

Changes to legislation: Housing (Scotland) Act 1988 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes

SCHEDULES

^{F1}SCHEDULE 1

Textual Amendments

- F1** Sch. 1 repealed (1.11.2001) by 2001 asp 10, s. 112, Sch. 10 para. 14(10); S.S.I. 2001/397, art. 2(2), Sch. Table (subject to transitional provisions in arts. 3-6)

Incorporation

- 1 Scottish Homes shall be a body corporate and shall have a common seal.

Status

- 2 Scottish Homes shall be a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.
- 3 It shall not—
- (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown;
 - (c) be exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local,
- and its property shall not be regarded as property of, or held on behalf of, the Crown.

Membership

- 4 (1) The members of Scottish Homes shall be—
- (a) not more than 9 persons appointed by the Secretary of State; and
 - (b) its chief executive (whose membership shall be ex officio).
- (2) The Secretary of State shall—
- (a) satisfy himself, before he appoints a person to be a member, that that person will have no such financial or other interest as is likely to affect prejudicially the performance of his functions as a member; and
 - (b) satisfy himself from time to time with respect to each member that he has no such interest,
- and a person who is a member or whom the Secretary of State proposes to appoint as a member shall, whenever requested by the Secretary of State to do so, furnish the Secretary of State with such information as he may consider necessary for the purpose of carrying out his duty under this paragraph.
- 5 (1) The members of Scottish Homes (other than the chief executive) shall, subject to the following provisions, hold and vacate office in accordance with the terms of their appointment.

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- (2) A member may resign his membership by written notice to the Secretary of State.
- (3) The Secretary of State may remove a member from office if he is satisfied that that member—
 - (a) has been adjudged bankrupt, or made an arrangement with his creditors, or had his estate sequestrated, or granted a trust deed for his creditors or a composition contract;
 - (b) is incapacitated by physical or mental illness;
 - (c) has been absent from meetings of Scottish Homes for a period longer than 3 consecutive months without the permission of Scottish Homes;
 - (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.

Chairman and Deputy Chairmen

- 6 (1) The Secretary of State shall appoint one of the members of Scottish Homes to be chairman and may appoint one or more to be deputy chairman or deputy chairmen; and the chairman and deputy chairmen shall, subject to the following provisions, hold and vacate those offices in accordance with the terms of their appointment.
- (2) The chairman or a deputy chairman may resign his office by written notice to the Secretary of State.
- (3) If the chairman or a deputy chairman ceases to be a member of Scottish Homes, he also ceases to be chairman or a deputy chairman.

Remuneration, Allowances and Pensions

- 7 (1) The Secretary of State may pay the chairman, a deputy chairman and members (other than the chief executive) of Scottish Homes such remuneration as he may ^{F2} . . . determine.
- (2) Scottish Homes may pay them such reasonable allowances as may be so determined in respect of expenses properly incurred by them in the performance of their duties.
- (3) Where a person (other than the chief executive) ceases to be a member of Scottish Homes otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which might make it right for that person to receive compensation, the Secretary of State may ^{F2} . . . direct Scottish Homes to make that person a payment of such amount as the Secretary of State may ^{F2} . . . determine.

Textual Amendments

F2 Words in [Sch. 1 para. 7\(1\)\(3\)](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 92\(9\)\(a\)](#), Pt. IV (with [art. 5](#))

- 8 The Secretary of State may ^{F3} . . . determine to pay in respect of a person's office as chairman, deputy chairman or member (other than the chief executive) of Scottish Homes—
 - (a) such pension, allowance or gratuity to, or in respect of, that person on his retirement or death as may be so determined; or

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- (b) such contribution or other payments towards provision for such pension, allowance or gratuity as may be so determined.

Textual Amendments

- F3** Words in [Sch. 1 para. 8](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 92\(9\)\(b\), Pt. IV](#) (with [art. 5](#))

Staff

- 9 The Secretary of State shall, after consultation with the chairman or person designated to be chairman, make the first appointment of the chief executive of Scottish Homes on such terms and conditions as he may ^{F4} . . .determine; and thereafter Scottish Homes may, with the approval of the Secretary of State, make subsequent appointments to that office on such terms and conditions as it may, with the approval of the Secretary of State ^{F5} . . .determine.

Textual Amendments

- F4** Words in [Sch. 1 para. 9](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 92\(9\)\(b\), Pt. IV](#) (with [art. 5](#))
- F5** Words in [Sch. 1 para. 9](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 92\(9\)\(c\), Pt. IV](#) (with [art. 5](#))

- 10 (1) Subject to paragraph 11 below, Scottish Homes may appoint on such terms and conditions as it may, with the approval of the Secretary of State ^{F6} . . . determine, such other employees as it thinks fit.
- (2) Scottish Homes shall, in respect of such of its employees as it may determine, with the approval of the Secretary of State ^{F6} . . .make such arrangements for providing pensions, allowances or gratuities as it may determine; and such arrangements may include the establishment and administration, by Scottish Homes or otherwise, of one or more pension schemes.
- (3) The reference in sub-paragraph (2) above to pensions, allowances or gratuities in respect of employees of Scottish Homes includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment or loss or diminution of emoluments.
- (4) The Secretary of State ^{F7} . . . may, by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, make regulations providing for—
- (a) the transfer to, and administration by, Scottish Homes of any superannuation fund maintained by the Scottish Special Housing Association in terms of the provisions of any scheme made under section 7 of the ^{M1}Superannuation Act 1972;
- (b) the modification, for the purposes of the regulations, of the said section 7 or any scheme thereunder.
- (5) If an employee of Scottish Homes becomes a member of Scottish Homes and was by reference to his employment by Scottish Homes a participant in a pension scheme administered by it for the benefit of its employees—

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- (a) Scottish Homes may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of Scottish Homes whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 8 above; but
- (b) if Scottish Homes determines as aforesaid, any discretion as to the benefits payable to or in respect of him which the scheme confers on Scottish Homes shall be exercised only with the consent of the Secretary of State^{F8}. . .

Textual Amendments

- F6** Words in **Sch. 1 para. 10(1)(2)** repealed (1.7.1999) by **S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(9)(c), Pt. IV** (with art. 5)
- F7** Words in **Sch. 1 para. 10(4)** repealed (1.7.1999) by **S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(9)(b), Pt. IV** (art. 5)
- F8** Words in **Sch. 1 para. 10(5)(b)** repealed (1.7.1999) by **S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(9)(d), Pt. IV** (with art. 5)

Marginal Citations

- M1** 1972 c. 11.

