

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 1

(introduced by section 11)

TENANCIES WHICH ARE NOT SCOTTISH SECURE TENANCIES

Commencement Information

- II** Sch. 1 wholly in force at 30.9.2002, see s. 113(1)(2) and [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

Premises occupied under contract of employment

- 1 (1) A tenancy is not a Scottish secure tenancy if the tenant (or one of joint tenants) is an employee of the landlord or of any local authority and the contract of employment requires the tenant to occupy the house for the better performance of the tenant's duties.
- (2) In sub-paragraph (1), "contract of employment" means a contract of service or of apprenticeship, whether express or implied, and (if express) whether oral or in writing.

Police and fire service accommodation

- 2 A tenancy is not a Scottish secure tenancy if the landlord is a local authority landlord and the tenant—
- (a) is a constable of a police force, within the meaning of the Police (Scotland) Act 1967 (c.77), who in pursuance of regulations under section 26 of that Act occupies the house without obligation to pay rent or council tax,
 - (b) is a member of [^{F1}an employee of a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))] , who occupies the house in consequence of a condition in the person's contract of employment that the person live in close proximity to a particular fire station, or
 - (c) is let the house expressly on a temporary basis pending its being required for the purposes of such a police force or [^{F2}authority] .

Textual Amendments

- F1** Words in [sch. 1 para. 2\(b\)](#) substituted (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 90, [sch. 3 para. 20\(a\)](#) (with s. 77); [S.S.I. 2005/392](#), [art. 2\(k\)](#)
- F2** Words in [sch. 1 para. 2\(c\)](#) substituted (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 90, [sch. 3 para. 20\(b\)](#) (with s. 77); [S.S.I. 2005/392](#), [art. 2\(k\)](#)

Lettings to students

- 3 (1) A tenancy is not a Scottish secure tenancy if it is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is granted either by that institution or by another specified institution or body.
- (2) In sub-paragraph (1), "specified" means specified, or of a type specified, by regulations made by the Scottish Ministers.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Temporary accommodation during work

- 4 A tenancy is not a Scottish secure tenancy if—
- (a) the house is occupied by the tenant while work is being carried out on the house which the tenant normally occupies as the tenant’s home, and
 - (b) the tenant is—
 - (i) by agreement, or
 - (ii) by virtue of an order of the sheriff under section 16(6), entitled to return there after the work is completed.

Accommodation for homeless persons

- 5 A tenancy is not a Scottish secure tenancy if the house is being let to the tenant expressly on a temporary basis, for a term of less than 6 months, in fulfilment of a duty imposed on a local authority by Part II (homeless persons) of the 1987 Act.

Accommodation for offenders

- 6 A tenancy is not a Scottish secure tenancy if it is granted, for a term of less than 6 months, to a person—
- (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or
 - (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority’s functions under that paragraph.

Shared ownership agreements

- 7 A tenancy is not a Scottish secure tenancy if it is a tenancy under a shared ownership agreement within the meaning of section 83(3).

Agricultural and business premises

- 8 A tenancy is not a Scottish secure tenancy if the house—
- (a) is let together with agricultural land exceeding two acres in extent,
 - (b) consists of or includes premises which are used as a shop or office for business, trade or professional purposes,
 - (c) consists of or includes premises licensed for the sale of [^{F3}alcohol (within the meaning of section 2 of the Licensing (Scotland) Act 2005)] , or
 - (d) is let in conjunction with any purpose mentioned in sub-paragraph (b) or (c).

Textual Amendments

- F3** Words in [sch. 1 para. 8](#) substituted (1.9.2009 at 5.00 a.m.) by [The Licensing \(Scotland\) Act 2005 \(Consequential Provisions\) Order 2009 \(S.S.I. 2009/248\)](#), [sch. 1 para. 9](#) (with art. 3)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Houses part of, or within curtilage of, certain other buildings

- 9 A tenancy is not a Scottish secure tenancy if the house forms part of, or is within the curtilage of, a building which—
- (a) is held by the landlord mainly for purposes other than the provision of housing accommodation, and
 - (b) mainly consists of accommodation other than housing accommodation.

Accommodation in property not owned by landlord

- 10 A tenancy is not a Scottish secure tenancy if the house is leased by the landlord from another body and the terms of the lease preclude the letting of the house by the landlord under a Scottish secure tenancy.

Accommodation for persons with Temporary Protection

- [^{F4}11. A tenancy is not a Scottish secure tenancy if it is granted in order to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005.]

Textual Amendments

- F4** Sch. 1 para. 11 inserted (15.6.2005) by [The Displaced Persons \(Temporary Protection\) Regulations 2005 \(S.I. 2005/1379\)](#), reg. 1, **Sch. para. 15**

SCHEDULE 2

(introduced by sections 14, 16, 19, 21 and 22)

SCOTTISH SECURE TENANCY: GROUNDS FOR RECOVERY OF POSSESSION OF HOUSE

Commencement Information

- I2** Sch. 2 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PART 1

GROUND ON WHICH COURT MAY ORDER RECOVERY OF POSSESSION

- 1 Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.
- 2 The tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of—
- (a) using the house or allowing it to be used for immoral or illegal purposes, or
 - (b) an offence punishable by imprisonment committed in, or in the locality of, the house.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 3 (1) The condition of the house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant; and in the case of acts of waste by, or the neglect or default of, a person residing or lodging with, or subtenant of, a tenant, the tenant has not, before the making of the order in question, taken such steps as the tenant ought reasonably to have taken for the removal of that person.
- (2) In sub-paragraph (1), “the common parts” means any part of a building containing the house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other houses.
- 4 The condition of any furniture provided for use under the tenancy, or for use in any of the common parts (within the meaning given in paragraph 3(2)), has deteriorated owing to ill-treatment by the tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant; and in the case of ill-treatment by a person residing or lodging with, or subtenant of, a tenant, the tenant has not, before the making of the order in question, taken such steps as the tenant ought reasonably to have taken for the removal of that person.
- 5 The tenant and—
- (a) the tenant’s spouse [^{F5}or civil partner] , or
 - (b) any person with whom the tenant has, for a period of at least 6 months immediately prior to the commencement of the period referred to below, been living in the house as husband and wife or in a relationship which has the characteristics of the relationship between [^{F6}civil partners] ,
- have been absent from the house without reasonable cause for a continuous period exceeding 6 months or have ceased to occupy the house as their principal home.

Textual Amendments

- F5** Words in sch. 2 para. 5(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 65(2)(a); S.S.I. 2005/604, arts. 2(c), 4
- F6** Words in sch. 2 para. 5(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 65(2)(b); S.S.I. 2005/604, arts. 2(c), 4

- 6 The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by the tenant.
- 7 (1) The tenant (or any one of joint tenants), a person residing or lodging in the house with, or any subtenant of, the tenant, or a person visiting the house has—
- (a) acted in an anti-social manner in relation to a person residing in, visiting or otherwise engaged in lawful activity in the locality, or
 - (b) pursued a course of conduct amounting to harassment of such a person, or a course of conduct which is otherwise anti-social conduct in relation to such a person,
- and it is not reasonable in all the circumstances that the landlord should be required to make other accommodation available to the tenant.
- (2) In sub-paragraph (1)—
- “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions,
“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).
- 8 (1) The tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant—
- (a) has been guilty of conduct in or in the vicinity of the house which is a nuisance or annoyance, or
 - (b) has pursued a course of conduct amounting to harassment of a person residing in, visiting or otherwise engaged in lawful activity in the locality, and in the opinion of the landlord it is appropriate in the circumstances to require the tenant to move to other accommodation.
- (2) In sub-paragraph (1), “conduct” and “harassment” have the same meanings as in paragraph 7.
- 9 The house is overcrowded, within the meaning of section 135 of the 1987 Act, in such circumstances as to render the occupier guilty of an offence.
- 10 (1) It is intended within a reasonable period of time to demolish, or carry out substantial work on, the building or a part of the building which comprises or includes the house, and such demolition or work cannot reasonably take place without the landlord obtaining possession of the house.
- (2) For the purposes of sub-paragraph (1), “demolition” is to be construed in accordance with section 338(3) of the 1987 Act.
- 11 The house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the house and—
- (a) there is no longer a person with such special needs occupying the house, and
 - (b) the landlord requires it for occupation (whether alone or with other members of the person’s family) by a person who has such special needs.
- 12 The house forms part of a group of houses which has been designed, or which has been provided with or located near facilities, for persons with special needs, and—
- (a) there is no longer a person with such a need occupying the house, and
 - (b) the landlord requires it for occupation (whether alone or with other members of the person’s family) by a person who has such a need.
- 13 The interest of the landlord in the house is that of a lessee under a lease and that lease either—
- (a) has terminated, or
 - (b) will terminate within a period of 6 months from the date of raising of proceedings for recovery of possession.
- 14 The landlord is Orkney Islands Council, Shetland Islands Council or Western Isles Council and—
- (a) the house is—
 - (i) held by the council for the purposes of its functions as education authority, and
 - (ii) required for the accommodation of a person who is or will be employed by the council for those purposes,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the council cannot reasonably provide a suitable alternative house for the accommodation referred to in sub-paragraph (a)(ii), and
 - (c) the tenant (or any one of joint tenants) is, or at any time during the tenancy has been or, where the tenancy passed to the existing tenant under section 22, the previous tenant at any time during the tenancy was, employed by the council for the purposes of its functions as education authority and such employment has terminated or notice of termination has been given.
- 15 The landlord wishes to transfer the tenancy of the house to—
- (a) the tenant's spouse [^{F7}or civil partner (or former spouse or former civil partner)] , or
 - (b) a person with whom the tenant has, for a period of at least 6 months immediately prior to the date of the application for transfer, been living in the house as husband and wife or in a relationship which has the characteristics of the relationship between [^{F8}civil partners] ,
- who has applied to the landlord for such transfer; and the tenant or (as the case may be) the spouse or other person no longer wishes to live together with the other in the house.

Textual Amendments

- F7** Words in sch. 2 para. 15(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\), Sch. 28 para. 65\(3\)\(a\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F8** Words in sch. 2 para. 15(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\), Sch. 28 para. 65\(3\)\(b\)](#); S.S.I. 2005/604, arts. 2(c), 4

PART 2

SUITABILITY OF ACCOMMODATION

- 16 For the purposes of sections 16(4), 19(5), 21(5) and 22(7), accommodation is suitable if—
- (a) it consists of premises which are to be let as a separate dwelling under a Scottish secure tenancy or under an assured tenancy, and
 - (b) it is reasonably suitable to the needs of the tenant and the tenant's family.
- 17 In determining whether accommodation is reasonably suitable to the needs of the tenant and the tenant's family, regard is to be had to—
- (a) its proximity to the place of work (including attendance at an educational institution) of the tenant and of members of the tenant's family, compared with the tenant's existing house,
 - (b) the extent of the accommodation required by the tenant and the tenant's family,
 - (c) the character of the accommodation offered compared to the tenant's existing house,
 - (d) the terms on which the accommodation is offered to the tenant compared with the terms of the tenant's existing tenancy,
 - (e) if any furniture was provided by the landlord for use under the existing tenancy, whether furniture is to be provided for use under the new tenancy

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

which is of a comparable nature in relation to the needs of the tenant and the tenant's family,

(f) any special needs of the tenant or the tenant's family.

18 If the landlord has made an offer in writing to the tenant of new accommodation which complies with paragraph 16(a) and which appears to it to be suitable, specifying the date when the accommodation will be available and the date (not being less than 14 days from the date of the offer) by which the offer must be accepted, the accommodation so offered is deemed to be suitable if—

(a) the landlord shows that the tenant accepted the offer within the time duly specified in the offer, or

(b) the landlord shows that the tenant did not so accept the offer, and the tenant does not satisfy the court that the tenant acted reasonably in failing to accept the offer.

