



What you need to know: Coronavirus (Scotland) Bill 2020

Background

The [Coronavirus \(Scotland\) Bill 2020](#) (the 2020 Bill) was introduced on 31 March 2020 and passed by Parliament on 1 April. It was introduced to supplement the [Coronavirus Act 2020](#) which was passed by the UK Government on 25 March. The UK Act and subsequent regulations allowed the closure of some businesses and gave powers to limit reasons for people leaving their homes and to prevent public gatherings of more than two people.

The 2020 Bill is intended to protect tenants in Scotland from eviction and increase flexibility to ensure public bodies can continue to provide services during the Coronavirus outbreak.

The provisions in the Bill will expire automatically after six months unless extended. Ministers may approve up to two extensions of six months each, potentially taking provisions to September 2021 at the latest. Ministers will have to report every two months on the continued need for the provisions and can bring individual measures to an end early if no longer required.

This briefing focuses on the temporary measures introduced to protect tenants from eviction.

All private and social tenancies

The 2020 Bill makes all grounds for eviction from the private rented sector (PRS) discretionary meaning the Tribunal can take individual circumstances into account in all cases. Social sector evictions are already at the discretion of the Sheriff who will decide whether the eviction is reasonable.

The notice period for most evictions across the PRS and the social sector has been extended to six months, with some exceptions including cases of antisocial or criminal behaviour, harassment, if the tenant is no longer living in the property or when a private landlord or their family needs to move in.

Extended notice periods will only apply to notices issued after the commencement of the Bill and will apply to all statutory tenancies for at least six months.

While the issue of notices that have already been served was raised during the [Stage 2 debate](#), the Housing Minister pointed out that [while the](#)

[Tribunal is not hearing any cases](#), no legal eviction notice can be issued. A private landlord who does issue a notice without approval from the Tribunal will have committed a criminal offence and could face a fine of up to £50,000 or a prison sentence.

More detailed information for different tenancy types and notice periods for specific eviction grounds is outlined below.

Private Residential Tenancies (PRTs)

The 2020 Bill makes temporary changes to the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) to extend the notice period for most grounds for eviction.

A notice period of 28 days will only be applicable if the tenant is no longer occupying the property.

A notice period of three months will be required where:

- The landlord or a member of their family intends to live in the property
- The tenant or someone visiting the home has a relevant conviction or has been engaged in antisocial behaviour
- The landlord is not registered with the local authority
- The property is an unlicensed HMO

Six months' notice will be required:

- Where the tenant has rent arrears of three or more consecutive months, the total arrears is more than one month's rent and is not due to a delay or failure of a benefit payment
- The landlord or lender wants to sell the property
- The landlord intends to refurbish the property
- The landlord intends to use the property for non-residential purposes
- The tenant is no longer an employee
- The tenant is no longer in need of supported accommodation
- There has been a breach of the tenancy
- An Overcrowding Statutory Notice has been served on the landlord



Assured and Short Assured Tenancies

The 2020 Bill temporarily amends the [Housing \(Scotland\) Act 1988](#) to require a two, three or six month notice period on the 17 grounds for eviction set out in Schedule 5.

A notice period of two months is only applicable where suitable alternative accommodation is available for the tenant.

A notice period of three months is required:

- Where the landlord, their spouse or civil partner, wants to use the property as their only or principle home
- Where the tenant or someone visiting the home has a relevant conviction or has been engaged in antisocial behaviour

A notice period of six months is required:

- Where the tenant is three months in arrears, not due to a delay in benefits, or there has been persistent delay in paying rent
- If the lender intends to sell the property
- If the home is usually used as a holiday let and the lease was for no more than eight months
- If the property is usually let out to students by a university or college and the lease was no longer than 12 months
- The property is to be used to accommodate a minister or lay missionary
- The landlord intends to refurbish the home
- Where the tenancy was transferred when the previous tenant passed away
- The tenant has given notice to quit but remains in the property
- The tenant is in breach of the tenancy
- The tenant or anyone living with them is causing damage to the property, the furniture provided or any common parts
- The tenant is no longer employed by the landlord

For Short Assured Tenancies coming to a natural end where the landlord is not using one of these grounds for possession (using Section 33 or the 'no fault clause') the notice period is extended from two months to six.

Tenancies created under the Rent (Scotland) Act 1984

The Bill temporarily amends the [Rent \(Scotland\) Act 1984](#) to change the timeframe under which a

landlord can make an application for possession of a short tenancy to no less than six months and no more than nine months after the landlord has served a notice of intention to apply for repossession.

The 2020 Bill also extends the length of time that the notice to quit must be issued before it takes effect to four weeks, three months or six months depending on the cases set out in Schedule 2.

Four weeks' notice will only apply if suitable alternative accommodation is available.