- 11 (1) Scottish Homes shall, not later than such date as the Secretary of State may determine, make an offer of employment by it to each person employed immediately before that date by—
 - (a) the Scottish Special Housing Association;
 - (b) the Housing Corporation, in connection with its functions in Scotland,
 and any question as to the persons to whom an offer of employment is to be made under this paragraph shall be determined by the Secretary of State.
- (2) The terms of the offer shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (3) An offer made in pursuance of this paragraph shall not be revocable during the period of 3 months commencing with the date on which it is made.
- 12 (1) Where a person becomes an employee of Scottish Homes in consequence of an offer made under paragraph 11 above, then, for the purposes of [^{F9}the Employment Rights Act 1996], his period of employment with the Scottish Special Housing Association or, as the case may be the Housing Corporation, shall count as a period of employment by Scottish Homes, and the change of employment shall not break the continuity of the period of employment.
- (2) Where an offer is made in pursuance of paragraph 11(1) above to any person employed as is mentioned in that paragraph, none of the agreed redundancy procedures applicable to such a person shall apply to him and where that person ceases to be so employed—
 - (a) on becoming a member of the staff of Scottish Homes in consequence of that paragraph; or
 - (b) having unreasonably refused the offer,^{F10}. . . he shall not be treated for the purposes of any scheme under section 24 of the ^{M2}Superannuation Act 1972 or any other scheme as having been retired on redundancy.

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- (3) Without prejudice to sub-paragraph (2) above, where a person has unreasonably refused an offer made to him in pursuance of paragraph 11(1)(b) above the Housing Corporation shall not terminate that person's employment unless it has first had regard to the feasibility of employing him in a suitable alternative position with it.
- (4) Where a person continues in employment in the Scottish Special Housing Association or, as the case may be, the Housing Corporation either—
- (a) not having unreasonably refused an offer made to him in pursuance of this paragraph; or
 - (b) not having been placed in a suitable alternative position as mentioned in sub-paragraph (3) above,
- he shall be treated for all purposes as if the offer mentioned in paragraph 11(1) above had not been made.

Textual Amendments

- F9** Words in [Sch. 1 para. 12\(1\)](#) substituted (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para. 39](#) (with [ss. 191-195, 202](#))
- F10** Words in [Sch. 1 para. 12\(2\)](#) repealed (22.8.1996) by [1996 c. 18, ss. 242, 243, Sch. 3 Pt. I](#) (with [ss. 191-195, 202](#))
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Marginal Citations

- M2** [1972 c. 11.](#)

- 13 (1) Any dispute as to whether an offer under sub-paragraph (1) of paragraph 11 above complies with sub-paragraph (2) of that paragraph shall be referred to and be determined by an [F11employment tribunal].
- (2) An [F11employment tribunal] shall not consider a complaint referred to it under sub-paragraph (1) above unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer of employment or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of 3 months.
- (3) Subject to sub-paragraph (4) below there shall be no appeal from the decision of an [F11employment tribunal] under this paragraph.
- (4) An appeal to the Employment Appeal Tribunal may be made only on a question of law arising from the decision of, or in proceedings before, an [F11employment tribunal] under this paragraph.

Textual Amendments

- F11** Words in [Sch. 1 para. 13](#) substituted (1.8.1998) by [1998 c. 8, s. 1\(2\)](#)(with [s. 16\(2\)](#)); [S.I. 1998/1658, art. 2\(1\), Sch. 1](#)

Proceedings

- 14 The quorum of Scottish Homes and the arrangements for its meetings shall be such as it may determine, subject to any directions given by the Secretary of State.

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- 15 (1) A member who is directly or indirectly interested in a contract made or proposed to be made by Scottish Homes, or in any other matter whatsoever which falls to be considered by Scottish Homes, shall disclose the nature of his interest at a meeting of Scottish Homes, and the disclosure shall be recorded in the minutes of the meeting.
- (2) Such a member shall not—
 - (a) in the case of any such contract, take part in any deliberation or decision of Scottish Homes with respect to the contract; and
 - (b) in the case of any other matter, take part in any deliberation or decision of Scottish Homes with respect to it if Scottish Homes decides that the interest in question might prejudicially affect the member’s consideration of the matter.
- (3) For the purposes of this paragraph, a notice given by a member at a meeting of Scottish Homes to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered by Scottish Homes after that date, shall be a sufficient disclosure of his interest.
- (4) A member need not attend in person a meeting of Scottish Homes in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration at such a meeting.
- 16 The validity of any proceedings of Scottish Homes shall not be affected by any vacancy among its members or by any defect in the appointment of a member or by any failure to comply with any requirement of paragraph 15 above.

Committees

- 17 (1) For and in connection with the discharge of its general functions or powers Scottish Homes may establish such committees (whose members need not be members of Scottish Homes) as appear to it to be appropriate, and the composition and remit of such committees and the terms on which their members hold office shall be determined by Scottish Homes.
- (2) Scottish Homes shall pay to members of any committee established under subparagraph (1) above who are not members of Scottish Homes travelling and other allowances, including compensation for loss of remunerative time, in accordance with arrangements to be determined by the Secretary of State ^{F12} . . .

Textual Amendments

F12 Words in [Sch. 1 para. 17\(2\)](#) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 92\(9\)\(a\)](#), [Pt. IV](#) (with [art. 5](#))

Execution of Documents

^{F13}18

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Textual Amendments

F13 Sch. 1 para. 18 repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

^{F14}19

Textual Amendments

F14 Sch. 1 para. 19 repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

SCHEDULE 2

Sections 1 and 3.

AMENDMENTS CONSEQUENTIAL ON ESTABLISHING OF SCOTTISH HOMES AND ABOLITION OF SSHA

General

1 Subject to the following provisions of this Schedule, for any reference in any enactment, or in any instrument made under any enactment, to the Scottish Special Housing Association there shall be substituted a reference to Scottish Homes.

Parliamentary Commissioner Act 1967 c. 13.

2 In Schedule 2 (departments and authorities subject to investigation)—
(a) at the appropriate place there shall be inserted “Scottish Homes”; and
(b) after Note 8 there shall be inserted—
“8A In the case of Scottish Homes no investigation shall be conducted under this Act in respect of any of its actions as a landlord.”.

House of Commons Disqualification Act 1975 c. 24.

3 In Schedule 1 (offices disqualifying for membership)—
(a) in Part II after the entry relating to the Scottish Development Agency there shall be inserted “Scottish Homes”;
(b) in Part III the entry relating to the Chairman, Deputy Chairman or member of the Council of Management of the Scottish Special Housing Association appointed at a salary shall cease to have effect.

Local Government (Scotland) Act 1975 c. 30.

^{F15}4

Textual Amendments

F15 Sch. 2 para. 4 repealed (23.10.2002) by 2002 asp 11, s. 25, **Sch. 6 para. 11**; S.I. 2002/467, **art. 2**

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Rent (Scotland) Act 1984 c. 58.

5 In section 61(1) (interpretation), in the definition of “housing association”, paragraph (a) shall cease to have effect.

Housing Associations Act 1985 c. 69.

[^{F16} In section 1(1) (meaning of “housing association” etc.) at the end there shall be added—

“;

but does not include Scottish Homes.”.]

Textual Amendments

F16 Sch. 2 para. 6 repealed (S.) (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 14(11)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** Table (subject to transitional provisions in art. 3)

Housing (Scotland) Act 1987 c. 26.

^{F17}

Textual Amendments

F17 Sch. 2 para. 7 repealed (20.11.2014) by *Housing (Scotland) Act 2014* (asp 14), s. 104(3), **Sch. 2 para. 5(3)**; S.S.I. 2014/264, art. 2, **Sch.**

8 For section 23 (compulsory purchase of land by SSHA) there shall be substituted—

“23 Improvement of amenities of residential area by development corporations.