SCHEDULE 3

(introduced by section 22)

SUCCESSION TO SCOTTISH SECURE TENANCY: QUALIFIED PERSONS

Commencement Information

I3 Sch. 3 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Qualified persons

1 For the purposes of section 22, a person falling within any of paragraphs 2 to 4 is a qualified person.

2 (1) A person whose only or principal home at the time of the tenant's death was the house and—

(a) who was at that time—

(i) the tenant's spouse [^{F9}or civil partner] , or

(ii) living with the tenant as husband and wife or in a relationship which has the characteristics of the relationship between [^{F10}civil partners] , or

(b) who is, where the tenancy was held jointly by two or more individuals, a surviving tenant.

(2) In the case of a person referred to in sub-paragraph (1)(a)(ii), the house must have been the person's only or principal home throughout the period of 6 months ending with the tenant's death.

Textual Amendments

F9 Words in sch. 3 para. 2(1)(a)(i) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 66(a); S.S.I. 2005/604, arts. 2(c), 4

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F10 Words in sch. 3 para. 2(1)(a)(ii) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\)](#), [Sch. 28 para. 66\(b\)](#); [S.S.I. 2005/604, arts. 2\(c\), 4](#)

- 3 A member of the tenant’s family aged at least 16 years where the house was the person’s only or principal home at the time of the tenant’s death.
- 4 A carer providing, or who has provided, care for the tenant or a member of the tenant’s family where—
- (a) the carer is aged at least 16 years,
 - (b) the house was the carer’s only or principal home at the time of the tenant’s death, and
 - (c) the carer had a previous only or principal home which was given up.

Special rule: specially adapted house

- 5 (1) This paragraph applies where the house has been designed or substantially adapted for occupation by a person whose special needs require accommodation of the kind provided by the house.
- (2) For the purposes of succession to a tenancy under section 22(1), a person is a qualified person only if that person—
- (a) falls within paragraph 2, or
 - (b) falls within paragraph 3 or 4 and has special needs requiring accommodation of the kind provided by the house.
- (3) For the purposes of succession to a tenancy under section 22(2), a person falling within any of paragraphs 2 to 4 is a qualified person only if that person has special needs requiring accommodation of the kind provided by the house.

Order of succession

- 6 If there is a qualified person falling within paragraph 2, the tenancy passes to that person unless the person declines the tenancy.
- 7 If the tenancy does not pass to a qualified person falling within paragraph 2 and there is a qualified person falling within paragraph 3, the tenancy passes to that person unless the person declines the tenancy.
- 8 If the tenancy does not pass to a qualified person falling within paragraph 2 or 3 and there is a qualified person falling within paragraph 4, the tenancy passes to that person unless the person declines the tenancy.
- 9 Where there is more than one qualified person falling within any of paragraphs 2 to 4, section 22(9) and paragraph 6, 7 or, as the case may be, 8 apply in relation to—
- (a) such qualified person falling within the paragraph in question, or
 - (b) such two or more of those qualified persons as joint tenants,
- as may be decided by agreement between all the qualified persons falling within the paragraph in question or, failing agreement within 4 weeks of the death of the tenant or, where paragraph 10 applies, of the date on which notice under that paragraph was given, as the landlord decides.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Notification of right to succeed to tenancy

- 10 (1) Where there is a qualified person falling within paragraph 2 and that person (or, if more than one, each of those persons) declines the tenancy, the landlord must, as soon as possible thereafter—
- (a) use its best endeavours to ascertain whether there are any persons who may be entitled to the tenancy by virtue of paragraph 3 or, if not, paragraph 4, and
 - (b) give notice in writing to each such person.
- (2) Where there is a qualified person falling within paragraph 3 and that person (or, if more than one, each of those persons) declines the tenancy, the landlord must, as soon as possible thereafter—
- (a) use its best endeavours to ascertain whether there are any persons who may be entitled to the tenancy by virtue of paragraph 4, and
 - (b) give notice in writing to each such person.

Declining a tenancy

- 11 (1) A qualified person who is entitled to the benefit of paragraph 6, 7 or 8 may decline the tenancy by giving the landlord notice in writing within 4 weeks of the tenant's death or, where the qualified person was given notice under paragraph 10, within 4 weeks of the date on which that notice was given.
- (2) Notice under sub-paragraph (1) has effect as if given at the time of the tenant's death.
- (3) A qualified person who declines a tenancy—
- (a) must vacate the house within 3 months of the date of the notice under sub-paragraph (1) declining the tenancy,
 - (b) is liable to pay rent which becomes due after the tenant's death only in respect of any rental period (that is to say, a period in respect of which an instalment of rent falls to be paid) during any part of which the qualified person has occupied the house after the tenant's death.

Qualified persons: co-operative housing associations

- 12 (1) This paragraph applies where the landlord is a registered social landlord which is a co-operative housing association.
- (2) A qualified person who is entitled to the benefit of paragraph 6, 7 or 8 must, within 4 weeks of the tenant's death or, where the qualified person was given notice under paragraph 10, within 4 weeks of the date on which that notice was given, apply for membership of the co-operative housing association.
- (3) Where a qualified person—
- (a) fails to comply with sub-paragraph (2), or
 - (b) complies with that sub-paragraph but the co-operative housing association refuses the application for membership,
- the person is to be treated as having declined the tenancy at the time of the tenant's death.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 4

(introduced by section 27)

SCOTTISH SECURE TENANCY: LANDLORD'S REPAIRING OBLIGATIONS

Commencement Information

I4 Sch. 4 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

- 1 The landlord in a Scottish secure tenancy must—
 - (a) ensure that the house is, at the commencement of the tenancy, wind and watertight and in all other respects reasonably fit for human habitation, and
 - (b) keep the house in such condition throughout the tenancy.
- 2 The landlord must, before the commencement of the tenancy—
 - (a) inspect the house and identify any work necessary to comply with the duty in paragraph 1(a), and
 - (b) notify the tenant of any such work.
- 3 The landlord must—
 - (a) ensure that any work necessary to comply with the duty in paragraph 1(b) is carried out within a reasonable time of the tenant notifying the landlord, or the landlord otherwise becoming aware, that it is required, and
 - (b) make good any damage caused by the carrying out of the work.
- 4 The landlord, or any person authorised by it in writing, may at any reasonable time, on giving 24 hours' notice in writing to the tenant or occupier, enter the house for the purpose of—
 - (a) viewing its state and condition,
 - (b) carrying out any work necessary to comply with the duty in paragraph 1(b) or 3.
- 5 (1) In determining for the purposes of paragraph 1 whether a house is fit for human habitation, regard is to be had to the extent, if any, to which by reason of disrepair or sanitary defects the house falls short of the provisions of any building regulations in force in the area.

(2) For the purposes of sub-paragraph (1), “building regulations” has the same meaning as in section 338(1) of the 1987 Act.
- 6 In paragraph 5, “sanitary defects” includes lack of air space or of ventilation, lack of lighting, dampness, absence of adequate and readily accessible water supply or of sanitary arrangements or of other conveniences, and inadequate paving or drainage of courts, yards or passages.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 5

(introduced by sections 28, 32 and 33)

SCOTTISH SECURE TENANCY: ALTERATIONS, ASSIGNATION, SUBLETTING, EXCHANGE ETC.

Commencement Information

- I5** Sch. 5 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PART 1

ALTERATIONS ETC. TO HOUSE

- 1 A tenant under a Scottish secure tenancy who wishes to carry out work must make a written application to the landlord for the landlord's consent, giving details of the proposed work.
- 2 The landlord may—
- (a) consent,
 - (b) consent subject to such reasonable conditions as the landlord may impose, or
 - (c) refuse consent, provided that it is not refused unreasonably.
- 3 The conditions which may be imposed under paragraph 2(b) include conditions as to the standard to which the work is to be carried out; and in considering whether to impose such a condition the landlord must have regard to—
- (a) the age and condition of the house,
 - (b) the cost of complying with the condition, and
 - (c) any guidance issued under section 28(4).
- 4 The landlord must intimate its consent or refusal, any conditions imposed and, in the case of refusal, the reasons for the refusal, to the tenant in writing within one month of receipt of the application.
- 5 If the landlord fails to comply with paragraph 4, it is to be taken to have consented to the application.
- 6 A tenant who is aggrieved by a refusal, or by any condition imposed under paragraph 2(b), may raise proceedings by summary application.
- 7 In such proceedings the court must, unless it considers that the refusal or, as the case may be, the condition is reasonable, order the landlord to consent to the application or to withdraw the condition.
- 8 In deciding whether a refusal or a condition is reasonable the court is to have regard in particular to—
- (a) the safety of occupiers of the house or of any other premises,
 - (b) any expenditure which the landlord is likely to incur as a result of the work,
 - (c) whether the work is likely to reduce the value of the house or of any premises of which it forms part, or to make the house or such premises less suitable for letting or for sale,^{F11} ...
 - (d) any effect which the work is likely to have on the extent of the accommodation provided by the house, [^{F12}and

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (e) any code of practice issued by the ^{F13}Commission for Equality and Human Rights] which relates to this Part.]

Textual Amendments

- F11** Word in sch. 5 para. 8 repealed (4.12.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 54(a)**, 195(3) (with s. 193); [S.S.I. 2006/395](#), art. 2
- F12** Sch. 5 para. 8(e) and word inserted (4.12.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 54(b)**, 195(3) (with s. 193); [S.S.I. 2006/395](#), art. 2
- F13** Words in sch. 5 para. 8(e) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), **Sch. 3 para. 62** (with s. 92); [S.I. 2007/2603](#), art. 2(d)

PART 2

ASSIGNATION, SUBLETTING, EXCHANGE ETC.

- 9 A tenant under a Scottish secure tenancy who, in pursuance of section 32(1), wishes to assign, sublet or otherwise give up to another person possession of the house or any part of it or take in a lodger must make a written application to the landlord for the landlord's consent, giving details of the proposed transaction, and in particular of any payment which has been or is to be received by the tenant in consideration of the transaction.
- 10 A tenant under a Scottish secure tenancy who, in pursuance of section 33(1), wishes to exchange the house which is the subject of the tenancy for another house which is the subject of a Scottish secure tenancy must make a written application to the landlord and (if different) to the landlord of the other house for consent, giving details of the proposed transaction and, in particular, of the other house.
- 11 On an application under paragraph 9 or 10 the landlord may—
- (a) consent, or
 - (b) refuse consent, provided that it is not refused unreasonably.
- 12 The landlord must intimate its consent or refusal and, in the case of refusal, the reasons for the refusal, to the tenant in writing within one month of receipt of the application.
- 13 If the landlord fails to comply with paragraph 12, it is to be taken to have consented to the application.
- 14 A tenant who is aggrieved by a refusal may raise proceedings by summary application.
- 15 In such proceedings the court must, unless it considers that the refusal is reasonable, order the landlord to consent to the application.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 6

(introduced by section 34)

GROUND FOR GRANTING SHORT SCOTTISH SECURE TENANCY

Commencement Information

- I6** Sch. 6 wholly in force at 30.9.2002, see s. 113(1)(2) and [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

Previous anti-social behaviour

- 1 An order for recovery of possession has, within the period of 3 years preceding the date of service of the notice, been made against the prospective tenant (or any one of prospective joint tenants) in proceedings—
- (a) under the Housing (Northern Ireland) Order 1983 (S.I.1983/1118) on ground 2 of Schedule 3,
 - (b) under the Housing Act 1985 (c.68), on ground 2 of Schedule 2,
 - (c) under the 1987 Act, on a ground set out in paragraph 2 or 7 of Schedule 3,
 - (d) under the 1988 Act, on ground 15 of Schedule 5,
 - (e) under the Housing Act 1988 (c.50), on ground 14 of Schedule 2,
 - (f) under this Act on a ground set out in paragraph 2 or 7 of schedule 2.

