



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART III

#### RIGHTS OF PUBLIC SECTOR TENANTS

##### *Succession*

#### **52 Succession to secure tenancy**

- (1) On the death of a tenant under a secure tenancy, the tenancy shall pass by operation of law to a qualified person, unless—
  - (a) there is no qualified person, or the qualified person declines the tenancy under subsection (4); or
  - (b) the tenancy is terminated by operation of subsection (5).
- (2) For the purposes of this section, a qualified person is—
  - (a) a person whose only or principal home at the time of the tenant's death was the house and who was at that time either—
    - (i) the tenant's spouse; or
    - (ii) living with the tenant as husband and wife; and
  - (b) where the tenancy was held jointly by two or more individuals, a surviving tenant where the house was his only or principal home at the time of the tenant's death;
  - (c) where there is no person falling within paragraph (a) or (b), a member of the tenant's family who has attained the age of 16 years where the house was his only or principal home throughout the period of 12 months immediately preceding the tenant's death.
- (3) Where there is more than one qualified person, the benefit of the provisions of subsection (1) or, as the case may be, of subsection (6) shall accrue—
  - (a) to such qualified person; or
  - (b) to such two or more qualified persons as joint tenants,

---

*Status: This is the original version (as it was originally enacted).*

---

as may be decided by agreement between all the qualified persons or, failing agreement within 4 weeks of the death of the tenant, as the landlord shall decide.

- (4) A qualified person who is entitled to the benefit of subsection (1) may decline the tenancy by giving the landlord notice in writing within 4 weeks of the tenant's death, and—
- (a) he shall vacate the house within 3 months thereafter;
  - (b) he shall be liable to pay rent which becomes due after the said 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 he has occupied the house after the said death.
- (5) A secure tenancy which has passed under subsection (1) to a qualified person shall not, on the death of a tenant (or one of joint tenants) so pass on a second occasion, and accordingly the secure tenancy shall be terminated when such a death occurs; but the provisions of this subsection shall not operate so as to terminate the secure tenancy of any tenant under a joint tenancy where such a joint tenant continues to use the house as his only or principal home.
- (6) Where a secure tenancy is terminated by operation of subsection (5) and there is a qualified person, he shall be entitled to continue as tenant for a period not exceeding 6 months, but the tenancy shall cease to be a secure tenancy.
- (7) Where a tenant gives up a secure tenancy in order to occupy another house which is subject to a secure tenancy, whether by agreement or following termination of the first tenancy by an order under section 48(2)(b), for the purposes of subsections (2) and (5) those tenancies shall be treated as being a single secure tenancy.