A development corporation may for the purpose of securing the improvement of the amenities of a predominantly residential area within its designated area—

- (a) carry out any works on land owned by it;
- (b) with the agreement of the owner of any land, carry out or arrange for the carrying out of works on that land at his or its expense or in part at the expense of both;
- (c) assist (whether by grants or loans or otherwise) in the carrying out of works on land not owned by it;
- (d) acquire any land by agreement.”.

9 In section 61 (secure tenant’s right to purchase)—

- (a) in subsection (4)(e)(i) after the words “Housing Corporation” there shall be inserted the words “or by Scottish Homes”;
- (b) in subsection (8) for the words “and the Housing Corporation” in both places where they occur there shall be substituted the words “, the Housing Corporation and Scottish Homes”;
- (c) in subsection (9)—

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- (i) after the words “Housing Corporation” there shall be inserted the words “or by Scottish Homes”;
 - (ii) after the words “the Corporation” there shall be inserted the words “or, as the case may be, Scottish Homes”;
 - (iii) after the words “3(1)” there shall be inserted the words “or, as the case may be, 3(1A)”;
 - (d) in subsection (11) for paragraph (d) there shall be substituted the following paragraph—
 - “(d) Scottish Homes and the Scottish Special Housing Association;”
- 10 In section 194 (grants payable to SSHA and development corporations)—
- (a) in subsection (1) the words “the Scottish Special Housing Association (“the Association”) and to” shall cease to have effect;
 - (b) in subsection (2) the words “the Association and to” and “the Association, acting otherwise than as agents, or by” shall cease to have effect.
- 11 Section 196 (advances to SSHA for provision or improvement of housing accommodation) shall cease to have effect.
- 12 In section 202(7) (power of Secretary of State to reduce etc. particular Exchequer contributions) in the definition of “recipient authority” for the words from “, a housing” to “Association” there shall be substituted the words “or a housing association”.
- 13 In section 216(1) (house loans to tenants exercising right to purchase) for paragraph (b) there shall be substituted—
- “(b) in a case where the landlord is the Housing Corporation or a housing association registered in the register maintained by the Housing Corporation, to the Housing Corporation;
 - (bi) in a case where the landlord is a housing association registered in the register maintained by Scottish Homes, to Scottish Homes;”.
- 14 In section 276 (repurchase by authority other than local authority) in the Table for the words “2. The Scottish Special Housing Association” there shall be substituted the words “2. Scottish Homes or the Scottish Special Housing Association”.
- 15 In Schedule 12 (termination of exchequer payments) in paragraph 2, Part III shall cease to have effect.

Local Government Act 1988 c. 9.

- 16 In section 1(1)—
- (a) after paragraph (j) there shall be inserted the word “and”;
 - (b) paragraph (1) and the word “and” immediately preceding it shall cease to have effect.
- 17 In Schedule 2, the words “The Scottish Special Housing Association” shall be omitted.

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F18F18 SCHEDULE 3

Textual Amendments

F18 Sch. 3 repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), Sch. 18

F18

SCHEDULE 4

Section 12.

TENANCIES WHICH CANNOT BE ASSURED TENANCIES

Tenancies entered into before commencement

- 1 A tenancy which is entered into before, or pursuant to a contract made before, this Schedule comes into force.

Tenancies at a low rent

- 2 (1) A tenancy under which, at any time after this Schedule comes into force, either no rent is payable or the rent payable is less than that specified by order made by the Secretary of State, but no tenancy which is or, at any time, was an assured tenancy shall cease to be an assured tenancy by virtue only of this paragraph of this Schedule.
- (2) In determining whether the rent under a tenancy falls within sub-paragraph (1) above, there shall be disregarded such part (if any) of the sums payable by the tenant as is or was expressed (in whatever terms) to be payable in respect of services, repairs, maintenance or insurance, unless it could not have been regarded by the parties to the tenancy as a part so payable.
- (3) An order under sub-paragraph (1) above may specify different rents in relation to—
- (a) different kinds of houses;
 - (b) different areas.
- (4) An order under sub-paragraph (1) above may specify rent by reference to such periods or times or such other factors or such combinations thereof as may be specified in the order.

Tenancies of shops

- 3 A tenancy to which the ^{M3}Tenancy of Shops (Scotland) Act 1949 applies.

Marginal Citations

M3 1949 c. 25.

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Licensed premises

- 4 A tenancy under which the house consists of or comprises premises licensed for the sale of alcoholic liquor for consumption on the premises.

Tenancies of agricultural land

- 5 (1) A tenancy under which agricultural land, exceeding two acres, is let together with the house.
- (2) In this paragraph “agricultural land” has the same meaning as in section 115(1) of the ^{M4}Rent (Scotland) Act 1984.

Marginal Citations

M4 1984 c. 58.

Tenancies of agricultural holdings

- 6 A tenancy under which the house—
- [^{F19}(a) is on or comprised in a lease constituting a 1991 Act tenancy within the meaning of the [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#) or in a lease constituting a short limited duration tenancy [^{F20}, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy] (within the meaning of that Act); and]
- (b) is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the [^{F21}and comprised in the lease].

Textual Amendments

F19 Sch. 4 para. 6(a) substituted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **Sch. para. 11(a)**

F20 Words in Sch. 4 para. 6(a) substituted (30.11.2017) by [The Land Reform \(Scotland\) Act 2016 \(Supplementary, Consequential, Transitory and Saving Provisions\) Regulations 2017 \(S.S.I. 2017/416\)](#), reg. 1(1), **sch. 1 para. 7(2)** (with sch. 2 para. 7)

F21 Words in Sch. 4 para. 6(b) substituted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **Sch. para. 11(b)**

Lettings to students

- 7 (1) A tenancy which is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is so granted either by that institution or by another specified institution or body of persons.
- (2) In sub-paragraph (1) above “specified” means specified, or of a class specified, for the purposes of this paragraph by regulations made by the Secretary of State.

Holiday lettings

- 8 A tenancy the purpose of which is to confer on the tenant the right to occupy the house for a holiday.