Anti-social behaviour order

- 2 The prospective tenant (or any one of prospective joint tenants) or a person who it is proposed will reside with the prospective tenant is subject to an ^{F14}antisocial behaviour order—
- (a) under section 234AA of the Criminal Procedure (Scotland) Act 1995 (c. 46); or
 - (b) under section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)].

Textual Amendments

- F14** Words in sch. 6 para. 2 substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), [sch. 4 para. 6\(3\)](#); [S.S.I. 2004/420](#), art. 3, sch. 1

Temporary letting to person seeking accommodation

- 3 The house is to be let expressly on a temporary basis to a person moving into the area in order to take up employment there, and for the purpose of enabling that person to seek accommodation in the area.

Temporary letting pending development

- 4 (1) The house is to be let to a person expressly on a temporary basis, pending development affecting the house.
- (2) In sub-paragraph (1), “development” has the same meaning as in section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Accommodation for homeless persons

- 5 The house is to be let to a person expressly on a temporary basis, for a period of not less than 6 months, in fulfilment of a duty imposed on a local authority by Part II (homeless persons) of the 1987 Act.

Accommodation for person requiring housing support services

- 6 The house is to be let expressly on a temporary basis to a person requiring or in receipt of housing support services.

Accommodation in property not owned by landlord

- 7 The house to be let is leased by the landlord from another body and the terms of the lease preclude the letting of the house by the landlord under a Scottish secure tenancy.

SCHEDULE 7

(introduced by section 63)

REGULATION OF REGISTERED SOCIAL LANDLORDS

Commencement Information

- I7** Sch. 7 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

PART 1

CONTROL OF PAYMENTS TO MEMBERS ETC.

Payments by way of gift, dividend or bonus

- 1 (1) A registered social landlord must not make a gift or pay a sum by way of dividend or bonus to—
- (a) a person who is or has been a member of the body,
 - (b) a person who is a member of the family of a person within paragraph (a),
 - (c) a company of which a person within paragraph (a) or (b) is a director, or
 - (d) a firm of which a person within paragraph (a) or (b) is a member,
- except as permitted by this paragraph.
- (2) The following are permitted—
- (a) the payment of a sum which, in accordance with the constitution or rules of the body, is paid as interest on capital lent to the body or subscribed by way of shares in the body,
 - (b) the payment by a fully mutual housing association to a person who has ceased to be a member of the association of a sum which is due to the person either under a tenancy agreement with the association or under the terms of the agreement under which the person became a member of the association.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where a landlord pays a sum or makes a gift in contravention of this paragraph, the landlord may recover the sum or the value of the gift, and proceedings for its recovery must be taken if the Scottish Ministers so direct.

Payments and benefits to officers and employees etc.

- 2 (1) A registered social landlord must not make a payment or grant a benefit to—
- (a) an officer or employee of the landlord,
 - (b) a person who at any time within the preceding twelve months has been a person within paragraph (a),
 - (c) a close relative of a person within paragraph (a) or (b), or
 - (d) a business trading for profit of which a person falling within paragraph (a), (b) or (c) is a principal proprietor or in the management of which such a person is directly concerned,
- except as permitted by this paragraph.
- (2) The following are permitted—
- (a) payments made or benefits granted to an officer or employee of the landlord under that person's contract of employment with the landlord,
 - (b) the payment of expenses to an officer of the landlord who does not have a contract of employment with the landlord,
 - (c) any such payment as may be made in accordance with paragraph 1(2) (interest payable in accordance with the rules and certain sums payable by a fully mutual housing association to a person who has ceased to be a member),
 - (d) the grant or renewal of a tenancy by a co-operative housing association,
 - (e) where a tenancy of a house has been granted to, or to a close relative of, a person who later became an officer or employee, the grant to that tenant of a new tenancy whether of the same or another house,
 - (f) payments made or benefits granted with the approval of the Scottish Ministers (which approval may be given only in relation to a class or classes of case).
- (3) Where a landlord pays a sum or grants a benefit in contravention of this paragraph, the landlord may recover the sum or value of the benefit; and proceedings for its recovery must be taken if the Scottish Ministers so direct.

Maximum amounts payable by way of fees, expenses, etc.

- 3 (1) The Scottish Ministers may from time to time specify the maximum amounts which may be paid by a registered social landlord—
- (a) by way of fees or other remuneration, or by way of expenses, to a member of the landlord who is not an officer or employee of the landlord, or
 - (b) by way of expenses to an officer of the landlord who does not have a contract of employment with the landlord,
- and different amounts may be so specified for different purposes.
- (2) Where a landlord makes a payment in excess of the maximum permitted under this paragraph, the landlord may recover the excess, and proceedings for its recovery must be taken if the Scottish Ministers so direct.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 2

CONSTITUTION, CHANGE OF RULES, AMALGAMATION AND DISSOLUTION

General power to remove director, trustee etc.

- 4 (1) The Scottish Ministers may, in accordance with the following provisions, remove—
- (a) a committee member of a registered social landlord which is an industrial and provident society,
 - (b) a director of a registered social landlord which is a company [^{F15}registered under the Companies Act 2006].
- (2) The Scottish Ministers may remove any such person if the person—
- (a) is apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985 (c.66),
 - (b) is subject to a disqualification order under the Company Directors Disqualification Act 1986 (c.46),
 - (c) is incapable of acting by reason of mental disorder,
 - (d) has not acted, or
 - (e) cannot be found or does not act and the person’s absence or failure to act is impeding the proper management of the registered social landlord’s affairs.
- (3) The Scottish Ministers must give at least 14 days’ notice of their intention to remove a person to that person and to the registered social landlord.
- (4) That notice may be given by post, and if so given to the person whom the Scottish Ministers intend to remove may be addressed to that person’s last known address in the United Kingdom.
- (5) A person who is removed under this paragraph may appeal to the Court of Session.
- (6) In this paragraph, “mental disorder” has the same meaning as in the [^{F16}Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)] .

Textual Amendments

- F15** Words in sch. 7 para. 4(1)(b) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 191\(5\)\(a\)](#) (with art. 10)
- F16** Words in sch. 7 para. 4(6) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 4 para. 11](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

Industrial and provident society: power to appoint new committee member

- 5 (1) The Scottish Ministers may appoint a person to be a committee member of a registered social landlord which is an industrial and provident society—
- (a) in place of a person removed by them,
 - (b) where there are no members of the committee, or
 - (c) where they are of the opinion that it is necessary for the proper management of the society’s affairs to have an additional committee member.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The power conferred by sub-paragraph (1)(c) may be exercised even if it will cause the maximum number of committee members permissible under the society's constitution to be exceeded.
- (3) A person may be so appointed whether or not that person is a member of the society and, if not, despite the rules of the society restricting appointment to members.
- (4) A person appointed under this paragraph holds office for such period and on such terms as the Scottish Ministers may specify; and on the expiry of the appointment the Scottish Ministers may renew the appointment for such period as they may specify; but this does not prevent such a person from retiring in accordance with the rules of the society.
- (5) A person appointed under this paragraph is entitled—
 - (a) to attend, speak and vote at any general meeting of the society and to receive all notices of and other communications relating to any general meeting which a member of the society is entitled to receive,
 - (b) to move a resolution at any general meeting of the society, and
 - (c) to require a general meeting of the society to be convened within 21 days of a request to that effect made in writing to the committee of the society.

Company: power to appoint new director

- 6 (1) The Scottish Ministers may appoint a person to be a director of a registered social landlord which is a company [^{F17}registered under the Companies Act 2006] —
 - (a) in place of a director removed by them,
 - (b) where there are no directors, or
 - (c) where they are of the opinion that it is necessary for the proper management of the company's affairs to have an additional director.
- (2) A person may be so appointed whether or not that person is a member of the company and despite anything in the company's articles of association.
- (3) A person appointed under this paragraph holds office for such period and on such terms as the Scottish Ministers may specify, and on the expiry of the appointment the Scottish Ministers may renew the appointment for such period as they may specify; but this does not prevent such a person from retiring in accordance with the company's articles of association.
- (4) A person appointed under this paragraph is entitled—
 - (a) to attend, speak and vote at any general meeting of the company and to receive all notices of and other communications relating to any general meeting which a member of the company is entitled to receive,
 - (b) to move a resolution at any general meeting of the company, and
 - (c) to require [^{F18}a general meeting] of the company to be convened within 21 days of a request to that effect made in writing to the directors of the company.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F17** Words in sch. 7 para. 6(1) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(a)** (with art. 10)
- F18** Words in sch. 7 para. 6(4)(c) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 219(2)** (with arts. 6, 11, 12)

Change of rules etc. by industrial and provident society

- 7 (1) This paragraph applies to an industrial and provident society whose registration as a social landlord has been recorded by the Financial Services Authority.
- (2) Notice must be sent to the Scottish Ministers of any change of the society's name or of the situation of its registered office.
- (3) Any other amendment of the society's rules is not valid without the consent of the Scottish Ministers given by notice in writing.
- (4) A copy of that consent must be sent with the copies of the amendment required by section 10(1) of the Industrial and Provident Societies Act 1965 (c.12) to be sent to the Financial Services Authority.
- (5) The Industrial and Provident Societies Act 1965 (c.12) applies in relation to the provisions of this paragraph as if they were contained in section 10 of that Act (amendment of registered rules).

Change of [F19 articles of association] of company

- 8 (1) This paragraph applies to a company [F20 registered under the Companies Act 2006] which is registered as a social landlord.
- (2) Notice must be sent to the Scottish Ministers of any change of the company's name or of the address of its registered office.
- (3) Any other alteration of the company's [F21 articles of association] of which notice is required to be given to the registrar of companies is not valid without the consent of the Scottish Ministers given by notice in writing.

Textual Amendments

- F19** Words in sch. 7 para. 8 heading substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(b)(i)** (with art. 10)
- F20** Words in sch. 7 para. 8(1) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(b)(ii)** (with art. 10)
- F21** Words in sch. 7 para. 8(3) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(b)(iii)** (with art. 10)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Amalgamation and dissolution etc. of industrial and provident society

- 9 (1) This paragraph applies to an industrial and provident society whose registration as a social landlord has been recorded by the Financial Services Authority.
- (2) The Financial Services Authority must not register a special resolution which is passed for the purposes of—
- (a) section 50 of the Industrial and Provident Societies Act 1965 (c.12) (amalgamation of societies),
 - (b) section 51 of that Act (transfer of engagements between societies), or
 - (c) section 52 of that Act (power of a society to convert itself into, amalgamate with or transfer its engagements to a company [^{F22}registered under the Companies Act 2006]),
- unless, together with the copy of the resolution, there is sent to the Authority a copy of the Scottish Ministers' consent to the amalgamation, transfer or conversion.
- (3) Any new body created by the amalgamation or conversion or, in the case of a transfer of engagements, the transferee, is deemed to be registered as a social landlord forthwith upon the amalgamation, conversion or transfer taking effect.
- (4) If the society resolves by special resolution that it be wound up voluntarily under the Insolvency Act 1986 (c.45), the resolution has no effect unless—
- (a) before the resolution was passed the Scottish Ministers gave their consent to its passing, and
 - (b) a copy of the consent is forwarded to the Financial Services Authority together with a copy of the resolution required to be so forwarded in accordance with [^{F23}section 55(3) of the Industrial and Provident Societies Act 1965].
- (5) If the society is to be dissolved by instrument of dissolution, the Financial Services Authority must not—
- (a) register the instrument in accordance with section 58(5) of the Industrial and Provident Societies Act 1965 (c.12), or
 - (b) cause notice of the dissolution to be advertised in accordance with section 58(6) of that Act,
- unless together with the instrument there is sent to the Authority a copy of the Scottish Ministers' consent to its making.
- (6) The Scottish Ministers must not give any consent required by this paragraph unless they are satisfied that the society has consulted its tenants on the proposal for which the consent is required.
- (7) References in this paragraph to the Scottish Ministers' consent are to consent given in writing.

