
Changes to legislation: There are currently no known outstanding effects for the Cost of Living (Tenant Protection) (Scotland) Act 2022, Paragraph 7. (See end of Document for details)

SCHEDULE 2 PROTECTION AGAINST EVICTION

Unlawful eviction: notification and determination of damages, etc.

- 7 (1) The Housing (Scotland) Act 1988 applies in accordance with the modifications in sub-paragraphs (3) and (4).
- (2) The modifications set out in this paragraph and paragraph 8 have no effect in relation to actions taken by (or on behalf of) a landlord before this paragraph comes into force which result in the landlord being liable for damages by virtue of section 36(3) of the Housing (Scotland) Act 1988 (damages for unlawful eviction).
- (3) Section 36 (damages for unlawful eviction) has effect as if—
- (a) in subsection (3), for “assessed on the basis set out in” there were substituted “determined in accordance with”,
 - (b) subsection (6B) were repealed,
 - (c) after subsection (7) there were inserted—
 - “(7A) Where the court makes an order awarding damages to a former residential occupier by virtue of subsection (3), the court must send a copy of the order to the Scottish Housing Regulator.
 - (7B) Where the First-tier Tribunal makes an order awarding damages to a former residential occupier by virtue of subsection (3), the First-tier Tribunal must send a copy of the order to—
 - (a) the chief constable of the Police Service of Scotland, and
 - (b) any local authority with which the landlord (or where there is more than one, each of them) is registered as a landlord.
 - (7C) For the purpose of subsection (7B), a person is registered as a landlord with a local authority if the person is entered in the register prepared and maintained by the local authority for the purpose of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.”.
- (4) For section 37 (the measure of damages) there were substituted—

“37 Determination of damages

- (1) For the purpose of section 36(3), the damages that the court or, as the case may be, the First-tier Tribunal may determine as payable are to be an amount which is—
- (a) not less than 3 months’ rent, and
 - (b) not more than 36 months’ rent,
- taking into account the manner of the unlawful eviction and the impact that it has had on the tenant.
- (2) But, the court or, as the case may be, the First-tier Tribunal may reduce the amount of damages that would otherwise be payable under subsection (1) to an amount lower than 3 months’ rent if it considers it appropriate to do so having regard to all the circumstances of the case.
- (3) Where two or more persons jointly were the landlord, the court or, as the case may be, the First-tier Tribunal may determine that—

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- (a) damages are payable by all, some or only one of the former landlords,
 - (b) each former landlord must pay a specified amount of damages, but the cumulative total of each of the amounts must not exceed 36 months' rent, or
 - (c) the former landlords are jointly and severally liable in respect of the whole amount of damages payable.
- (4) In this section, “rent” means—
- (a) the amount that was payable in rent under the tenancy immediately before it ended, or
 - (b) in a case where two or more persons jointly were the tenant under the tenancy immediately before it ended, the amount mentioned in paragraph (a) divided by the number of persons who were at that time joint tenants under the tenancy.”.

Commencement Information

II Sch. 2 para. 7 in force at 28.10.2022, see [s. 13\(1\)](#)

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