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Resident landlords

- 9 (1) A tenancy in respect of which the following conditions are fulfilled—
- (a) that the house forms part only of a building;
 - (b) subject to sub-paragraph (2) below, that the tenancy was granted by a person who, at the time when he granted it, occupied as his only or principal home another house which also forms part of the building;
 - (c) that, at the time when the tenancy was granted, there was an ordinary means of access—
 - (i) to or from the house by way of that other house; or
 - (ii) to or from that other house by way of the house
 (whether or not that access was available to the tenant as of right); and
 - (d) subject to sub-paragraph (3) below, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his only or principal home another house which also formed part of the building.
- (2) The condition in sub-paragraph (1)(b) above shall be deemed to be fulfilled if the tenancy was granted by trustees and, at the time when the tenancy was granted, the interest of the landlord under the tenancy thereby created was held on trust for a person who was entitled to the liferent or to the fee or a share of the fee of that interest and who occupied as his only or principal home a house which forms part of the building referred to in sub-paragraph (1)(a) above.
- (3) In determining whether the condition in sub-paragraph (1)(d) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
- (a) any period of not more than 28 days beginning with the date of the conveyance of the interest of the landlord under the tenancy to an individual who, during that period, does not occupy as his only or principal home another house which forms part of the building concerned;
 - (b) if, within a period falling within paragraph (a) above, the individual concerned notifies the tenant in writing of his intention to occupy as his only or principal home another such house as is referred to in that paragraph, the period beginning with the date of the conveyance mentioned in that paragraph and ending—
 - (i) at the expiry of the period of 6 months beginning on that date; or
 - (ii) on the date on which the interest of the landlord under the tenancy ceases to be held by that individual; or
 - (iii) on the date on which the condition in sub-paragraph (1)(c) above again applies,
 whichever is the earliest; and
 - (c) any period of not more than 24 months beginning with the date of death of the landlord under the tenancy during which the interest of the landlord under the tenancy is vested in his executor.
- (4) Throughout any period which, by virtue of sub-paragraph (3)(a) or (b) above, falls to be disregarded for the purpose of determining whether the condition in sub-paragraph (1)(d) above is fulfilled with respect to a tenancy, no order for possession of the house subject to that tenancy shall be made, other than an order which might be made if that tenancy were or, as the case may be, had been an assured tenancy.
- (5) During any period—

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- (a) when—
 - (i) the interest of the landlord under the tenancy referred to in sub-paragraph (1) above is vested in trustees; and
 - (ii) that interest is held on trust for a person who is entitled to the liferent or to the fee or a share of the fee of that interest and who occupies as his residence a house which forms part of the building referred to in sub-paragraph (1)(a) above;
- (b) of not more than 24 months beginning with the date of death of the occupier referred to in sub-paragraph (a)(ii) above and ending with the date of occupation of the house by any other person who is entitled to the liferent or to the fee or to a share of the fee of that interest,

the condition in sub-paragraph (1)(d) above shall be deemed to be fulfilled and, accordingly, no part of that period shall be disregarded by virtue of sub-paragraph (3) above.

(6) This paragraph does not apply to a tenancy of a house which forms part of a building if the tenancy is granted to a person who, immediately before it was granted, was an assured tenant of that house or of any other house in that building.

(7) For the purposes of this paragraph—

- (a) “conveyance” includes the grant of a tenancy and any other conveyance or transfer other than upon death;
- (b) “the date of the conveyance” means the date on which the conveyance was granted, delivered or otherwise made effective.

Crown tenancies

- 10 A tenancy under which the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department but not including such a tenancy if it is under the management of the Crown Estate Commissioners [^{F22}or if it is a tenancy to which section 90B(5) of the Scotland Act 1998 applies].

Textual Amendments

F22 Words in Sch. 4 para. 10 inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 21](#)

Modifications etc. (not altering text)

C1 Sch. 4 para. 10 modified (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 60(2)(c), [Sch. 8 Pt. III para. 20\(2\)\(a\)](#); S.I. 1990/1329, art. 2(8), [Sch. 3](#)

Local authority and other tenancies

- 11 A tenancy under which the interest of the landlord belongs to—
- [^{F23}(a) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, or a joint board or joint committee of two or more such councils, or the common good of such a council or any trust under the control of such a council;]
 - [^{F24}(aa) Scottish Water;]
 - (b)

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- ^{F25}(c)
- ^{F25}(d)
- (e) a co-operative housing association within the meaning of section 1 of the Housing Associations Act 1985; [^{F26}or]
- [^{F27}(ea) a registered social landlord within the meaning of the Housing (Scotland) Act 2010 (asp 17).]
- ^{F28}(f)

Textual Amendments

- F23** Sch. 4 para. 11(a)(aa) substituted (1.4.1996) for Sch. 4 para. 11(a) by 1994 c. 39, s. 180(1), **Sch. 13 para. 157(7)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4**
- F24** Sch. 4 para. 11(aa) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 6(4)**
- F25** Sch. 4 para. 11(b)-(d) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 14(12)(a)(i)**; S.S.I. 2002/321, art. 2(2), **Sch. Table** (subject to transitional provisions in arts. 3-5)
- F26** Word in Sch. 4 para. 11(e) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 157(7)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4**
- F27** Sch. 4 para. 11(ea) substituted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 4(4)**; S.S.I. 2012/39, art. 2, **Sch. 1** (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)
- F28** Sch. 4 para. 11(f) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 14(12)(a)(iii)**; S.S.I. 2002/321, art. 2(2), **Sch. Table** (subject to transitional provisions in arts. 3-5)

Modifications etc. (not altering text)

- C2** Sch. 4 para. 11 excluded by Housing (Scotland) Act 1987 (c. 26, SIF 61), **ss. 180(4), 335**

[^{F29}Accommodation for offenders

Textual Amendments

- F29** Sch. 4 para. 11A inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 14(12)(b)**; S.S.I. 2002/321, art. 2(2), **Sch. Table** (subject to transitional provisions in arts. 3-5)

- 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 by a local authority in pursuance of the authority's functions under that paragraph.]

[^{F30}Accommodation for homeless persons

Textual Amendments

- F30** Sch. 4 para. 11A inserted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 90**

Changes to legislation: Housing (Scotland) Act 1988 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes

11A A tenancy granted expressly on a temporary basis in the fulfilment of a duty imposed on a local authority by Part II of the Housing (Scotland) Act 1987.]

^{F31}[*Accommodation for asylum-seekers*]

Textual Amendments

F31 Sch. 4 para. 11B and crossheading inserted (11.11.1999) by 1999 c. 33, ss. 169(1), 170(3)(s), **Sch. 14 para. 87**

[^{F32}11B A tenancy granted under arrangements for the provision of support for asylum-seekers or dependants of asylum-seekers made [^{F33}under section 4 or Part VI of the Immigration and Asylum Act 1999].]

Textual Amendments

F32 Sch. 4 para. 11B inserted (11.11.1999) by 1999 c. 33, ss. 169(1), 170(3)(s), **Sch. 14 para. 87**
F33 Words in Sch. 4 para. 11B substituted (16.6.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 43(4)(e), 62(1)(2); S.I. 2006/1497, art. 3, Sch.

^{F34} ...

Textual Amendments

F34 Sch. 4 para. 11C and cross-heading repealed (31.12.2020) by The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 (S.I. 2019/745), reg. 1(2), **Sch. 3**; 2020 c. 1, Sch. 5 para. 1(1)

^{F34}11C

Shared ownership agreements

12 A tenancy under a shared ownership agreement within the meaning of [^{F35}section 83(3) of the Housing (Scotland) Act 2001 (asp 10)].

Textual Amendments

F35 Words in Sch. 4 para. 12 substituted (1.11.2001) by 2001 asp 10, ss. 112, 113(1), **Sch. 10 para. 14(12) (e)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** Table (subject to transitional provisions in art. 3)

Transitional cases

- 13 (1) A protected tenancy within the meaning of the ^{M5}Rent (Scotland) Act 1984.
(2) A housing association tenancy, being a tenancy to which Part VI of that Act applies.
(3) A secure tenancy within the meaning of Part III of the ^{M6}Housing (Scotland) Act 1987.

