

# HOUSING (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### STRUCTURE OF THE ACT

#### Part 16 – Miscellaneous

##### Protection of unauthorised tenants

177. [Section 152](#) provides increased protection for ‘unauthorised tenants’ (tenants who are granted a lease of a property in breach of their landlord’s standard security conditions), who are at risk of losing their home following repossession action against their landlord. It does so by bringing the protection recognised through the Tamroui case (a Sheriff Court decision, *Tamroui v Clydesdale Bank plc* 1997 (SLT (Sh.Ct.) 20)) onto a statutory basis. However, the provision in section 152 applies to all assured tenancies, whether they are authorised or unauthorised tenancies.
178. The amendments in section 152(1) and (2) confirm that any decree for repossession of a property granted in favour of a lender in proceedings under the Conveyancing and Feudal Reform (Scotland) Act 1970 or the Heritable Securities (Scotland) Act 1894 is not a warrant for the ejection of an assured tenant under the Housing (Scotland) Act 1988. This means that after obtaining a repossession decree against the borrower/landlord, the lender must raise further proceedings to evict any assured tenant under the 1988 Act. Subsection (3) ensures consistent application of the [Bankruptcy and Diligence \(Scotland\) Act 2007 \(asp 3\)](#) in relation to this principle that there is a requirement to get a separate decree of eviction against any assured tenant.