Three months must be given:

- Where the tenant has been causing a nuisance or has a conviction
- The tenant has sublet the property without permission or has charged excessive rent to sublet part of the home
- The landlord or their family needs to move in
- The home is to be sold by the landlord in order to purchase one that better meets their needs, to be sold following the landlord's death or sold by the lender (subject to conditions of the tenancy, notice period may be 6 months, refer to case 11 and 12 of Schedule 2)

Six months must be given:

- For rent arrears or breach of the tenancy
- Where damage has been caused to the property or furnishings provided
- Where the tenant has given notice to quit and the landlord would be disadvantaged if they did not gain possession
- If the tenant is no longer employed by the landlord (including agricultural)
- The home is overcrowded and the tenant has not taken steps to fix this
- The landlord has retired and needs to use the home
- The tenancy was for no longer than eight months and the home is usually used as a holiday home
- The home was let for a specified period of no longer than 12 months
- The home was let as a short tenancy
- The home is required for a minister or lay missionary
- The home has been designed or adapted for special needs and is not required by the occupiers
- Where the owner is a member of the armed forces and needs to move in



Social housing tenancies

The Scottish Government has made it clear that no social tenant should be evicted during the Coronavirus outbreak and the sector is working to support all tenants during this time. However, the 2020 Bill introduces more protection for social tenants by temporarily amending the [Housing \(Scotland\) Act 2001](#) to extend the date for recovery of possession for a Scottish Secure tenancy from four weeks after the notice of proceedings is served to either three or six months.

Three months for the following grounds:

- Where the tenant or visitor to the home has used or allowed the home to be used for illegal or immoral purposes or where an offence punishable by imprisonment has been committed
- Where the tenant knowingly provided false information to obtain the tenancy
- Where the tenant or visitor to the home has engaged in antisocial behaviour or harassment
- Where the tenant, or their partner, has not been living in the home for at least six months or no longer occupies the property as their principle home

Six months for all other grounds including:

- Rent arrears or any other breach of the tenancy agreement
- Where the tenant or a visitor has caused damage to the home, the furniture provided or common parts of the building
- Where the home is overcrowded by fault of the tenant
- The home has to be substantially refurbished or demolished
- The home has been designed or adapted to meet special needs which are not required by those living in the home and it is required by someone with those needs
- Where the home is part of a development or is located near to facilities for people with special needs and it is required for someone with those needs

For Short Scottish Secure tenancies, the date on which recovery of possession can be raised has changed from two weeks after that date a notice of proceedings has served to **six months if the Short Scottish Secure Tenancy was granted under any of the following grounds:**

- The home was let on a temporary basis to allow the tenant to take up employment in the area
- The home was let on a temporary basis pending development
- The home was let on a temporary basis of no less than six months in relation to fulfilling the local authority's homelessness duty
- The home was let temporarily to a person receiving a housing support service
- The home has been leased by the landlord from another body and the terms of the lease prevent a Scottish Secure Tenancy being granted
- The home was let on a temporary basis to a home owner while their property is being adapted to meet their needs

The date for recovery of possession **where the Short Scottish Secure Tenancy was given under the following grounds will remain at two months:**

- The tenant or anyone living in the home being subject to an antisocial behaviour order
- The tenant or anyone living in or visiting the home having been engaged in antisocial behaviour or harassment



The CIH View

We welcome the introduction of legislation to protect tenants from eviction during the Coronavirus outbreak. While we agree that no one should lose their home through no fault of their own during this time, we are also pleased to see that the legislation does not introduce a blanket ban on evictions.

It is important to maintain the principle that tenants and landlords both have rights and responsibilities, especially in cases where harm is caused to others, for example through antisocial behaviour, harassment or domestic abuse.

We have also raised concerns about the lack of practical support that has been offered to social and private landlords to date. While social landlords are well placed to support their tenants to claim benefits and maximise income, the additional pressure being faced by the Department for Work and Pensions and the five week wait built into Universal Credit mean that delays in payments and significant increases in arrears are inevitable. We are calling on the Scottish Government to provide financial support for social landlords to prevent rent arrears being passed on to all tenants through rent increases.

While some private landlords may be able to secure a mortgage holiday of up to three months, we have heard that others have already been refused by lenders. Landlords will face significant financial losses if a tenant stops paying rent. Under the temporary legislation, a tenant will be able to build up three months of rent arrears before a six month notice can be served. We do not think that the Scottish Government's request for the UK Government and UK Finance to extend mortgage holidays to six months goes far enough to support private landlords during this uncertain time and welcome the Housing Minister's confirmation during the [Stage 1 debate](#) that an interest free loan fund will be established to support private landlords. While loan provision will not in itself be sufficient, it sets an important precedent that further assistance is required to sustain the private rented housing market and its tenants.

We also think that clearer messaging is needed from the media and the Scottish Government in relation to evictions in the social and private rented sector. Giving the impression that no tenant will be evicted for any reason during the Coronavirus outbreak is not helpful. Tenants must be made aware that non payment of rent or behaviours that are harmful to others will have consequences. The legislation does not prevent evictions and, if the situation is not handled well, may result in a significant volume of evictions in the near future.