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[^{F36}(4) A tenancy which is a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.]

Textual Amendments

F36 Sch. 4 para. 13(4) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 5 para. 1\(4\)](#); S.S.I. 2017/346, reg. 2, sch. (with reg. 6)

Marginal Citations

M5 1984 c. 58.
M6 1987 c. 26.

SCHEDULE 5

Section 18.

GROUNDS FOR POSSESSION OF HOUSES LET ON ASSURED TENANCIES

Modifications etc. (not altering text)

C3 Sch. 5 modified (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 2 para. 5\(4\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by S.S.I. 2023/82, regs. 1(3), [2\(2\)](#)); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), [2\(2\)](#)

PART I

[^{F37}CERTAIN GROUNDS ON WHICH FIRST-TIER TRIBUNAL MAY ORDER POSSESSION]

Textual Amendments

F37 Sch. 5 Pt. 1 heading substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 44\(6\)\(b\)](#), 59(1)

Ground 1

Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the [^{F38}First-tier Tribunal] is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)—

- (a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse's [^{F39}or civil partner's] only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord's interest in the tenancy for value.

Changes to legislation: *Housing (Scotland) Act 1988 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes*

Textual Amendments

- F38** Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(a\)](#); [S.S.I. 2017/330, art. 3, sch.](#)
- F39** Words in Sch. 5 Pt. 1 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\), Sch. 28 para. 57](#); [S.S.I. 2005/604, arts. 2\(c\), 4](#)

Textual Amendments

- F38** Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(a\)](#); [S.S.I. 2017/330, art. 3, sch.](#)
- F39** Words in Sch. 5 Pt. 1 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\), Sch. 28 para. 57](#); [S.S.I. 2005/604, arts. 2\(c\), 4](#)

Ground 2

The house is subject to a heritable security granted before the creation of the tenancy and—

- (a) as a result of a default by the debtor the creditor is entitled to sell the house and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement; and
- (b) either notice was given in writing to the tenant not later than the date of commencement of the tenancy that possession might be recovered on this Ground or the [^{F40}First-tier Tribunal] is satisfied that it is reasonable to dispense with the requirement of notice.

Textual Amendments

- F40** Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(a\)](#); [S.S.I. 2017/330, art. 3, sch.](#)

Textual Amendments

- F40** Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(a\)](#); [S.S.I. 2017/330, art. 3, sch.](#)

Ground 3

The house is let under a tenancy for a specified period not exceeding eight months and—

- (a) not later than the date of commencement of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered under this Ground; and
- (b) the house was, at some time within the period of 12 months ending on that date, occupied under a right to occupy it for a holiday;

and for the purposes of this Ground a tenancy shall be treated as being for a specified period—

- (i) not exceeding eight months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of eight months from the commencement of the period of the tenancy; and

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- (ii) exceeding eight months, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, exceeds eight months, and it is not determinable as mentioned in paragraph (i) above.

Ground 4

Where the house is let under a tenancy for a specified period not exceeding 12 months and—

- (a) not later than the date of commencement of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground; and
- (b) at some time within the period of 12 months ending on that date the house was subject to such a tenancy as is referred to in paragraph 7(1) of Schedule 4 to this Act;

and for the purposes of this Ground a tenancy shall be treated as being for a specified period—

- (i) not exceeding 12 months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of 12 months from the commencement of the period of the tenancy; and
- (ii) exceeding 12 months, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, exceeds 12 months, and it is not determinable as mentioned in paragraph (i) above.

Ground 5

The house is held for the purpose of being available for occupation by a minister or a full-time lay missionary of any religious denomination as a residence from which to perform the duties of his office and—

- (a) not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) the ^{F41}[First-tier Tribunal] is satisfied that the house is required for occupation by such a minister or missionary as such a residence.

Textual Amendments

F41 Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), [sch. 1 para. 48\(a\)](#); S.S.I. 2017/330, art. 3, sch.

Textual Amendments

F41 Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), [sch. 1 para. 48\(a\)](#); S.S.I. 2017/330, art. 3, sch.

Ground 6

The landlord who is seeking possession or, where the immediate landlord is a registered housing association within the meaning of the ^{M7}Housing Associations Act 1985, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the house or to carry out substantial works on the house or any part thereof or any building of which it forms part and the following conditions are fulfilled (and in those conditions the landlord who is intending

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to carry out the demolition, reconstruction or substantial works is referred to as “the relevant landlord”)—

- (a) either—
 - (i) the relevant landlord (or, in the case of joint relevant landlords, any one of them) acquired his interest in the house before the creation of the tenancy; or
 - (ii) none of the following persons acquired his interest in the house for value—
 - (A) the relevant landlord (or, in the case of joint relevant landlords, any one of them);
 - (B) the immediate landlord (or, in the case of joint immediate landlords, any one of them), where he acquired his interest after the creation of the tenancy;
 - (C) any person from whom the relevant landlord (or any one of joint relevant landlords) derives title and who acquired his interest in the house after the creation of the tenancy; and
- (b) the relevant landlord cannot reasonably carry out the intended work without the tenant giving up possession of the house because—
 - (i) the work can otherwise be carried out only if the tenant accepts a variation in the terms of the tenancy and the tenant refuses to do so;
 - (ii) the work can otherwise be carried out only if the tenant accepts an assured tenancy of part of the house and the tenant refuses to do so; or
 - (iii) the work can otherwise be carried out only if the tenant accepts either a variation in the terms of the tenancy or an assured tenancy of part of the house or both, and the tenant refuses to do so; or
 - (iv) the work cannot otherwise be carried out even if the tenant accepts a variation in the terms of the tenancy or an assured tenancy of only part of the house or both.

Marginal Citations

M7 1985 c. 69.

Marginal Citations

M7 1985 c. 69.

Ground 7

The tenancy has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than twelve months after the death of the former tenant or, if the [F42First-tier Tribunal] so directs, after the date on which, in his opinion, the landlord (or, where there are joint landlords, any of them) became aware of the former tenant’s death.

Textual Amendments

F42 Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(a\)](#); S.S.I. 2017/330, art. 3, sch.

For the purposes of this Ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new tenancy, unless the landlord

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agrees in writing to a change (as compared with the tenancy before the death) in the amount of the rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

Textual Amendments

F42 Words in Sch. 5 substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), [sch. 1 para. 48\(a\)](#); S.S.I. 2017/330, art. 3, sch.

Ground 8

F43
...

Textual Amendments

F43 Sch. 5 Pt. 1 Ground 8 repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 44\(6\)\(a\)](#), 59(1)

Textual Amendments

F43 Sch. 5 Pt. 1 Ground 8 repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 44\(6\)\(a\)](#), 59(1)

PART II

[^{F44}FURTHER GROUNDS ON WHICH FIRST-TIER TRIBUNAL MAY ORDER POSSESSION]

Textual Amendments

F44 Sch. 5 Pt. 2 heading substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 44\(6\)\(c\)](#), 59(1)

Ground 9

Suitable alternative accommodation is available for the tenant or will be available for him when the order for possession takes effect.