Textual Amendments

F22 Words in sch. 7 para. 9(2)(c) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 191\(5\)\(c\)\(i\)](#) (with art. 10)

F23 Words in sch. 7 para. 9(4)(b) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 191\(5\)\(c\)\(ii\)](#) (with art. 10)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Arrangement, reconstruction etc. of company

- 10 (1) This paragraph applies to a company [^{F24}registered under the Companies Act 2006] which is registered as a social landlord.
- (2) An order of the court given for the purposes of [^{F25}section 899 of the Companies Act 2006 (court sanction for compromise or arrangement)] is not effective unless the Scottish Ministers have given their consent.
- (3) An order of the court given for the purposes of [^{F26}section 900 of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation)] is not effective unless the Scottish Ministers have given their consent.
- (4) A resolution under section 53 (conversion of company into industrial and provident society) of the Industrial and Provident Societies Act 1965 (c.12) is not effective unless, before the resolution was passed, the Scottish Ministers gave their consent to its passing.
- (5) Where a director, administrator or liquidator of the company proposes to make a voluntary arrangement with the company's creditors under section 1 of the Insolvency Act 1986 (c.45), the arrangement does not take effect under section 5 (effect of approval by members and creditors) of that Act unless the Scottish Ministers have given their consent to the voluntary arrangement.
- (6) If the company resolves by special resolution that it be wound up voluntarily under the Insolvency Act 1986 (c.45), the resolution has no effect unless, before the resolution was passed, the Scottish Ministers gave their consent to its passing.
- (7) The Scottish Ministers must not give any consent required by this paragraph unless they are satisfied that the company has consulted its tenants on the proposal for which the consent is required.
- (8) References in this paragraph to the Scottish Ministers' consent are to consent given in writing.
- (9) Where sub-paragraph (3) or (4) applies, the transferee or, as the case may be, any new body created by the conversion is deemed to be registered as a social landlord forthwith upon the transfer or conversion taking effect.

Textual Amendments

- F24** Words in sch. 7 para. 10(1) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(d)** (with art. 10)
- F25** Words in sch. 7 para. 10(2) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 219(4)(a)** (with arts. 6, 11, 12)
- F26** Words in sch. 7 para. 10(3) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 219(4)(b)** (with arts. 6, 11, 12)

Power of the Scottish Ministers to petition for winding up

- 11 The Scottish Ministers may present a petition for the winding up under the Insolvency Act 1986 (c.45) of a registered social landlord on the ground that—
- (a) the landlord is failing properly to carry out its purposes or objects,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the landlord is unable to pay its debts within the meaning of section 123 of that Act.

Transfer of net assets on dissolution or winding up

- 12 (1) This paragraph applies—
- (a) where a registered social landlord which is an industrial and provident society is dissolved as mentioned in [F27section 55(1)(a) or (b)] of the Industrial and Provident Societies Act 1965 (c.12) (winding up under the Insolvency Act 1986 or by instrument of dissolution), and
 - (b) where a registered social landlord which is a company [F28registered under the Companies Act 2006] is wound up under the Insolvency Act 1986 (c.45).
- (2) On such a dissolution or winding up, so much of the property of the society or company as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution or winding up are to be transferred to such registered social landlord as the Scottish Ministers may direct.
- (3) Sub-paragraphs (1) and (2) have effect despite anything in the Industrial and Provident Societies Act 1965 (c.12), [F29the Companies Act 2006] or the Insolvency Act 1986 (c.45) or in the rules of the society or, as the case may be, in the [F29articles of association] of the company.
- (4) In order to avoid the necessity for the sale of land belonging to the registered social landlord and thereby secure the transfer of the land under this paragraph, the Scottish Ministers may, if it appears to them appropriate to do so, make payments to discharge such claims or liabilities as are referred to in sub-paragraph (2).
- (5) The Scottish Ministers must, before making a direction under sub-paragraph (2), consult the tenants of the houses included in the proposed transfer; and, in making a direction, they must have regard to the views expressed by those consulted.

Textual Amendments

- F27** Words in sch. 7 para. 12(1)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(e)(i)** (with art. 10)
- F28** Words in sch. 7 para. 12(1)(b) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(e)(ii)** (with art. 10)
- F29** Words in sch. 7 para. 12(3) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 191(5)(e)(iii)** (with art. 10)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 3

ACCOUNTS AND AUDIT

General requirements as to accounts and audit

- 13 (1) The Scottish Ministers may by order determine accounting requirements for registered social landlords with a view to ensuring that the accounts of every registered social landlord—
- (a) are prepared in a proper form, and
 - (b) give a true and fair view of—
 - (i) the state of affairs of the landlord, so far as its housing activities are concerned, and
 - (ii) the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.
- (2) The accounts of every registered social landlord must comply with the requirements determined under this paragraph.
- (3) The auditor's report must state, in addition to any other matters which it is required to state, whether in the auditor's opinion the accounts do so comply.
- (4) Every registered social landlord must submit to the Scottish Ministers a copy of its accounts and auditor's report within six months of the end of the period to which they relate.
- (5) An order under this paragraph must not apply to a period beginning before the day on which the order comes into force.

Appointment of auditors by industrial and provident societies

- 14 Section 4 (obligation to appoint qualified auditors to audit accounts and balance sheet for each year of account) of the Friendly and Industrial and Provident Societies Act 1968 (c.55) applies to every industrial and provident society which is a registered social landlord, without regard to the volume of its receipts and payments, the number of its members or the value of its assets.

Responsibility for securing compliance with accounting requirements

- 15 (1) Every responsible person, that is to say, every person who—
- (a) is directly concerned with the conduct and management of the affairs of a registered social landlord, and
 - (b) is in that capacity responsible for the preparation and audit of accounts,
- must ensure that paragraph 13 is complied with by the landlord.
- (2) If—
- (a) paragraph 13(4) is not complied with, or
 - (b) the accounts submitted to the Scottish Ministers under that provision do not comply with the accounting requirements determined under paragraph 13(1),
- every responsible person, and the registered social landlord itself, is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In proceedings for an offence under this paragraph it is a defence—
- (a) for a responsible person to prove that that person did everything that could reasonably have been expected of the person by way of discharging the relevant duty,
 - (b) for a registered social landlord to prove that every responsible person did everything that could reasonably have been expected of the person by way of discharging the relevant duty in relation to the registered social landlord.

PART 4

INQUIRY INTO AFFAIRS OF REGISTERED SOCIAL LANDLORDS

Inquiry

- 16 (1) The Scottish Ministers may appoint a person (not a person who is, or at any time has been, a member of the staff of the Scottish Administration, the registered social landlord or a subsidiary or associate of the registered social landlord) to conduct an inquiry into the affairs of a registered social landlord.
- (2) If the appointed person considers it necessary for the purposes of the inquiry, that person may also inquire into the business of any other body which, at a time which the appointed person considers material, is or was a subsidiary or associate of the registered social landlord.
- (3) The appointed person may, by notice in writing served on—
- (a) the registered social landlord,
 - (b) any person who is, or has been, an officer, agent or member of the landlord,
 - (c) any person who is, or has been, an officer, agent or member of a subsidiary or associate of the landlord, or
 - (d) any other person whom the appointed person has reason to believe is or may be in possession of information of relevance to the inquiry,
- impose on the landlord or person a requirement specified in sub-paragraph (4).
- (4) That requirement is a requirement to—
- (a) give to the appointed person, at a time and place and in the form and manner specified in the notice, such information relating to the affairs of the registered social landlord, or of any other such body as is referred to in sub-paragraph (2), as may be specified or described in the notice, and
 - (b) produce to the appointed person, at a time and place specified in the notice, any documents relating to such affairs which are specified or described in the notice and are in that person's custody or under that person's control.
- (5) An association or other person who fails without reasonable excuse to comply with the requirements of a notice under sub-paragraph (3) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) Where by virtue of sub-paragraph (3) any books, accounts or other documents are produced to the appointed person, that person may take copies of or make extracts from them.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) The appointed person may, if that person thinks fit during the course of the inquiry, make one or more interim reports to the Scottish Ministers on such matters as appear to the appointed person to be appropriate.
- (8) On completion of the inquiry the appointed person must make a report to the Scottish Ministers on such matters and in such form as they may specify.
- (9) The Scottish Ministers may publish the report, or such part of it as they think fit.
- (10) In this paragraph “agent” includes banker, solicitor and auditor.
- (11) Nothing in this paragraph authorises the appointed person to require—
 - (a) the disclosure of anything which a person would be entitled to refuse to disclose on the ground of confidentiality in proceedings in the Court of Session, or
 - (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by the banker to a person other than a registered social landlord or a subsidiary or associate of a registered social landlord.

Extraordinary audit for purposes of inquiry

- 17
- (1) For the purposes of an inquiry under paragraph 16 the Scottish Ministers may require the accounts and balance sheet of the registered social landlord concerned, or such of them as the Scottish Ministers may specify, to be audited by a qualified auditor appointed by the Scottish Ministers.
 - (2) A person is a qualified auditor for this purpose if that person would be eligible for appointment as auditor of the ordinary accounts of the registered social landlord.
 - (3) On completion of the audit the appointed auditor must make a report to the Scottish Ministers on such matters and in such form as they may specify.
 - (4) The expenses of the audit, including the remuneration of the auditor, are to be paid by the Scottish Ministers.
 - (5) An audit under this paragraph is additional to, and does not affect, any audit made or to be made under any other enactment.

General powers exercisable as a result of inquiry or audit

- 18
- (1) Where the Scottish Ministers are satisfied, as the result of an inquiry under paragraph 16 or an audit under paragraph 17, that there has been misconduct or mismanagement in the affairs of a registered social landlord, they may—
 - (a) remove any officer, agent or employee of the landlord who appears to the Scottish Ministers to have been responsible for or privy to the misconduct or mismanagement or to have by that person’s conduct contributed to it or facilitated it,
 - (b) suspend such a person for up to six months—
 - (i) pending determination whether the person should be removed, and
 - (ii) if it is determined that the person should be removed, pending the person’s removal,
 - (c) direct any bank or other person who holds money or securities on behalf of the landlord not to part with the money or securities without the approval of the Scottish Ministers,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, by or in the administration of the landlord without the approval of the Scottish Ministers.
- (2) If at any time the appointed person makes an interim report under paragraph 16(7) and, as a result of that interim report, the Scottish Ministers are satisfied that there has been misconduct or mismanagement as mentioned in sub-paragraph (1)—
- (a) the Scottish Ministers may at that time exercise any of the powers conferred by paragraphs (b) to (d) of that sub-paragraph, and
 - (b) in relation to the exercise at that time of the power conferred by sub-paragraph (1)(b), the reference in that provision to a period of six months is to be construed as a reference to a period beginning at that time and ending six months after the date of the report under paragraph 16(8).
- (3) Before exercising their power under sub-paragraph (1)(a) the Scottish Ministers must give at least 14 days' notice of their intention to do so to the person they intend to remove and to the registered social landlord.
- (4) Notice under sub-paragraph (3) may be given by post, and if so given to the person whom the Scottish Ministers intend to remove may be addressed to that person's last known address in the United Kingdom.
- (5) A person who is removed under sub-paragraph (1)(a) or suspended under sub-paragraph (1)(b) may appeal to the Court of Session.
- (6) Where a person is suspended under sub-paragraph (1)(b), the Scottish Ministers may give directions with respect to the performance of the person's functions and otherwise as to matters arising from the suspension.
- (7) A person who fails to comply with a direction under sub-paragraph (1)(c) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months or both.

