Draft Regulations laid before the Scottish Parliament under section 23(3)(a) of the Domestic Abuse (Protection) (Scotland) Act 2021, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

LANDLORD AND TENANT

SHERIFF COURT

The Domestic Abuse (Protection) (Scotland) Act 2021 (Consequential and Supplementary Amendments) Regulations 2026

Made - - - -	*2026*
Coming into force - -	*1st August 2026*

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 23(1) of the Domestic Abuse (Protection) (Scotland) Act 2021(**a**) and all other powers enabling them to do so.

In accordance with section 23(3)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Domestic Abuse (Protection) (Scotland) Act 2021 (Consequential and Supplementary Amendments) Regulations 2026 and come into force on 1 August 2026.

Amendment of the Sheriff Courts (Scotland) Act 1971

2. In section 35(1) of the Sheriff Courts (Scotland) Act 1971(**b**), after paragraph (d) insert—

"(e) proceedings under section 14(1)(b) of the Housing (Scotland) Act 2001(**c**) for termination of a tenant's interest in a tenancy, other than proceedings in which there is claimed, in addition or as an alternative to an order for such termination, a decree for payment of money exceeding £5,000 in amount (exclusive of interest and expenses);".

(**a**) 2021 asp 16.
(**b**) 1971 c. 58; Section 35 was relevantly amended by article 3 of S.S.I. 2007/507 and section 59 and paragraph 14 of schedule 2 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73); Section 35 is repealed by paragraph 6(2) of schedule 5 of the Courts Reform (Scotland) Act 2014 (asp 18) (date to be appointed).
(**c**) 2001 asp 10; Section 14 is relevantly amended by section 22(2) and section 22(5) of the Domestic Abuse (Protection) (Scotland) Act 2021 (asp 16).

Amendment of the Courts Reform (Scotland) Act 2014

3. In section 72(3) of the Courts Reform (Scotland) Act 2014(**a**), after paragraph (e) insert—

"(f) proceedings under section 14(1)(b) of the Housing (Scotland) Act 2001 for termination of a tenant's interest in a tenancy, other than proceedings in which there is claimed, in addition or as an alternative to an order for such termination, a decree for payment of a sum of money exceeding £5,000.".

Amendment of the Bankruptcy and Diligence etc. (Scotland) Act 2007

4. In section 216 of the Bankruptcy and Diligence etc. (Scotland) Act 2007(**b**), after subsection (2B) insert—

"(2C) Subsection (2) does not apply to an occupant, or any effects of the occupant, if—

(a) the decree for removing from heritable property is—

(i) an order for recovery of possession made under section 16(2)(d) or (e) of the Housing (Scotland) Act 2001, or

(ii) a warrant of ejection obtained in connection with an order for termination of a tenant's interest in a tenancy made under section 16(3ZA) of that Act, and

(b) the occupant is—

(i) in relation to the subjects or premises, person P within the meaning of paragraph 15A of schedule 2 of the Housing (Scotland) Act 2001, or

(ii) a relevant member of person P's family.

(2D) In subsection (2C)(b)(ii), a "relevant member of person P's family" means a member of person P's family (construed in accordance with section 108(1) and (2) of the Housing (Scotland) Act 2001), other than a member of the family—

(a) who is named (or otherwise identified) in the order for recovery of possession or, as the case may be, the warrant of ejection mentioned in subsection (2C)(a), and

(b) in relation to whom, the order or warrant (or an extract of the order or warrant) authorises the removing or ejection of the member from the subjects or premises.".

Amendment of the Housing (Scotland) Act 2001

5. In section 14(6) of the Housing (Scotland) Act 2001(**c**), after paragraph (a) insert—

"(aa) in relation to proceedings raised or to be raised under this section on the ground set out in paragraph 15A of schedule 2, person P within the meaning of that paragraph,".

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

(**a**) 2014 asp 18; Section 72 was commenced for the purpose of making provision by act of sederunt by S.S.I. 2015/77 article 2 and schedule 1 and for the purposes of a "relevant claim" by S.S.I. 2016/291 article 2 and schedule 1. "Relevant claim" is defined in article 1(2) of S.S.I. 2016/291.

(**b**) 2007 asp 3; Section 216 is amended by paragraph 92 of schedule 5 of the Criminal Finances Act 2017 (c. 22), section 152(3) of the Housing (Scotland) Act 2010 (asp 17), paragraph 10(3) of schedule 4 of the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), paragraph 24 of schedule 4 of the Public Services Reform (Scotland) Act 2010 (asp 8) and regulation 6(4) of S.S.I. 2019/51.