Ground 10

The following conditions are fulfilled—

- (a) the tenant has given a notice to quit which has expired; and
- (b) the tenant has remained in possession of the whole or any part of the house; and
- (c) proceedings for the recovery of possession have been begun not more than six months after the expiry of the notice to quit; and
- (d) the tenant is not entitled to possession of the house by virtue of a new tenancy.

Changes to legislation: Housing (Scotland) Act 1988 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes

Ground 11

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

Ground 12

Some rent lawfully due from the tenant—

- (a) is unpaid on the date on which the proceedings for possession are begun; and
- (b) except where subsection (1)(b) of section 19 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

Ground 13

Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed.

Ground 14

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 him or any sub-tenant of his; and, in the case of acts of waste by, or the neglect or default of, a person lodging with a tenant or a sub-tenant of his, the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this Ground, “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.

^{F45}[Ground 15]

.....
Textual Amendments

F45 Sch. 5 Ground 15 substituted (1.12.1998) by 1998 c. 37, s. 23(4); S.I. 1998/2327, art. 4

.....

Modifications etc. (not altering text)

C4 Sch. 5 Ground 15 restricted (1.12.1998) by 1998 c. 37, s. 23(5); S.I. 1998/2327, art. 4

^{F46}[The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

- (a) been convicted of—
 - (i) using or allowing the house to be used for immoral or illegal purposes; or
 - (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or
- (b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or
- (c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

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Textual Amendments

F46 Sch. 5 Ground 15 substituted (1.12.1998) by [1998 c. 37, s. 23\(4\)](#); S.I. 1998/2327, [art. 4](#)

Modifications etc. (not altering text)

C5 Sch. 5 Ground 15 restricted (1.12.1998) by [1998 c. 37, s. 23\(5\)](#); S.I. 1998/2327, [art. 4](#)

In this Ground “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, “conduct” includes speech and a course of conduct must involve conduct on at least two occasions and “tenant” includes any one of joint tenants.]

Textual Amendments

F46 Sch. 5 Ground 15 substituted (1.12.1998) by [1998 c. 37, s. 23\(4\)](#); S.I. 1998/2327, [art. 4](#)

Modifications etc. (not altering text)

C5 Sch. 5 Ground 15 restricted (1.12.1998) by [1998 c. 37, s. 23\(5\)](#); S.I. 1998/2327, [art. 4](#)

Ground 16

The condition of any furniture provided for use under the tenancy has deteriorated owing to ill-treatment by the tenant or any other person residing or lodging with him in the house and, in the case of ill-treatment by a person lodging with the tenant or by a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

Ground 17

The house was let to the tenant in consequence of his employment by the landlord seeking possession or a previous landlord under the tenancy and the tenant has ceased to be in that employment.

[^{F47}For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.]

Textual Amendments

F47 Sch. 5 Ground 17: paragraph added (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 60\(2\)](#), [Sch. 8 Pt. II para. 11](#); S.I. 1990/1329, [art. 2\(8\)](#), [Sch. 3](#)

Textual Amendments

F47 Sch. 5 Ground 17: paragraph added (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 60\(2\)](#), [Sch. 8 Pt. II para. 11](#); S.I. 1990/1329, [art. 2\(8\)](#), [Sch. 3](#)

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PART III

SUITABLE ALTERNATIVE ACCOMMODATION

- 1 For the purposes of Ground 9 above, a certificate of the local authority for the area in which the house in question is situated, or, where the house in question is in a new town, of the development corporation established for its purposes under the ^{M8}New Towns (Scotland) Act 1968 or, in any case, of Scottish Homes, certifying that the authority, the Corporation or, as the case may be, Scottish Homes, will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.

Marginal Citations

M8 1968 c.16.

- 2 Where no such certificate as is mentioned in paragraph 1 above is produced to the [^{F48}First-tier Tribunal], accommodation shall be deemed to be suitable for the purposes of Ground 9 above if it consists of either—
- (a) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy, other than—
 - (i) a tenancy in respect of which notice is served not later than the beginning of the tenancy that possession might be recovered on any of Grounds 1 to 5 above; or
 - (ii) a short assured tenancy, within the meaning of Part II of this Act; or
 - (b) premises to be let as a separate dwelling on terms which will, in the opinion of the [^{F49}Tribunal], afford to the tenant security of tenure reasonably equivalent to the security afforded by Part II of this Act in the case of an assured tenancy of a kind mentioned in paragraph (a) above,
- and, in the opinion of the [^{F50}Tribunal], the accommodation fulfils the relevant conditions as defined in paragraph 3 below.

Textual Amendments

F48 Words in Sch. 5 para. 2 substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(d\)\(i\)](#); S.S.I. 2017/330, art. 3, sch.

F49 Word in Sch. 5 para. 2(b) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(d\)\(ii\)](#); S.S.I. 2017/330, art. 3, sch.

F50 Word in Sch. 5 para. 2 substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(d\)\(iii\)](#); S.S.I. 2017/330, art. 3, sch.

- 3 (1) For the purposes of paragraph 2 above, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his family as regards proximity to place of work, and either—
- (a) similar as regards rental and extent to the accommodation afforded by houses provided in the neighbourhood by any local authority or development corporation or by Scottish Homes for persons whose needs as regards extent are, in the opinion of the [^{F51}First-tier Tribunal], similar to those of the tenant and of his family; or

Changes to legislation: *Housing (Scotland) Act 1988 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes*

- (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character; and
that, if any furniture was provided for use under the assured tenancy in question, furniture is provided for use in the accommodation which is either similar to that so provided or is reasonably suitable to the needs of the tenant and his family.
- (2) For the purposes of sub-paragraph (1)(a) above, a certificate of a local authority or development corporation or of Scottish Homes stating—
- (a) the extent of the accommodation afforded by houses provided by that body to meet the needs of tenants with families of such number as may be specified in the certificate; and
- (b) the amount of the rent charged by that body for houses affording accommodation of that extent,
- shall be conclusive evidence of the facts so stated.

Textual Amendments

F51 Words in Sch. 5 para. 3(1)(a) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(e\)](#); [S.S.I. 2017/330, art. 3, sch.](#)

- 4 Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded house for the purposes of Part VII of the ^{M9}Housing (Scotland) Act 1987.

Marginal Citations

M9 1987 c. 26.

- 5 Any document purporting to be a certificate of a local authority or development corporation named therein or of Scottish Homes issued for the purposes of this Part of this Schedule and to be signed by the proper officer of that body shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.
- 6 Local authorities, development corporations and Scottish Homes may, for the purposes of this Part of this Schedule, furnish particulars as to the availability, extent and character of alternative accommodation.
- 7 In this Part of this Schedule “local authority” means an islands or district council.

PART IV

NOTICES RELATING TO RECOVERY OF POSSESSION

- 8 (1) If, not later than the beginning of a tenancy (in this paragraph referred to as “the earlier tenancy”), the landlord gives such a notice in writing to the tenant as is mentioned in any of Grounds 1 to 5 in Part I of this Schedule, then, for the purposes of the Ground in question and any further application of this paragraph, that notice shall also have effect as if it had been given immediately before the beginning of any later tenancy falling within sub-paragraph (2) below.

