SUMMARY OF LEGISLATIVE CHANGES – Housing (Scotland) Act 2014, Part 2

ITEM 11 APPENDIX I

ANTISOCIAL BEHAVIOUR (ASB)	Legislative Changes from 2014 Act	Policies t	
from 2014 Act be reviewed be			vea
 The new ground will: allow a SSST to be given to a new or existing tenant if there has been ASB within previous three years; allow conversion of an existing SST to a SSST; and require that the notice served to the tenant, where no Antisocial Behaviour Order (ASBO) applies, must include the name of the person who has behaved in an antisocial manner, the actions of the tenant or other person which the landlord has taken into account, the landlord's reasons for serving the notice and an explanation of the tenant's right of appeal to a court. No need for any criminal or other court proceedings as previously required (i.e. ASBO or eviction order in past 3 year period for ASB) 	Section 7(2) of the 2014 Act substitutes a new subsection (2) in section 35 of the 2001 Act. New section 35(2) extends the circumstances in which a landlord may serve a notice on a tenant under subsection (3) Section 7(2) also amends section 35(3) of the 2001 Act in relation to the information required in the notice	ASB SSST	✓ ✓
This applies where a tenant or person associated with the tenant has, within the period of three years preceding the date of service of the notice, acted in an antisocial manner, pursued a course of conduct amounting to harassment or a course of conduct which is otherwise antisocial in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality.	Subsection 7(3) makes a consequential amendment to section 37(1) (conversion to a SST) of the 2001 Act.		
Term of SSST for antisocial behaviour - MANDATORY			
SSSTs granted on the grounds of antisocial behaviour or a previous eviction or ASBO, a minimum term of 12 months. At the end of the 12 month term, the tenancy cannot continue as a SSST on the same terms and conditions,	Section 9(1) amends section 34 of the 2001 Act	ASB SSST	✓ ✓
unless the landlord has served a notice of proceedings (which will extend the SSST to 18 months). After this period, the SSST will automatically convert to a SST (unless the social landlord has taken steps to extend the SSST by a	Subsection (3) inserts new subsection (5) and (6) into section 37 of the 2001 Act		

further six months or to seek repossession of the tenancy) on the term which			
applied before the tenancy became a SSST.			
Extension of term of SSST for antisocial behaviour - MANDATORY			
Provided that the term of a SSST granted on antisocial behaviour or previous	Section 10 inserts new section	ASB	\checkmark
eviction grounds may be extended by a further period of six months from the	35A in the 2001 Act	SSST	\checkmark
date which would otherwise be the expiry day of that tenancy. Tenants must			
have been given two months' notice of the extension (including the reasons	Subsection (2) makes		
for the extension) and must be being given housing support services. An	consequential amendments to		
extension may be required because the tenant requires support for a further	section 37 of the 2001 Act		
period in order for the tenant to be able to sustain a Scottish secure tenancy.			
Recovery of possession of a SSST for antisocial behaviour - MANDATOR			
Provides that proceedings for recovery of possession may not be raised, in	Section 11 amends section 36 of	SSST	\checkmark
the case of SSSTs created on antisocial behaviour or previous eviction	the 2001 Act. Section 11(a) inserts		
grounds, unless the landlord considers that any obligation of the tenancy has	a new subparagraph (aa) in		
been broken. Landlords of such tenancies are required to give tenants	section 36(2)		
reasons why they are seeking recovery of possession of the tenancy including	Section 11(b) inserts a new		
the obligations the landlord considers have been broken. This section also	subparagraph (aa) into section		
gives tenants a right to request that their landlord review the decision to seek	36(3)		
recovery of possession before the case goes to court.			
Coattigh Ministers will have nevers through regulations to make provisions	New subsection (11)		
Scottish Ministers will have powers through regulations to make provisions	New subsection (4A).		
about the procedure to be followed in such reviews. The court must make an	Section 11(d) provides that, in		
order for recovery of possession of the tenancy where the tenancy has	cases where section 36(2)(aa)		
reached the end of its 12-month term (or, in a case where an extension	Section 11(f) inserts a new		
applies, the 18-month term applicable to it) and the landlord considers that an	subsection (8) into section 36 of the 2001 Act		
obligation of the tenancy has been broken. The procedure for recovery of	the 2001 Act		
possession (with respect to the serving of the notice for recovery of			
possession) under Scottish secure tenancies will also be used with SSSTs so			
long as the tenant has been given four weeks' notice prior to the landlord			
raising proceedings for recovery of possession.			

MISCELLANEOUS			
ALL SSST's - Right of Review - MANDATORY			
 Introduction of a new right of review for all tenants with SSSTs (not just ASB) to request a review of the decision to take action to recover possession of the property before the case goes to court. There is no current right to review. The tenant will have 14 days from the date of the service of notice to request this review. The landlord must: make tenants aware of this new right; set out how the review process will work within relevant tenancy information; set out what process tenants need to follow to make a request for review including how the landlord will deal with it and the timescales for doing so; review decision within 14 days and at least 2 days prior to the date of intended eviction; confirm either their decision to seek recovery of possessions or that they are withdrawing notice; and explain reasons to the tenant if they decide to continue to seek recovery of possession (in writing or by email). 	Section 11 of the 2014 Act	SSST	
Temporary grounds for SSST			
 Where support is required, this ground is amended to ensure: as well as being in receipt of housing support, none of the other grounds in Schedule 6 for granting SSSTs apply; that the person is actually receiving housing support not just identify that they require the support. Existing ground allows a SSST to be granted on a temporary basis to a person requiring or receiving housing support services. 	2014 Act amends Schedule 6 of 2001 Act	SSST	~
New ground for homeowners - Section 8 creates a new ground for granting a	2014 Act amends Schedule 6 of		

SSST for homeowners where the house is to be let on a temporary basis to a person who owns property for development work/installations to be carried out.	2001 Act		
Making use of full SST procedures for possession			
Landlords use Section 14 process to seek eviction during term of tenancy using any of the grounds in Part 1 Schedule 2. Notice of recovery of possession must set out date not earlier than 4 weeks from date of service of notice on or after which the landlord can raise proceedings. New statutory form of notice required.		SSST Evictions	✓ ✓

SST's

Streamlined eviction for criminal conviction - MANDATORY			
 A new process has been introduced for the use of an existing ground under Schedule 2 of the 2001 Act. Ground 2 states: The tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of the tenant has been convicted of: using the house or allowing it to be used for immoral or illegal purposes; 	Section 16 of the 2014 Act. Subsection (2) inserts paragraph (aa) in section 16(2) of the 2001 Act	Evictions ASB	✓✓
 an offence punishable by imprisonment committed in, or in the locality of, the house. 			
Where a court has already convicted a tenant of an offence punishable by imprisonment*, committed in, or in the locality of, the house, within the previous 12 months, the landlord only needs to provide factual evidence regarding the actual conviction to satisfy the ground and will no longer need to prove the eviction is 'reasonable'. The landlord will still need to consider many various factors including if the eviction is necessary and proportionate to include balancing the tenant's rights against those of the household and wider community.			
The tenant will retain the right to challenge the court action.			

* NOTE – although punishable by imprisonment, service of a prison sentence is not necessary	
for this ground to be used.	