Power to direct transfer of land

- 19 (1) Where, as the result of an inquiry under paragraph 16 or an audit under paragraph 17, the Scottish Ministers are satisfied as regards a registered social landlord—
- (a) that there has been misconduct or mismanagement in its administration, or
 - (b) that the management of its land would be improved if some or all of its land were transferred in accordance with the provisions of this paragraph,
- the Scottish Ministers may direct the registered social landlord to make such a transfer to a specified registered social landlord.
- (2) The Scottish Ministers must, before making a direction under this paragraph, consult the tenants of any houses included in the proposed transfer; and, in making a direction, they must have regard to the views expressed by those consulted.
- (3) A transfer in pursuance of a direction under this paragraph is to be made on the terms that the transferee will pay or undertake to pay to the registered social landlord concerned such sum (if any) as will be necessary to defray all its proper debts and liabilities (including debts and liabilities secured on the land) after taking into account any money or other assets belonging to the landlord.
- (4) If it appears to the Scottish Ministers likely that the registered social landlord concerned will as a result of the transfer be dissolved under the Industrial and

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Provident Societies Act 1965 (c.12) or wound up under the Insolvency Act 1986 (c.45), the Scottish Ministers must secure that the costs of the dissolution or winding up are taken into account in determining the sum payable to the landlord under sub-paragraph (3).

SCHEDULE 8

(introduced by section 64)

INSOLVENCY ETC. OF REGISTERED SOCIAL LANDLORDS

Commencement Information

I8 Sch. 8 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

Interpretation

- 1 (1) In this schedule—
- “disposal” means sale, lease, security, charge or any other disposal and includes the grant of an option,
 - “secured creditor” means a creditor who holds a security over land held by the landlord or any existing or future interest of the landlord in rents or other receipts from land,
 - “security” means any security or charge (including a floating charge).
- (2) The Scottish Ministers may make provision by order defining for the purposes of this schedule what is meant by a step to enforce a security over land.

Initial notice to be given to the Scottish Ministers

- 2 (1) Notice must be given to the Scottish Ministers—
- (a) by a person proposing to take any step to enforce a security over land held by a registered social landlord, before taking that step,
 - (b) where the landlord is a company [F30 registered under the Companies Act 2006], by a person proposing to apply for an administration order, before applying for the order,
 - (c) by a person proposing to present a petition for the winding up of the landlord, before presenting the petition,
 - (d) by the landlord, before passing a resolution for its winding up.
- (2) Sub-paragraph (1) does not require notice to be given in relation to a resolution for voluntary winding up where the consent of the Scottish Ministers is required under paragraph 9(4) or 10(6) of schedule 7.
- (3) Any action mentioned in sub-paragraph (1)(a) to (d) is ineffective if the notice required by that sub-paragraph to be given before taking it has not been given.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F30 Words in sch. 8 para. 2(1)(b) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 191\(6\)](#) (with art. 10)

Further notice to be given to the Scottish Ministers

- 3 (1) Notice must be given to the Scottish Ministers—
- (a) by a person who has taken any step to enforce a security over land held by a registered social landlord, as soon as may be after taking that step,
 - (b) where the landlord is a company [^{F31}registered under the Companies Act 2006], by the person who applied for an administration order, as soon as may be after the making of such an order,
 - (c) by the person who presented a petition for the winding up of the landlord, as soon as may be after the making of an order for such winding up,
 - (d) by the landlord, as soon as may be after passing a resolution for its winding up.
- (2) Failure to give notice required by sub-paragraph (1) does not affect the validity of the action in relation to which notice is required to be given.

Textual Amendments

F31 Words in sch. 8 para. 3(1)(b) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 191\(6\)](#) (with art. 10)

Moratorium on disposal of land etc.

- 4 (1) Where any of the actions mentioned in paragraph 3 is taken in relation to a registered social landlord, there is a moratorium on the disposal of land held by the landlord.
- (2) During the moratorium the consent of the Scottish Ministers under this paragraph is required for any disposal of land held by the landlord, whether by the landlord itself or any person having a power of disposal in relation to the land.
- (3) Such consent may be given in advance and may be given subject to conditions.
- (4) Sub-paragraph (2) does not apply to a disposal which, by virtue of section 67, does not require consent under section 66 (or, in the case of a disposal by a person other than the landlord, would not require such consent if the disposal were by the landlord).
- (5) This paragraph applies in relation to any existing or future interest of the landlord in rent or other receipts arising from land as it applies in relation to an interest in land.

Period of moratorium

- 5 (1) The moratorium under paragraph 4(1)—
- (a) begins when the action which brought about the moratorium is taken, and

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) ends at the end of the period of 56 days beginning with the day on which notice of its having been taken was given to the Scottish Ministers under paragraph 3,
subject to the following provisions.
- (2) The taking of any further action as mentioned in paragraph 3 at a time when a moratorium is already in force does not start a further moratorium or affect the duration of the existing one.
- (3) A moratorium may be extended from time to time with the consent of all the landlord's secured creditors.
- (4) Notice of any such extension must be given by the Scottish Ministers to—
- (a) the landlord, and
 - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or its land.
- (5) If during a moratorium the Scottish Ministers consider that the proper management of the landlord's land can be secured without making proposals under paragraph 6, they may, after consulting the person who took the action which brought about the moratorium, direct that the moratorium ceases to have effect.
- (6) When a moratorium comes to an end, or ceases to have effect under sub-paragraph (5), the Scottish Ministers must give notice of that fact to the landlord and the landlord's secured creditors.
- (7) Sub-paragraphs (8) to (11) apply where a moratorium comes to an end (but not when it ceases to have effect under sub-paragraph (5)).
- (8) A notice under sub-paragraph (6) must include information about the effect of sub-paragraphs (9) to (11).
- (9) If any further action mentioned in paragraph 3 is taken within the period of 3 years after the end of the original period of the moratorium, the moratorium may be renewed with the consent of all the landlord's secured creditors (which may be given before or after the step is taken).
- (10) Notice of any such renewal must be given by the Scottish Ministers to the persons to whom notice of an extension is required to be given under sub-paragraph (4).
- (11) If a moratorium ends without any proposals being agreed, then, for a period of 3 years, the taking of any further action mentioned in paragraph 3 does not start a further moratorium except with the consent of the landlord's secured creditors as mentioned in sub-paragraph (9).

Proposals as to ownership and management of landlord's land

- 6 (1) During a moratorium the Scottish Ministers may make proposals as to the future ownership and management of land held by the registered social landlord, designed to secure the continued proper management of the landlord's land by a registered social landlord.
- (2) In drawing up their proposals the Scottish Ministers—
- (a) must consult—
 - (i) the landlord and, so far as is practicable, its tenants, and

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) where the landlord is an industrial and provident society, the Financial Services Authority, and
 - (b) must have regard to the interests of all the landlord's creditors, both secured and unsecured.
- (3) No proposals are to be made under which—
- (a) a preferential debt (within the meaning of the Insolvency Act 1986 (c.45)) of the landlord is to be paid otherwise than in priority to debts which are not preferential debts, or
 - (b) a preferential creditor (within the meaning of that Act) is to be paid a smaller proportion of that creditor's preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.
- (4) So far as practicable no proposals are to be made which have the effect that unsecured creditors of the landlord are in a worse position than they would otherwise be.
- (5) The Scottish Ministers must serve a copy of their proposals on—
- (a) the landlord and its officers,
 - (b) the secured creditors of the landlord, and
 - (c) any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or its land,
- and must make such arrangements as they think fit for informing the members, tenants and unsecured creditors of the landlord of the proposals.

Effect of agreed proposals

- 7 (1) This paragraph applies where proposals made by the Scottish Ministers under paragraph 6 are agreed, with or without modifications, by all the secured creditors of the registered social landlord.
- (2) Once agreed, the proposals are binding on the Scottish Ministers, the landlord, all the landlord's creditors (whether secured or unsecured) and any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or its land.
- (3) It is the duty of—
- (a) the members of the committee, where the landlord is an industrial and provident society,
 - (b) the directors, where the landlord is a company [^{F32}registered under the Companies Act 2006],
- to co-operate in the implementation of the proposal; but this sub-paragraph does not require them to do anything contrary to any fiduciary or other duty owed by them.
- (4) The Scottish Ministers must serve a copy of the agreed proposals on—
- (a) the landlord and its officers,
 - (b) the secured creditors of the landlord,
 - (c) the liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or its land, and
 - (d) where the landlord is an industrial and provident society, the Financial Services Authority,
- and must make such arrangements as they think fit to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) The proposals may be subsequently amended with the consent of the Scottish Ministers and all the landlord's secured creditors.
- (6) Paragraph 6(2) to (5) and sub-paragraphs (2) to (4) of this paragraph apply in relation to the amended proposals as in relation to the original proposals.

Textual Amendments

F32 Words in sch. 8 para. 7(3)(b) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 191\(6\)](#) (with art. 10)

Appointment of manager to implement agreed proposals

- 8 (1) Where the proposals agreed as mentioned in paragraph 7 so provide, the Scottish Ministers may appoint a manager to implement the proposals or such of them as they may specify.
- (2) Where proposals make provision for the appointment of a manager, they must also provide for the payment of the manager's reasonable remuneration and expenses.
- (3) The Scottish Ministers may give the manager directions in relation to the carrying out of the manager's functions; and the manager must comply with any such direction.
- (4) The manager may apply to the Court of Session for directions in relation to any particular matter arising in connection with the carrying out of the manager's functions; and a direction of the Court of Session supersedes any direction of the Scottish Ministers in relation to the same matter.
- (5) If a vacancy occurs by death, resignation or otherwise in the office of manager, the Scottish Ministers may fill the vacancy.

Powers of the manager

- 9 (1) A manager appointed under paragraph 8(1) has power generally to do all such things as are necessary for carrying out the manager's functions.
- (2) That power includes, in particular, power—
 - (a) to take possession of the land held by the landlord and for that purpose to raise any legal proceedings which the manager thinks fit,
 - (b) to sell or otherwise dispose of the land by public auction or private contract,
 - (c) to raise or borrow money and for that purpose to grant security over the land,
 - (d) to appoint a solicitor or accountant or other professionally qualified person to assist in the performance of the manager's functions,
 - (e) to raise or defend legal proceedings relating to the land in the name and on behalf of the landlord,
 - (f) to refer to arbitration any question affecting the land,
 - (g) to effect and maintain insurance in respect of the land,
 - (h) where the landlord is a body corporate, to use the seal of the body corporate for purposes relating to the land,
 - (i) to do all acts and to execute in the name of the landlord any deed or other document relating to the land,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (j) to appoint an agent to do anything which the manager is unable to do personally or which can more conveniently be done by an agent, and to employ and dismiss any employees,
 - (k) to do all such things (including the carrying out of works) as may be necessary in connection with the management or transfer of the land,
 - (l) to make any payment which is necessary for, or incidental to, the performance of the manager's functions,
 - (m) to carry on the business of the landlord so far as relating to the management or transfer of the land,
 - (n) to grant or accept a renunciation of a lease or tenancy of any of the land, and to enter into a lease or tenancy of any property required or convenient for the landlord's housing activities,
 - (o) to make any arrangement or compromise on behalf of the landlord in relation to the management or transfer of the land,
 - (p) to do all other things incidental to the exercise of any of the above powers.
- (3) In carrying out functions the manager acts as the landlord's agent; and the manager is not personally liable on a contract entered into as manager.
- (4) A person dealing with the manager in good faith and for value is not concerned to inquire whether the manager is acting within the powers conferred by virtue of this paragraph.
- (5) The manager must, so far as practicable, consult the landlord's tenants about any proposed exercise of the manager's powers which is likely to affect them and, if the proposed exercise takes place, inform them of its effect.

Powers of the manager: transfer of engagements

- 10 (1) Where the landlord is an industrial and provident society, the manager may make and execute on behalf of the society an instrument transferring the engagements of the society.
- (2) Any such instrument has the same effect as a transfer of engagements under section 51 or 52 (transfer of engagements by special resolution to another society or company) of the Industrial and Provident Societies Act 1965 (c.12) and, in particular, has effect subject to section 54 (saving for rights of creditors) of that Act.
- (3) A copy of the instrument, signed by the manager, must be sent to the Financial Services Authority and registered by the Authority; and the instrument does not take effect until the copy is so registered.
- (4) The manager must send a copy for registration within 14 days from the day on which the instrument is executed; but this does not invalidate registration after that time.

