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**Changes to legislation:** There are currently no known outstanding effects for the Cost of Living (Tenant Protection) (Scotland) Act 2022, Paragraph 5. (See end of Document for details)

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## SCHEDULE 2 PROTECTION AGAINST EVICTION

### *Safeguards for landlords: substantial rent arrears and financial hardship*

- 5 (1) The Housing (Scotland) Act 1988 applies in accordance with the modifications in this paragraph.
- (2) Section 18 has effect as if after subsection (4) there were inserted—
- “(4ZA) In deciding under subsection (4) whether Ground 1A in schedule 5 is established, evidence tending to show that the landlord has the intention mentioned in the Ground includes (for example)—
- (a) a letter of advice from an approved money advisor or a local authority debt advice service,
  - (b) a letter of advice from an independent financial advisor,
  - (c) a letter of advice from a chartered accountant,
  - (d) an affidavit stating that the landlord has that intention.
- (4ZB) In deciding under subsection (4) whether it is reasonable to make an order for possession on Ground 8A in schedule 5, the First-tier Tribunal is to consider—
- (a) whether the tenant being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit,
  - (b) the extent to which the landlord has complied with the pre-action protocol specified by the Scottish Ministers under subsection (4A) (b) (and continued in force by virtue of section 49 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022).
- (4ZC) For the purpose of [subsection \(4ZB\)](#)—
- (a) references to a relevant benefit are to—
    - (i) a rent allowance or rent rebate under the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)),
    - (ii) a payment on account awarded under regulation 93 of those Regulations,
    - (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,
    - (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,
  - (b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.”
- (3) Section 19(4)(a) has effect as if—
- (a) after “Grounds 1,” there were inserted “1A,” and
  - (b) after “7,” there were inserted “8A.”
- (4) Schedule 5 has effect as if—
- (a) after Ground 1 there were inserted—  
“*Ground 1A*

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The landlord who is seeking possession of the let house—

- (a) is suffering financial hardship, and
- (b) intends to alleviate that hardship by occupying the let house as the landlord’s only or principal home for at least 3 months.

In this Ground, references to the landlord—

- (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,
- (b) in a case where the landlord holds the landlord’s interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.”,

- (b) after Ground 8 there were inserted—

*“Ground 8A*

The tenant has accrued rent arrears under the tenancy in respect of one or more periods, and the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months’ rent under the tenancy when notice is served under section 19 on this ground or, if dispensed with, when proceedings are raised for an order of possession on this ground.”.

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**Commencement Information**

**II** Sch. 2 para. 5 in force at 28.10.2022, see [s. 13\(1\)](#)

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