommodation

3 The house is to be let expressly on a temporary basis to a person moving into the area in order to take up employment there, and for the purpose of enabling that person to seek accommodation in the area.

Temporary letting pending development

4(1) The house is to be let to a person expressly on a temporary basis, pending development affecting the house.

(2) In sub-paragraph (1), “development” has the same meaning as in section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).

Accommodation for homeless persons

5 The house is to be let to a person expressly on a temporary basis, for a period of not less than 6 months, in fulfilment of a duty imposed on a local authority by Part II (homeless persons) of the 1987 Act.

Accommodation for person in receipt of housing support

6 The house is to be let expressly on a temporary basis to a person—

- (a) to whom no other paragraph of this schedule applies, and
- (b) who is in receipt of a housing support service.

Accommodation in property not owned by landlord

7 The house to be let is leased by the landlord from another body and the terms of the lease preclude the letting of the house by the landlord under a Scottish secure tenancy.

Temporary letting where other property owned

7A(1) The house is to be let expressly on a temporary basis to a person pending the making of arrangements in relation to a property mentioned in sub-paragraph (2) which will allow the person's housing needs to be met.

(2) The property is heritable property owned by the person or a person who it is proposed will reside with that person.



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-768-5

Published by The Scottish Government, May 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS575270 (05/19)

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