Assistance by the Scottish Ministers

- 11 (1) The Scottish Ministers may give such assistance as they think fit—
- (a) to the landlord, for the purpose of preserving the position pending the making of and agreement to the proposals,
 - (b) to the landlord or a manager appointed under paragraph 8(1), for the purpose of carrying out any agreed proposals.
- (2) The Scottish Ministers may, in particular—

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) lend staff,
- (b) pay or secure the payment of the manager's reasonable remuneration and expenses,
- (c) give such financial assistance as they think fit.

Application to court to secure compliance with agreed proposals

- 12 (1) The landlord or any creditor of the landlord may apply to the Court of Session on the ground that an action of the manager appointed under paragraph 8(1) is not in accordance with the agreed proposals.
- (2) The court may, on such an application, confirm, modify or reduce any act or decision of the manager, give the manager directions or make such other order as it thinks fit.
- (3) The Scottish Ministers or any other person bound by agreed proposals may apply to the Court of Session on the ground that any action, or proposed action, by another person bound by the proposals is not in accordance with those proposals.
- (4) The court may, on such an application—
- (a) declare any such action to be of no effect, and
 - (b) make such order (whether by way of interdict, award of damages or otherwise) as the court thinks fit.

SCHEDULE 9

(introduced by section 76)

CONSULTATION BEFORE CERTAIN DISPOSALS BY LOCAL
 AUTHORITY LANDLORD OR REGISTERED SOCIAL LANDLORD

Commencement Information

I9 Sch. 9 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

Disposals to which this schedule applies

- 1 (1) This schedule applies to a disposal by—
- (a) a local authority landlord under section 12 of the 1987 Act, or
 - (b) a registered social landlord under section 65 of this Act,
- of an interest in land as a result of which a tenant of the landlord under a Scottish secure tenancy will cease to be a tenant of that landlord.
- (2) Where a disposal of land is in part a disposal to which this section applies, this schedule applies to that part as to a separate disposal.

Application for consent of the Scottish Ministers

- 2 (1) The Scottish Ministers must not entertain an application for consent under section 12(7) of the 1987 Act or section 66 of this Act to a disposal to which this

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

schedule applies unless the local authority landlord or, as the case may be, the registered social landlord certifies that—

- (a) the requirements of paragraph 3 as to consultation have been complied with, or
 - (b) the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the house in question before the disposal.
- (2) The certificate must be accompanied by a copy of the notices given, and the results of the ballot held, by the landlord in accordance with that paragraph.
- (3) Where the certificate is in the form mentioned in sub-paragraph (1)(b), the Scottish Ministers must not determine the application until the landlord certifies as regards the tenants not originally consulted—
- (a) that they have vacated the house in question, or
 - (b) that the requirements of paragraph 3 as to consultation have been complied with.
- (4) A certificate under sub-paragraph (3)(b) must be accompanied by a copy of the notices given, and the results of the ballot held, by the landlord in accordance with paragraph 3.

Requirements as to consultation

- 3 (1) The requirements as to consultation referred to in paragraph 2 are as follows.
- (2) The landlord must serve on the tenant notice in writing informing the tenant of—
- (a) such details of the proposal as the landlord considers appropriate, but including the identity of the person to whom the disposal is to be made,
 - (b) the likely consequences of the disposal for the tenant, and
 - (c) the right of the tenant, within such reasonable period as is specified (which must be at least 28 days after the service of the notice), to make representations to the landlord.
- (3) The landlord must consider any representations made to it within that period and must serve on the tenant a further written notice informing the tenant of—
- (a) any significant changes in the proposal,
 - (b) the right of the tenant, within such reasonable period as is specified (which must be at least 28 days after the service of the notice), to communicate to the Scottish Ministers any objection to the proposal, and
 - (c) the effect of paragraph 5 (consent to be withheld unless majority of tenants expressing a view on a ballot wish disposal to proceed).
- (4) The landlord must—
- (a) conduct a ballot of the tenants of the houses to which the application relates on the question whether the tenants wish the disposal to proceed, and
 - (b) inform the Scottish Ministers of the results of the ballot.
- (5) The Scottish Ministers may issue guidance as to—
- (a) the conduct of a ballot under sub-paragraph (4),
 - (b) the form and manner in which the landlord is to inform the Scottish Ministers of the results of the ballot,
- and the landlord must have regard to such guidance.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Power to require further consultation

- 4 The Scottish Ministers may require the landlord to carry out such further consultation with its tenants, and to give them such information as to the results of that consultation, as they may direct.

Consent to be withheld unless majority of tenants in favour

- 5 (1) The Scottish Ministers must not give their consent unless they are satisfied that a majority of the tenants who voted in the ballot under paragraph 3(4) wish the disposal to proceed; but this does not affect their general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.
- (2) The Scottish Ministers may issue guidance as to the information about the results of the ballot under paragraph 3(4) which they require in considering whether they are satisfied as mentioned in sub-paragraph (1).
- (3) In making their decision the Scottish Ministers may have regard to any information available to them; and the landlord must give the Scottish Ministers such information as to the representations made to it by tenants and others, and other relevant matters, as they may require.

Protection of purchasers

- 6 The Scottish Ministers' consent to a disposal is not invalidated by a failure on their part or that of the landlord to comply with the requirements of this schedule.

SCHEDULE 10

(introduced by section 112)

MODIFICATION OF ENACTMENTS

New Towns (Scotland) Act 1968 (c.16)

- 1 In the New Towns (Scotland) Act 1968, in—
- (a) section 36B (additional power to dispose of property etc.), and
 - (b) section 36D (transfer orders),
- the words “Scottish Homes,” in each place where they occur are repealed.

Commencement Information

I10 [Sch. 10 para. 1](#) wholly in force at 1.11.2001, see [s. 113](#) and [S.S.I. 2001/397](#), [art. 2\(2\)](#), [Sch.](#) (subject to transitional provisions in [arts. 3-6](#))

Friendly and Industrial and Provident Societies Act 1968 (c.55)

- 2 In section 4A(3) (societies to which power to disapply section 4 does not apply) of the Friendly and Industrial and Provident Societies Act 1968—
- (a) in paragraph (b), for “, the Secretary of State or Scottish Homes” substitute “ or the Secretary of State ”,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) after that paragraph insert—
- “(ba) is registered in the register of social landlords maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10),”.

Commencement Information

- I11** Sch. 10 para. 2 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

Land Compensation (Scotland) Act 1973 (c.56)

- 3 In the Land Compensation (Scotland) Act 1973—
- (a) in section 27(1)(f) (right to home loss payment), for the words from “48(2)” to “3” substitute “ 16(2) of the Housing (Scotland) Act 2001 (asp 10) on the ground set out in paragraph 10 of schedule 2 ”,
- (b) in section 29(7AA) (supplementary provisions about home loss payments)—
- (i) for the words from “47” to “3” substitute “ 14 of the Housing (Scotland) Act 2001 (asp 10) on the tenant specifying the ground set out in paragraph 10 of schedule 2 ”,
- (ii) for “15(2)” substitute “ 16(2) ”.

Commencement Information

- I12** Sch. 10 para. 3 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Land Tenure Reform (Scotland) Act 1974 (c.38)

- 4 In section 8(7) (savings) of the Land Tenure Reform (Scotland) Act 1974, for “secure tenancy within the meaning of the Housing (Scotland) Act 1987” substitute “ Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10) ”.

Commencement Information

- I13** Sch. 10 para. 4 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PROSPECTIVE

House of Commons Disqualification Act 1975 (c.24)

- 5 In Part II of Schedule 1 (offices disqualifying for membership) to the House of Commons Disqualification Act 1975, the entry relating to Scottish Homes is repealed.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

Local Government (Scotland) Act 1975 (c.30)

- 6 In section 23(1) (authorities subject to investigation by the Commissioner for Local Administration) of the Local Government (Scotland) Act 1975, paragraph (g) is repealed.

Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c.59)

- 7 In section 13(11) (assessment of compensation on transfer of secure tenancy) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981—
- (a) for “secure tenancy within the meaning of Part III of the Housing (Scotland) Act 1987” substitute “ Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10) ”,
 - (b) for “Part I of that Act” substitute “ Part III of the Housing (Scotland) Act 1987 (c.26) ”.

Commencement Information

- I14** Sch. 10 para. 7 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PROSPECTIVE

Finance Act 1981 (c.35)

- 8 In section 107(3) (sale of houses at discount by local authorities etc.) of the Finance Act 1981, paragraph (d) is repealed.

Rent (Scotland) Act 1984 (c.58)

- 9 (1) The Rent (Scotland) Act 1984 is amended as follows.
- (2) In section 5(5A) (tenancy under a shared ownership agreement not to be a protected tenancy), for “section 106(2) of the Housing Associations Act 1985” substitute “ section 83(3) of the Housing (Scotland) Act 2001 (asp 10) ”.
 - (3) In section 23A (excluded tenancies and occupancy rights)—
 - (a) after subsection (4) insert—
 - “(4A) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it was granted, for a term of less than 6 months, to a person—
 - (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or

Status: Point in time view as at 01/10/2009.

Changes to legislation: *Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority's functions under that paragraph.”
 - (b) subsection (5)(e) is repealed.
- (4) In section 55 (tenancies to which sections 55 to 59 apply), for “section 106(2) of the Housing Associations Act 1985” substitute “ section 83(3) of the Housing (Scotland) Act 2001 (asp 10) ”.

Commencement Information

I15 Sch. 10 para. 9 wholly in force at 30.9.2002; para. 9 not in force at Royal Assent see s. 113(1)(2); para. 9 in force for the purposes of para. 9(2)(4) at 1.11.2001 by S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b)); para. 9 in force for the purposes of para. 9(3) at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Bankruptcy (Scotland) Act 1985 (c.66)

- 10 In section 31(9) (tenancies excluded from the whole estate of the debtor) of the Bankruptcy (Scotland) Act 1985, for paragraph (c) substitute—
- “(c) a Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10).”

Commencement Information

I16 Sch. 10 para. 10 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Housing Associations Act 1985 (c.69)

- 11 (1) The Housing Associations Act 1985 is amended as follows.
- (2) In section 1(1) (definition of “housing association”), the words “but does not include Scottish Homes” are repealed.
 - (3) In section 2B (definition of “registered housing association” etc.)—
 - (a) in the definition of “registered housing association”, for the words “maintained by Scottish Homes under section 3” substitute “ of social landlords maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10) ”,
 - (b) the definition of “registered social landlord” is repealed,
 - (c) in the definition of “unregistered”, for the words from “maintained by Scottish Homes” to the end substitute “ of social landlords maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10) ”.
 - (4) The following provisions are repealed—
 - sections 3 to 33,
 - sections 36A to 40,
 - sections 59 to 61,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

in section 106(2), the definition of “shared ownership agreement”,
 section 106(3).

Commencement Information

I17 Sch. 10 para. 11 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

Housing (Scotland) Act 1986 (c.65)

12 Section 13(2) (amendment of section 106(2) of the Housing Associations Act 1985) of the Housing (Scotland) Act 1986 is repealed.