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- (2) Subject to sub-paragraph (3) below, sub-paragraph (1) above applies to a later tenancy—
- (a) which takes effect immediately on termination of the earlier tenancy; and
 - (b) which is granted (or deemed to be granted) to the person who was the tenant under the earlier tenancy immediately before it was terminated; and
 - (c) which is of substantially the same house as the earlier tenancy.
- (3) Sub-paragraph (1) above does not apply in relation to a later tenancy if, not later than the beginning of the tenancy, the landlord gave notice in writing to the tenant that the tenancy is not one in respect of which possession can be recovered on the ground in question.
- 9 Where paragraph 8(1) above has effect in relation to a notice given as mentioned in Ground 1 in Part 1 of this Schedule, the reference in paragraph (b) of that ground to the landlord’s interest in the tenancy is a reference to such an interest in the earlier tenancy and in any later tenancy falling within paragraph 8(2) above.
- 10 Where paragraph 8(1) above has effect in relation to a notice given as mentioned in Ground 3 or Ground 4 in Part I of this Schedule, any second or subsequent tenancy in relation to which the notice has effect shall be treated for the purpose of that Ground as beginning at the beginning of the tenancy in respect of which the notice was actually given.

SCHEDULE 6

Section 46.

STATUTORY OR STATUTORY ASSURED TENANTS BY SUCCESSION

PART I

NEW SCHEDULES 1A AND 1B TO ^{M10}RENT (SCOTLAND) ACT 1984

.....

Marginal Citations

M10 1984 c. 58.

- 1 After Schedule 1 to the Rent (Scotland) Act 1984 there shall be inserted the following Schedules—

“SCHEDULE 1A

STATUTORY OR STATUTORY ASSURED TENANTS BY SUCCESSION IN A CASE TO WHICH SECTION 3A(1) APPLIES

- 1 The provisions of paragraph 2 of this Schedule shall have effect for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as “the original tenant”) who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.

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- 2 (1) The original tenant's spouse where the dwelling-house was that spouse's only or principal home at the time of the tenant's death shall be the statutory tenant so long as the said spouse retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.
- (2) For the purposes of this paragraph, a person who was living with the original tenant as his or her wife or husband shall be treated as the spouse of the original tenant.
- (3) If, immediately after the death of the original tenant, there is, by virtue of sub-paragraph (2) above, more than one person who fulfils the conditions in sub-paragraph (1) above, such one of them as then has occupancy rights under section 18 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (rights of cohabiting couples) or, if neither or none of them has such rights, such one of them as may be decided by the sheriff, shall be treated as the surviving spouse for the purposes of this paragraph.
- 3 Where paragraph 2 above does not apply but a person who was a member of the original tenant's family was residing with him in the dwelling-house—
- (a) continuously for the period commencing six months before the date of coming into force of section 46 of the Housing (Scotland) Act 1988 and ending on the tenant's death (where the person was so residing on the said date); or
- (b) at the time of and for the period of two years immediately before the tenant's death,
- then, after the tenant's death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the sheriff, shall be entitled to a statutory assured tenancy of the dwelling-house by succession.
- 4 A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2 above is in this Schedule referred to as "the first successor".
- 5 If, immediately before his death, the first successor was still a statutory tenant, the provisions of paragraph 6 below shall have effect for the purpose of determining who is entitled to a statutory assured tenancy of the dwelling-house by succession after the death of the first successor.
- 6 Where a person who—
- (a) was a member of the original tenant's family immediately before that tenant's death; and
- (b) was a member of the first successor's family immediately before the first successor's death,
- was residing with the first successor in the dwelling-house at the time of, and for the period of two years immediately before, the first successor's death, that person, or if there is more than one such person, such one of them as may be decided by agreement or, in default of agreement, by the sheriff, shall be entitled to a statutory assured tenancy of the dwelling-house by succession.
- 7 (1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, "the original tenant" and "the first successor" in this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—

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- (a) if the successor was the first successor, and immediately before his death he was still the tenant (whether protected or statutory), paragraph 6 above shall apply on his death;
 - (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.
- (2) Sub-paragraph (1) above applies even if—
- (a) a successor enters into more than one other tenancy of the dwelling-house; and
 - (b) both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.
- (3) In this paragraph “succession” means the occasion on which a person becomes the statutory or statutory assured tenant of a dwelling-house by virtue of this Schedule and “successor” shall be construed accordingly.
- 8 Paragraphs 5 and 6 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 20 of the Rent Act 1965.

SCHEDULE 1B

STATUTORY ASSURED TENANTS BY SUCCESSION IN A CASE TO WHICH SECTION 3A(2) APPLIES

- 1 The provisions of this Schedule shall have effect for the purpose of determining who is the statutory assured tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as “the first successor”) who, immediately before his death, was the statutory tenant of the dwelling-house by virtue of paragraph 2 or paragraph 3 of Schedule 1 above.
- 2 If, immediately before his death, the first successor was still a statutory tenant, the provisions of paragraph 3 below shall have effect for the purpose of determining who is entitled to a statutory assured tenancy of the dwelling-house by succession after the death of the first successor.
- 3 Where a person who—
- (a) was a member of the original tenant’s family immediately before that tenant’s death; and
 - (b) was a member of the first successor’s family immediately before the first successor’s death,
- was residing with the first successor in the dwelling-house—
- (i) continuously for the period commencing six months before the date of coming into force of section 46 of the Housing (Scotland) Act 1988 and ending on the tenant’s death (where the person was so residing on the said date); or
 - (ii) at the time of and for the period of two years immediately before the tenant’s death,
- that person, or if there is more than one such person, such one of them as may be decided by agreement or, in default of agreement, by the sheriff, shall be entitled to a statutory assured tenancy of the dwelling-house by succession.

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- 4 (1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, “the original tenant” and “the first successor” in this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—
- (a) if the successor was the first successor, and immediately before his death he was still the tenant (whether protected or statutory), paragraph 3 above shall apply on his death;
 - (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.
- (2) Sub-paragraph (1) above applies even if—
- (a) a successor enters into more than one other tenancy of the dwelling-house; and
 - (b) both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.
- (3) In this paragraph “succession” means the occasion on which a person becomes the statutory assured tenant of a dwelling-house by virtue of this Schedule and “successor” shall be construed accordingly.
- 5 Paragraphs 2 and 3 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 20 of the Rent Act 1965.”.

PART II

STATUTORY ASSURED TENANTS BY SUCCESSION—MODIFICATION OF ENACTMENTS

- 2 In relation to the assured tenancy to which the person becomes entitled by succession, section 18 of this Act shall have effect as if in subsection (3) after the word “established” there were inserted the words “or that the circumstances are as specified in any of Cases 11, 12, 17, 18, 19, and 21 in Schedule 2 to the ^{M11}Rent (Scotland) Act 1984”.

Marginal Citations

M11 1984 c. 58.

