# 2002 No. 319

# HOUSING

## The Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2002

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| *Made* | *26th June 2002* |
| *Laid before the Scottish Parliament* | *27th June 2002* |
| *Coming into force* | *30th September 2002* |

The Scottish Ministers, in exercise of the powers conferred by sections 36(3) and 109(2) of the Housing (Scotland) Act 2001(**a**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2002 and shall come into force on 30th September 2002.

**Form of notice for recovery of possession**

**2.** The form of the notice contained in the Schedule to these Regulations is hereby prescribed for the purposes of section 36(3) of the Housing (Scotland) Act 2001.

*MARGARET CURRAN*
A member of the Scottish Executive

St Andrew's House,
Edinburgh
26th June 2002

**(a)** 2001 asp 10.

Regulation 2

SCHEDULE

HOUSING (SCOTLAND) ACT 2001

**SHORT SCOTTISH SECURE TENANCY**
**NOTICE TO BE SERVED ON A TENANT OF A SHORT SCOTTISH SECURE TENANCY OF INTENTION TO RAISE PROCEEDINGS FOR POSSESSION**

**IMPORTANT: INFORMATION FOR TENANT(S)**

This notice informs you as tenant that your landlord intends to apply to the Sheriff for an Order for possession of the house at the address in Part 1, which is currently occupied by you.

**Part 1.** To .....
(name of tenant(s))
of.....

.....

.....

.....
(address of house)

**NOTE 1 TO TENANT:**

**IF YOU ARE UNCERTAIN ABOUT WHAT THIS NOTICE MEANS, OR IF YOU ARE IN DOUBT ABOUT ANYTHING IN IT, OR ABOUT ITS VALIDITY OR WHETHER IT IS FILLED IN PROPERLY YOU SHOULD IMMEDIATELY CONSULT A SOLICITOR OR AN ORGANISATION WHICH GIVES ADVICE ON HOUSING MATTERS. YOU MAY ALSO FIND IT HELPFUL TO DISCUSS THIS NOTICE WITH YOUR LANDLORD**

**Part 2.** I/we [on behalf of* your landlord(s)]

.....
(name(s) of landlord(s))

of.....

.....

.....
(address and telephone number of landlord(s))

inform you that I/we* require possession of the house at the address in Part 1 above and hereby give notice in terms of section 36 of the Housing (Scotland) Act 2001

*delete as appropriate

**NOTE 2 TO TENANT:**

**THIS NOTICE IS A WARNING THAT YOUR LANDLORD MAY BE GOING TO RAISE PROCEEDINGS AGAINST YOU IN THE SHERIFF COURT TO GAIN POSSESSION OF YOUR HOUSE. IT IS NOT A NOTICE TO QUIT AND IT DOES NOT AFFECT YOUR RIGHT TO CONTINUE TO LIVE IN THE HOUSE OR YOUR OBLIGATION TO PAY RENT. YOU CANNOT BE EVICTED FROM YOUR HOUSE UNLESS THE SHERIFF COURT GRANTS YOUR LANDLORD A POSSESSION ORDER. YOU SHOULD READ THE REST OF THE NOTES CAREFULLY TO FIND OUT WHAT MIGHT HAPPEN IF YOUR LANDLORD DOES START POSSESSION PROCEEDINGS AGAINST YOU.**

**NOTE 3 TO TENANT:**

**YOUR LANDLORD HAS EXPLAINED IN PART 2 OF THIS NOTICE THAT IT REQUIRES POSSESSION OF THE HOUSE.**

**THE COURT MUST GRANT A POSSESSION ORDER AGAINST YOU IF IT APPEARS TO THE COURT THAT:**

**(A) THE TENANCY HAS REACHED ITS END OR 'ISH';**

**(B) TACIT RELOCATION IS NOT OPERATING; AND**

**(C) NO FURTHER CONTRACTUAL TENANCY IS IN EXISTENCE.**

**IF AN ORDER IS GRANTED AGAINST YOU FOR ONE OF THE ABOVE REASONS THEN IT MUST GIVE A DATE THAT YOU MUST MOVE OUT OF THE HOUSE.**

**NOTE 4 TO TENANT:**

**YOUR LANDLORD MUST GIVE YOU 2 MONTHS' NOTICE OR SUCH LONGER PERIOD AS YOUR TENANCY AGREEMENT PROVIDES IF YOUR TENANCY IS A SHORT SCOTTISH SECURE TENANCY AND YOUR LANDLORD IS SEEKING REPOSSESSION AS DESCRIBED IN NOTE 3.**

**Part 3.** Proceedings will not be raised before (date) (which is the earliest date at which proceedings can be raised under section 36 of the Act.

Signed ……. (Landlord(s) or Landlord's agent)

**NOTE 5 TO TENANT:**

**THE DATE GIVEN IN THE NOTICE (SEE PART 3 OF THE NOTICE) IS THE EARLIEST DATE ON WHICH YOUR LANDLORD CAN TAKE COURT ACTION. AFTER THAT DATE THE LANDLORD IS ALLOWED TO START POSSESSION PROCEEDINGS AGAINST YOU AT ANY TIME DURING THE FOLLOWING 6 MONTHS. IF THAT 6 MONTHS PERIOD PASSES WITHOUT POSSESSION PROCEEDINGS BEING STARTED, YOUR LANDLORD WOULD HAVE TO SERVE ANOTHER ONE OF THESE NOTICES BEFORE IT COULD START COURT ACTION FOR POSSESSION.**

**NOTE 6 TO TENANT:**

**IF YOU WANT TO CONTEST YOUR LANDLORD'S INTENTION TO REPOSSESS YOUR HOME, YOU ARE STRONGLY ADVISED TO TAKE LEGAL ADVICE WITHOUT DELAY AND BEFORE THE EXPIRY OF THE TIME LIMIT GIVEN BY THE NOTICE. HELP WITH ALL OR PART OF THE COST OF LEGAL ADVICE MAY BE AVAILABLE UNDER THE LEGAL AID LEGISLATION**

**NOTE 7 TO TENANT:**

**REMEMBER BEFORE YOU MUST LEAVE YOUR HOME, YOUR LANDLORD MUST HAVE DONE 2 THINGS:**

**1. SERVED ON YOU THIS NOTICE; AND**

**2. OBTAINED A COURT ORDER.**

**NOTE 8 TO TENANT:**

**THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD KEEP IT IN A SAFE PLACE.**

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the form of notice to be used by a landlord when notifying a tenant under a short Scottish secure tenancy, within the meaning of Part 2 of the Housing (Scotland) Act 2001, that the landlord requires possession of the house occupied by that tenant and may commence possession proceedings in respect of that house.

The notice sets out the time limits within which the landlord is permitted to commence possession proceedings.

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