Commencement Information

I18 Sch. 10 para. 12 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

Housing (Scotland) Act 1987 (c.26)

- 13 (1) The Housing (Scotland) Act 1987 is amended as follows.
- (2) Sections 1, 12A and 17C are repealed.
- (3) In section 21 (publication of rules relating to the housing list and to transfer of tenants)—
- (a) in subsection (1), paragraphs (a)(i) and (b) are repealed,
 - (b) in subsection (2), for the words from “housing” to the end of paragraph (a) substitute “social landlord—
 - (a) to make rules governing the matters mentioned in subsection (1)(a)(ii) to (iv);”,
 - (c) in subsection (3)—
 - (i) paragraph (i) is repealed,
 - (ii) for paragraph (ia) substitute—
 - “(ia) the Scottish Ministers;”,
 - (iii) in paragraph (ii), for “the association under a” substitute “ a registered social landlord under a Scottish ”.
- (4) Sections 22 and 22A are repealed.
- (5) Sections 44 to 60 are repealed.
- (6) In section 61 (secure tenant’s right to purchase)—
- (a) in subsection (2)—
 - (i) before “secure” insert “ Scottish ”,
 - (ii) after sub-paragraph (i) of paragraph (a) insert—
 - “(ia) a registered social landlord; or”,
 - (iii) sub-paragraphs (iii) to (ix) of that paragraph and, in each case, the preceding “or” are repealed,
 - (iv) in paragraph (b), the words from “or” to the end are repealed,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) for subsection (2A) substitute—
 - “(2A) For the purposes of subsection (2)(c), where the house was provided by a body which, at any time while the house was so provided, was not a registered social landlord, the body shall, if it became a registered social landlord at any later time, be deemed to have been a registered social landlord.”,
 - (c) in subsection (3)—
 - (i) after “a” in the second place where it occurs insert “ Scottish ”,
 - (ii) after “of” in the second place where it occurs insert “ Scottish ”,
 - (iii) for paragraph (b) substitute—
 - “(b) the words “beyond 5” in section 62(3)(b) and “after 5” in section 62(5)(b) shall not have effect.”,
 - (d) subsections (4A) and (7) to (9) are repealed,
 - (e) in subsection (11), after paragraph (a) insert—
 - “(aa) a registered social landlord;”.
- (7) In section 62 (the price)—
- (a) in subsection (2), for “section 58” substitute “ section 29 of the Housing (Scotland) Act 2001 (asp 10) ”,
 - (b) for paragraph (b) of subsection (4) substitute—
 - “(b) where the house was provided by a body which, at any time while the house was so provided, was not a registered social landlord, the body shall, if it became a registered social landlord at any later time, be deemed to have been a registered social landlord at all times since it first provided the house”.
- (8) In section 63 (application to purchase and offer to sell)—
- (a) in subsection (1), paragraph (d) and the preceding “and” are repealed,
 - (b) subsections (2)(cc) and (3) are repealed.
- (9) In section 66(1) (notice of acceptance)—
- (a) the words “, subject to section 67(1),”, and
 - (b) paragraphs (vi) and (vii),
- are repealed.
- (10) Section 67 is repealed.
- (11) In section 71 (reference to Lands Tribunal)—
- (a) in subsection (1)—
 - (i) in paragraph (a), the words “or amended offer” in both places where they occur are repealed,
 - (ii) in paragraph (d), the words “or amended offer” in the first place where they occur and the words from “and, in the case” to the end are repealed,
 - (b) in subsection (2)—
 - (i) in paragraph (a)(ii), for “67” substitute “ 66C ”,
 - (ii) in paragraph (b), the words “or amended offer” and the words from “and, in the case” to “63(3)” are repealed.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (12) In section 74 (duties of landlord), the words “and section 216” are repealed.
- (13) In section 75(1) (agreements affecting right to purchase), the words “, 67(1)” are repealed.
- (14) Sections 75A and 76 are repealed.
- (15) In section 79(2)(a) (proceedings for which financial and other assistance may be given), the words “and section 216” are repealed.
- (16) In section 81(1) (information from landlords), the words “and section 216” are repealed.
- (17) Sections 81A and 81B are repealed.
- (18) In section 82 (interpretation of Part III)—
 - (a) for “20, 214 and 216” substitute “ and 20 ”,
 - (b) the definitions of “rent to loan purchaser” and “rent to loan scheme” are repealed.
- (19) In section 84(1) (service of notices), the words “or of section 216” are repealed.
- (20) In section 84A(1) (application of right to buy to cases where landlord is lessee)—
 - (a) the words “and 216” are repealed,
 - (b) in paragraph (a), after “a”, in the second place where it occurs, insert “ Scottish ”.
- (21) In section 212(5) (rent increase notice provisions not to apply to secure tenancies), after “a” insert “ Scottish ”.
- (22) Section 214(9) (advances for purpose of rent to loan scheme) is repealed.
- (23) In section 238 (powers of local authority)—
 - (a) in subsection (1), for “such an application” substitute “ an application under section 237 ”,
 - (b) in subsection (2), after “shall” insert “ , subject to this Part, ”.
- (24) In section 239A (power to give directions to avoid duplications of grant)—
 - (a) in subsection (1)—
 - (i) after paragraph (a), insert “ and ”,
 - (ii) paragraph (c) and the preceding “and” are repealed,
 - (b) in subsection (2), the words “of Scottish Homes and” are repealed.
- (25) In section 242 (amount of improvement grant)—
 - (a) subsection (3) is repealed,
 - (b) in subsection (6), the words “252(4)” are repealed,
 - (c) subsections (7) and (8) are repealed,
 - (d) in subsection (9), the words “or (3)” are repealed.
- (26) In section 243(1)(b) (payment of improvement grant), the words “section 242(1), or, as the case may be,” are repealed.
- (27) In section 244 (provision of standard amenities)—
 - (a) subsection (6) is repealed,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in subsection (7), the words from “which” to the end are repealed,
 - (c) subsections (8), (10)(b) and (11) are repealed,
 - (d) in subsection (12), for the words from “or (10)(b)” to the end substitute “ shall be prescribed by order of the Scottish Ministers; and different provision may be made for different cases or descriptions of case. ”,
 - (e) in subsection (13), the words “(8) or” are repealed.
- (28) In section 246(2)(b) (conditions to be observed regarding improvement grants), for “Part V of the Capital Gains Tax Act 1979” substitute “ Part VII of the Taxation of Chargeable Gains Act 1992 ”.
- (29) In section 247(1) (voluntary repayment of improvement grants), for “7” substitute “ 6 ”.
- (30) In section 248 (repairs grants), subsections (3), (4), (6)(b) and (7) to (11) are repealed.
- (31) In section 249 (grants for fire escapes)—
- (a) subsections (4) and (5) are repealed,
 - (b) in subsection (8), the words “(a) or (b)” are repealed,
 - (c) subsections (9) and (10) are repealed.
- (32) In section 250 (application to housing action areas)—
- (a) in subsection (1), for “(2) to” substitute “ (6) and ”,
 - (b) subsections (2) to (5) and (7)(b) and (c) are repealed.
- (33) In section 251(2) (powers of local authorities for the improvement of amenities) of that Act, for “this” substitute “ that ”.
- (34) In section 256 (application to agricultural tenants etc.)—
- (a) in subsection (1), for “Crofters (Scotland) Acts 1955 and 1961” substitute “ Crofters (Scotland) Act 1993 (c.44) ”,
 - (b) in subsection (3), for “Crofters (Scotland) Act 1955 and 1961” substitute “ Crofters (Scotland) Act 1993 (c.44) ”.
- (35) For section 256A (application of Part XIII to Scottish Homes) substitute—

“256A Application of this Part to the Scottish Ministers

Any power of a local authority to make grants, and any function of a local authority in relation to the making of grants, under this Part is exercisable by the Scottish Ministers as it is by the local authority.”

- (36) In section 276 (repurchase by authority other than local authority, in the Table—
- (a) in entry 1 (registered housing associations etc.), in column 1, for the words from “housing” in the first place where it occurs to the end substitute “ social landlord or a predecessor of that landlord ”,
 - (b) entry 2 (Scottish Homes and the Scottish Special Housing Association) is repealed.
- (37) In subsection (1) of section 281 (effect of repurchase on certain tenancies)—
- (a) for the words from “44” to “tenancy” substitute “ 11(1)(b) (Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) ”,
 - (b) after “a” in the fifth place where it occurs insert “ Scottish ”.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (38) In section 282 (grant of tenancy to former owner-occupier)—
- (a) in subsection (2)—
 - (i) for the words from “44(2)” to “tenancies)” substitute “ 11(1)(b) (Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) ”,
 - (ii) after “a” insert “ Scottish ”,
 - (b) in subsection (3)(a), after “a” insert “ Scottish ”.
- (39) In section 283 (grant of tenancy to former statutory tenant)—
- (a) in subsection (1)—
 - (i) for the words from “44(2)” to “tenancies)” substitute “ 11(1)(b) (Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) ”,
 - (ii) for “secure tenancy” substitute “ Scottish secure tenancy ”,
 - (b) in subsection (3), after “a” in the third place where it occurs insert “ Scottish ”.
- (40) In section 286 (interpretation of sections 281 to 285)—
- (a) in paragraph (a), for “Part III (secure tenancies)” substitute “ the Housing (Scotland) Act 2001 (asp 10) ”,
 - (b) in paragraph (c), after “a” in the first and third places where it occurs insert “ Scottish ”.
- (41) In section 338(1) (interpretation)—
- (a) after the definition of “registered housing association” insert—
 - ““registered social landlord” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10);”,
 - (b) after the definition of “road” insert—
 - ““Scottish secure tenancy” and “short Scottish secure tenancy” have the same meanings as in the Housing (Scotland) Act 2001 (asp 10);”,
 - (c) in the definition of “standard amenities”, for “244(5)” substitute “ 244(1A) ”.
- (42) Schedules 2 to 5, 6A and 18 are repealed.

Commencement Information

- I19** Sch. 10 para. 13 partly in force; Sch. 10 para. 13 not in force at Royal Assent, see s. 113(1)(2); para. 13(24)(35) in force at 1.11.2001 by S.S.I. 2001/336, art. 2(3), Sch. Pt. I (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b)); para. 13(2)(17)(42) in force for specified purposes at 19.12.2001 by S.S.I. 2001/467, art. 2(2), Sch. (subject to transitional provisions in art. 3); para. 13(3) in force at 1.4.2002 by S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3); para. 13(5)-(22) and para. 13(36)-(41)(b) wholly in force and para. 13(42) in force for specified purposes at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5); para. 13(4) in force at 30.9.2002 by S.S.I. 2002/433, art. 2, Sch.
- I20** Sch. 10 para. 13(23)(25)-(34)(41)(c) in force at 1.10.2003 by S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)
- I21** Sch. 10 para. 13(42) in force at 1.10.2003 in so far as not already in force by S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Housing (Scotland) Act 1988 (c.43)

- 14 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) In section 1 (Scottish Homes)—
- (a) subsections (1) and (2) are repealed,
 - (b) in subsection (3)—
 - (i) for “Scottish Homes”, in the first place where those words occur, substitute “ the Scottish Ministers ”,
 - (ii) paragraph (b) is repealed,
 - (iii) in paragraph (e), for “housing associations”, in each place where those words occur, substitute “ social landlords ”,
 - (iv) paragraph (g) is repealed.
- (3) In section 2 (general functions of Scottish Homes)—
- (a) subsection (1) is repealed,
 - (b) in subsection (2)—
 - (i) for the words from the beginning to “Scottish Homes” substitute “ For the purposes of the exercise of their general functions under section 1(3), the Scottish Ministers, so far as they do not otherwise have power to do so, ”,
 - (ii) in paragraph (h), for “it” substitute “ them ”,
 - (iii) in each of paragraphs (m) and (t), for “its” substitute “ their ”,
 - (iv) in each of paragraphs (s), (u) and (v), for “its general functions and powers” substitute “ their general functions under section 1(3) ”,
 - (v) in paragraph (t), for “it thinks” substitute “ they think ”,
 - (vi) in paragraph (u), for “it”, in the first place where it occurs, substitute “ them ”,
 - (vii) in paragraph (v), for “its”, in the first place where it occurs, substitute “ their ”,
 - (c) subsections (3) to (5), (7), (10) and (11) are repealed.
- (4) Sections 2A to 8, 10 and 11 are repealed.
- (5) In section 56 (right to acquire)—
- (a) in subsection (1), the words “or Scottish Homes” are repealed,
 - (b) in subsection (3), paragraph (e) is repealed,
 - (c) in subsection (4), for the words “secure tenant” substitute “ tenant under a Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10) ”.
- (6) In section 57 (persons by whom right may be exercised)—
- (a) in subsection (1)—
 - (i) for “Scottish Homes” in the first place where those words occur substitute “ the Scottish Ministers ”,
 - (ii) the words “or by Scottish Homes” and “(other than Scottish Homes)” are repealed,
 - (b) in subsection (3), for “Scottish Homes” substitute “ the Scottish Ministers ”.
- (7) In section 58 (application to exercise right and offer to sell)—