(**c**) 2001 asp 10; Section 14 is relevantly amended by section 155(a) of the Housing (Scotland) Act 2010 (asp 17), section 14(1) of the Housing (Scotland) Act 2014 (asp 14) and section 22(2) and 22(5) of the Domestic Abuse (Protection) (Scotland) Act 2021 (asp 16). In relation to a short Scottish secure tenancy, section 14(4) is modified by section 36(8) of the 2001 Act. Section 36(8) was inserted by section 11(f) of the Housing (Scotland) Act 2014 (asp 14).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential and supplementary amendments which support the commencement of sections 2, 3 and 22 of the Domestic Abuse (Protection) (Scotland) Act 2021 ("the Act"). Section 22 of the Act amends sections 14 and 16 and schedule 2 of the Housing (Scotland) Act 2001 ("the 2001 Act").

Section 22(4) of the Act inserts paragraph 15A into schedule 2 of the 2001 Act, creating a new ground on which the landlord under a Scottish secure tenancy may raise court proceedings under section 14 of the 2001 Act. On this new ground, the landlord may raise proceedings either: for recovery of possession of the house (in the case of a sole tenant), or for termination of the tenant's interest in the tenancy (in the case of a joint tenant). Sub-paragraphs (1) and (2) of the new ground require that a person ("person T") who is the tenant or one of the joint tenants has engaged in behaviour which is abusive of a person ("person P") who is a partner or ex-partner of person T. In addition, the house to which the tenancy relates must be person P's only or principal home, and person P must wish to continue living in the house. Where person T is the sole tenant, the landlord must also wish to recover possession of the house from person T for the purpose of entering into a tenancy with person P instead.

Proceedings for termination of a tenant's interest in a tenancy will be raised by way of summary cause procedure under section 14(1)(b) of the 2001 Act. As a consequence, regulation 2 amends section 35(1) of the Sheriff Courts (Scotland) Act 1971 ("the 1971 Act") which lists the types of proceedings which must be raised by summary cause procedure. Following commencement of these Regulations, the list will include proceedings for termination of a tenant's interest in a tenancy under section 14(1)(b) of the 2001 Act, provided there is no an additional crave for payment which exceeds the summary cause limit of £5,000.

Section 35 of the 1971 Act is due to be repealed and summary cause procedure will be replaced with simple procedure. In anticipation of this, regulation 3 amends section 72(3) of the Courts Reform (Scotland) Act 2014 so that proceedings for termination of a tenant's interest in a tenancy are included in the list of the types of proceedings which must be raised by way of simple procedure. As with regulation 2, this excludes additional craves for payment which exceed the simple procedure limit of £5,000.

Part 15 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 ("the 2007 Act") sets out the general procedure which is to be followed when removing a person from heritable property. Section 216(2) of the 2007 Act provides for other occupants of the property who derive a right to occupy from the defender to also be removed, and for their effects to be removed, provided the defender has been charged in accordance with section 216(1). Regulation 4 disapplies this rule for orders for recovery of possession or termination of a joint tenant's interest where the order is granted on the new ground set out in paragraph 15A of schedule 2 of the 2001 Act and the occupant is the victim of abusive behaviour (referred to in the new ground) or is otherwise a relevant member of the victim's family. The reference to a relevant member of the family excludes any such member if the order for recover of possession or warrant of ejection (or an extract of it) authorises the removing or ejection of the member from the subjects or premises.

This is to ensure that, where the victim's right to occupy their only or principal home derives from the perpetrator, the victim (and the victim's family) cannot be removed from the property under section 216(2). In cases of termination of a joint tenant's interest, the victim will be a joint tenant and section 216(2) will not apply to them but the amendment ensures that the victim's family members (whose right to occupy might derive from both the perpetrator and the victim) cannot be removed from the property.

Regulation 5 amends section 14(6) of the 2001 Act to ensure that the victim of this abusive behaviour is also included in the definition of a "qualifying occupier". The current definition of "qualifying occupier" does not, for example, include any such victim who is an ex-partner of the perpetrator. This amendment will mean that there will be a requirement in every case for the landlord who intends to raise proceedings on the new ground 15A to serve a notice on the victim.

It will also mean that the victim will have an automatic right to be sisted as a party to proceedings under section 15 of the 2001 Act.

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