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in subsection (1), the words “or, as the case may be, Scottish Homes” are repealed,
 - (b) in subsection (2), at the end insert “ and a person living with the tenant or joint tenant in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex ”,
 - (c) in subsection (3), for the words from “on Scottish Homes” to the end substitute “ the Scottish Ministers ”,
 - (d) in subsection (7)(c), the words “Scottish Homes or” are repealed,
 - (e) in subsection (8)(a), the words “Scottish Homes or” in both places where they occur are repealed.
- (8) In section 63 (consent for subsequent disposal)—
- (a) in subsection (1)—
 - (i) the words “other than Scottish Homes” are repealed,
 - (ii) for “Scottish Homes” in the second place where those words occur substitute “ the Scottish Ministers ”,
 - (b) in subsection (2A)—
 - (i) for “Scottish Homes” substitute “ the Scottish Ministers ”,
 - (ii) for “itself” substitute “ themselves ”,
 - (c) in subsection (3), for the words from “Scottish Homes” to “dispositions)” substitute “ the Scottish Ministers under section 66 of the Housing (Scotland) Act 2001 (asp 10) (consent for disposal by registered social landlord) ”.
- (9) In section 65 (cost floor limit on discount on price of house purchased by secure tenant), subsection (5) is repealed.
- (10) Schedule 1 is repealed.
- (11) In Schedule 2 (consequential amendments), paragraphs 2, 3(a), 4, 6 and 14 are repealed.
- (12) In Schedule 4 (tenancies which cannot be assured tenancies)—
- (a) in paragraph 11—
 - (i) sub-paragraphs (b) to (d) are repealed,
 - (ii) after sub-paragraph (e) insert—
 - “(ea) a registered social landlord within the meaning of the Housing (Scotland) Act 2001 (asp 10);”,
 - (iii) sub-paragraph (f) is repealed,
 - (b) after paragraph 11 insert—

“Accommodation for offenders

- 11A A tenancy granted, for a term of less than 6 months, to a person—
- (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or
 - (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- by a local authority in pursuance of the authority's functions under that paragraph.”,
- (c) in paragraph 12, for “the Housing Associations Act 1985” substitute “section 83(3) of the Housing (Scotland) Act 2001 (asp 10)”.
- (13) In Part III (suitable alternative accommodation) of Schedule 5 (grounds for possession of houses let on assured tenancies)—
- (a) in paragraph 1—
- (i) the words “or, in any case, of Scottish Homes” are repealed,
- (ii) for “, the Corporation or, as the case may be, Scottish Homes,” substitute “ or the Corporation, ”,
- (b) in paragraph 3—
- (i) in sub-paragraph (1)(a), the words “or by Scottish Homes” are repealed,
- (ii) in sub-paragraph (2), the words “or of Scottish Homes” are repealed,
- (c) in paragraph 5, the words “or of Scottish Homes” are repealed,
- (d) in paragraph 6, for “, development corporations and Scottish Homes” substitute “ and development corporations ”.
- (14) In Schedule 7 (amendments of Housing (Scotland) Act 1987 connected with consolidation), paragraphs 1 and 2 are repealed.
- (15) In Schedule 9 (consequential amendments), paragraphs 6, 8 to 10 and 21 are repealed.

Commencement Information

- I22** Sch. 10 para. 14 partly in force; Sch. 10 para. 14 not in force at Royal Assent see s. 113; para. 14(5)(a)(6)-(8)(12)(c) wholly in force and para. 14(11)(15) in force for specified purposes at 1.11.2001 by S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(a)(b)); para. 14(2)-(4)(10) in force at 1.11.2001 by S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6); para. 14 (5)(c)(9)(12)(14)(15) in force at 30.9.2002 by S.S.I. 2002/321, {art. 2,} Sch. (subject to transitional provisions and savings in arts.3-5) (as amended by S.S.I. 2002/433, art. 3(2))

Housing Act 1988 (c.50)

- 15 (1) The Housing Act 1988 is amended as follows.
- (2) Sections 48 and 49 are repealed.
- (3) In section 52 (recovery etc. of grants)—
- (a) in subsection (1), for “housing association” substitute “ social landlord ”,
- (b) in subsection (2)(c), for “association” in both places where it occurs substitute “ landlord ”,
- (c) in subsection (3)—
- (i) for “an association” substitute “ a registered social landlord ”,
- (ii) for “association” in the second place where it occurs insert “ landlord ”,
- (d) in subsection (4), for “an association” substitute “ a registered social landlord ”,

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (e) in subsection (5)—
 - (i) for “an association” substitute “ a registered social landlord ”,
 - (ii) for “housing association” substitute “ social landlord ”,
 - (iii) for “association” in the third and fourth places where it occurs substitute “ landlord ”,
 - (f) after subsection (9) insert—
 - “(10) In this section and section 53, “registered social landlord” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10).”
- (4) In section 53 (determinations)—
- (a) in subsection (1)(b), for “housing associations” substitute “ registered social landlords ”,
 - (b) in subsection (3)—
 - (i) for “housing associations” substitute “ registered social landlords ”,
 - (ii) for “associations” in the second place where it occurs substitute “ landlords ”.
- (5) Sections 54 and 55 are repealed.
- (6) In section 59 (interpretation of Part II and amendments of the Housing Associations Act 1985)—
- (a) in subsection (1)(b), for “Scottish Homes” substitute “ the Scottish Ministers ”,
 - (b) subsection (2)(b) is repealed.
- (7) Sections 128, 134 and 135 are repealed.
- (8) In Schedule 6 (amendments of Housing Associations Act 1985), paragraphs 3 to 22, 25 and 26 are repealed.
- (9) Schedule 16 is repealed.

Commencement Information

I23 [Sch. 10 para. 15](#) partly in force; [para. 15](#) not in force at Royal Assent see [s. 113\(1\)\(2\)](#); [para. 15\(2\)\(8\)](#) in force at 1.11.2001 by [S.S.I. 2001/336](#), [art. 2\(3\)](#), [Sch. Pt. II](#) (subject to transitional provisions in [art. 3](#)) (as amended by [S.S.I. 2001/397](#), [art. 7\(b\)](#)); [para. 15\(3\)\(4\)\(6\)](#) in force at 1.11.2001 by [S.S.I. 2001/397](#), [art. 2\(2\)](#), [Sch.](#) (subject to transitional provisions in [arts. 3-6](#)); [para. 15\(7\)\(9\)](#) wholly in force and [para.15\(5\)](#) in force for specified purposes at 30.9.2002 by [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

Local Government and Housing Act 1989 (c.42)

- 16 In the Local Government and Housing Act 1989, sections 177, 178(1), 179 and 181 are repealed.

Commencement Information

I24 [Sch. 10 para. 16](#) wholly in force at 30.9.2002, see [s. 113\(1\)\(2\)](#) and [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Social Security Administration Act 1992 (c.5)

- 17 In section 191 (interpretation) of the Social Security Administration Act 1992, in the definition of “housing authority”, for “, a new town corporation or Scottish Homes” substitute “ or a new town corporation ”.

Commencement Information

- I25** Sch. 10 para. 17 wholly in force at 1.4.2002, see s. 113(1)(2) and S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)

PROSPECTIVE

Taxation of Chargeable Gains Act 1992 (c.12)

- 18 (1) Section 218(4) (disposals of land between Scottish Homes and housing associations) of the Taxation of Chargeable Gains Act 1992 is repealed.
- (2) In section 219(2) (disposals by Scottish Homes) of that Act, for “the Secretary of State or Scottish Homes” substitute “ or the Secretary of State ”.

Local Government Finance Act 1992 (c.14)

- 19 (1) In section 75 (persons liable to pay council tax) of the Local Government Finance Act 1992—
- (a) in subsection (2)(c), after “resident” in the third place where it occurs insert “ Scottish ”,
- (b) in subsection (5), for the definition of “secure tenant” substitute—
- ““Scottish secure tenant” means a tenant under a Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10);”.
- (2) In section 99(1) (interpretation of Part II) of that Act, in the definition of “housing body”, paragraph (c) and the preceding “or” are repealed.

Commencement Information

- I26** Sch. 10 para. 19 partly in force; Sch. 10 para. 19 not in force at Royal Assent, see s. 113(1)(2); Sch. 10 para. 19(1) in force at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Leasehold Reform, Housing and Urban Development Act 1993 (c.28)

- 20 The following provisions of the Leasehold Reform, Housing and Urban Development Act 1993 are repealed—

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I27 Sch. 10 para. 20 wholly in force; Sch. 10 para. 20 not in force at Royal Assent, see s. 113(1)(2); para. 20 in force for specified purposes at 1.4.2002 by S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3); para. 20 in force insofar as not already in force at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Local Government etc. (Scotland) Act 1994 (c.39)

21 In Schedule 13 (minor and consequential amendments) to the Local Government etc. (Scotland) Act 1994, paragraph 152(8) is repealed.

Commencement Information

I28 Sch. 10 para. 21 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Requirements of Writing (Scotland) Act 1995 (c.7)

22 In Schedule 4 (minor and consequential amendments) to the Requirements of Writing (Scotland) Act 1995, paragraphs 59 and 60 are repealed.

Commencement Information

I29 Sch. 10 para. 22 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Children (Scotland) Act 1995 (c.36)

23 In Schedule 4 (minor and consequential amendments) to the Children (Scotland) Act 1995, paragraph 42 is repealed.

Commencement Information

I30 Sch. 10 para. 23 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Housing Act 1996 (c.52)

24 Paragraph 9 of Schedule 3 (social rented sector: minor amendments) to the Housing Act 1996 is repealed.

Commencement Information

I31 Sch. 10 para. 24 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Planning (Consequential Provisions) (Scotland) Act 1997 (c.11)

- 25 In Schedule 2 (consequential amendments) to the Planning (Consequential Provisions) (Scotland) Act 1997, paragraph 40(3) is repealed.

Commencement Information

- I32** Sch. 10 para. 25 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PROSPECTIVE

Data Protection Act 1998 (c.29)

- 26 In Schedule 12 (accessible public records) of the Data Protection Act 1998—
- (a) in the Table in paragraph 4, the entry “Scottish Homes” is repealed,
 - (b) in paragraph 5(3), the words “or Scottish Homes” and “or, as the case may be, Scottish Homes” are repealed.

Crime and Disorder Act 1998 (c.37)

- 27 In section 23 (anti-social behaviour as ground of eviction) of the Crime and Disorder Act 1998, subsections (1) to (3) are repealed.

Commencement Information

- I33** Sch. 10 para. 27 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

Public Finance and Accountability (Scotland) Act 2000 (asp 1)

- 28 (1) Paragraph 3 of schedule 1 (capital expenditure of, and borrowing by, certain statutory bodies) to the Public Finance and Accountability (Scotland) Act 2000 is repealed.
- (2) Paragraph 7 of schedule 4 (modification of enactments) to that Act is repealed.

Commencement Information

- I34** Sch. 10 para. 28 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6)

PROSPECTIVE

Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)

- 29 In schedule 3 (devolved public bodies) to the Ethical Standards in Public Life etc. (Scotland) Act 2000, the entry relating to Scottish Homes is repealed.

Status:

Point in time view as at 01/10/2009.

Changes to legislation:

Housing (Scotland) Act 2001 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.