- 3 (1) In relation to the assured tenancy to which the person becomes entitled by succession, any notice given for the purpose of Case 13, Case 14 or Case 16 of Schedule 2 to the Rent (Scotland) Act 1984 to the original tenant (within the meaning of Schedule I to the Rent (Scotland) Act 1984) shall be treated as having been given for the purposes of whichever of Grounds 4 to 6 in Schedule 5 to this Act corresponds to the Case in question.
- (2) Where sub-paragraph (1) above applies, the regulated tenancy of the said original tenant shall be treated, in relation to the assured tenancy of the person so entitled, as “the earlier tenancy” for the purposes of Part IV of Schedule 5 to this Act.

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SCHEDULE 7

Section 72.

HOUSING (SCOTLAND) ACT 1987—AMENDMENTS CONNECTED WITH CONSOLIDATION

F52¹

Textual Amendments

F52 Sch. 7 para. 1 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 14(14)**; S.S.I. 2002/321, art. 2(2), **Sch.** Table (subject to transitional provisions in arts. 3-5)

F53²

Textual Amendments

F53 Sch. 7 para. 2 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 14(14)**; S.S.I. 2002/321, arts. 2(2), **Sch.** Table (subject to transitional provisions in arts. 3-5)

3 In section 114 (closing order) in subsection (5) after the word “shall” there shall be inserted the word “ have ”.

4 In section 129 (appeals) in subsection (1) for “, (3) and (4)” there shall be substituted the words “ to (7) ”.

5 In section 139 (penalty for causing or permitting overcrowding) in subsection (2)(a) for the words “age of 10” there shall be substituted the words “ age of one or 10 ”.

6 In section 151 (interpretation of Part VII) in subsection (2) for the words “139(3), 140(1) and (2) and 144(1) and (2)” there shall be substituted the words “ 139, 140 and 144 ”.

7 In section 173 (warrant to authorise entry) in subsection (5)(a) for the word “entry” there shall be substituted the word “ enter ”.

8 In section 179 (general effect of control order) in subsection (3) for the word “on” there shall be substituted the word “ or ”.

9 In section 200 (slum clearance subsidy) in subsection (2) for “(2)” there shall be substituted “ (1) ”.

F54¹⁰

Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **Sch. 7** (with s. 193); S.S.I. 2009/122, art. 3

F54¹¹

Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **Sch. 7** (with s. 193); S.S.I. 2009/122, art. 3

F54¹²

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Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [Sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

F54¹³

Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [Sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

F54¹⁴

Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [Sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

F54¹⁵

Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [Sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

F54¹⁶

Textual Amendments

F54 Sch. 7 paras. 10-16 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [Sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

- 17 In section 254 (exchequer contributions towards certain grants) in each of subsections (1) and (2) for “250” there shall be substituted “ 249 ”.
- 18 In section 255 (exchequer contributions in respect of amenities) in each of subsections (1), (4)(b) and (10) for “248” there shall be substituted “ 251 ”.
- 19 In section 268 (notice of determination) in subsection (4) for the words “1 to 3” and “281, 283 and 284(1)” respectively there shall be substituted the words “ 2, 3 and 7 ” and “ 282, 284 and 285 ”.
- 20 In section 276 (repurchase by authority other than local authority), in subsection (3), in paragraph (a), for “21” there shall be substituted “ 20 ”.
- 21 In section 281 (effect of repurchase on certain existing tenancies) in subsection (2) (b) for the words “34(1)(d) of the Tenants’ Rights, Etc (Scotland) Act 1980” there shall be substituted the words “ 9(1)(d) of the ^{M12}Rent (Scotland) Act 1984 ”.

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Marginal Citations

M12 1984 c. 58.

- 22 In section 282 (grant of tenancy to former owner-occupier) in subsection (2) for “44(1)” there shall be substituted “ 44(2) ”.
- 23 In section 283 (grant of tenancy to former statutory tenant) in subsection (1)—
- (a) after “44” there shall be inserted “ (2) ”; and
 - (b) in paragraph (d) for the words “34(1)(d) of the Tenants’ Rights, Etc. (Scotland) Act 1980 (notice that tenancy is to be a protected shorthold tenancy)” there shall be substituted the words “ 9(1)(d) of the Rent (Scotland) Act 1984 (notice that the tenancy is to be a short tenancy) ”.
- 24 In section 285 (request for tenancy under sections 282 or 283) in subsection (1)(a) for the words “paragraph 4” there shall be substituted the words “ paragraph 3 ”.
- 25 In section 296 (contributions by Secretary of State) in subsection (4)(b) for “8 of Schedule 21” and “8(1)(a)” there shall be substituted respectively “ 10 of Schedule 20 ” and “ 10(1)(a) ”.
- 26 In section 299 (jurisdiction of sheriff) in subsection (2)(b) for the words “paragraph (9) of Schedule 21” there shall be substituted the words “ paragraph 11(1) of Schedule 20 ”.
- 27 In section 338 (interpretation) in the definition of “standard amenities” for “244(5)” there shall be substituted “ 244(6) ”.
- 28 In Schedule 7 (application of enactments) in paragraph 13—
- (a) in sub-paragraph (2) for the words “those Parts respectively” there shall be substituted the words “ Part I of this Act ”; and
 - (b) in sub-paragraph (3)(a) for the words “Part I of this Act or Part II of Schedule 8 (as the case may be)” there shall be substituted the words “ Part III of Schedule 8 ”.
- 29 In Schedule 20 (assistance by way of repurchase) in paragraph 3 for the words “a notice” there shall be substituted the words “ an offer to purchase ”.
- 30 In Schedule 24 (repeals) in the entry relating to the ^{M13}Rent (Scotland) Act 1984, in column 3, for “5(2)(b)” there shall be substituted “ 5(2)(d) ”.

Marginal Citations

M13 1984 c. 58.

SCHEDULE 8

Section 72.

HOUSING (SCOTLAND) ACT 1987— MINOR AMENDMENTS

- 1 In section 61 (secure tenant’s right to purchase) after subsection (2) there shall be inserted the following subsection—

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“(2A) For the purposes of subsection (2)(c), where the house was provided by a housing association which, at any time while the house was so provided, was not a registered housing association, the association shall, if it became a registered housing association at any later time, be deemed to have been a registered housing association at all times since it first provided the house.”.

2 In section 62 (price of house being purchased by secure tenant)—

(a) in subsection (2)—

(i) after the word “by”, where first occurring, there shall be inserted the word “ either ”; and

(ii) before the word “as” there shall be inserted the words “ as the landlord thinks fit ”;

(b) in subsection (4)—

(i) after “(3)” there shall be inserted “ (a) ”; and

(ii) at the end there shall be added “; and

(b) where the house was provided by a housing association which, at any time while the house was so provided was not a registered housing association, the association shall, if it became a registered housing association at any later time, be deemed to have been a registered housing association at all times since it first provided the house.”.

3 In section 151 (interpretation of Part VII) in the definition of “house” the words from “, not being” to the end of the definition shall cease to have effect.

F55 4

Textual Amendments
F55 Sch. 8 para. 4 repealed (1.4.2013) by Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11), ss. 4(b), 5(2)

F56 5

Textual Amendments
F56 Sch. 8 para. 5 repealed (1.4.2013) by Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11), ss. 4(b), 5(2)

F57 6

Textual Amendments
F57 Sch. 8 para. 6 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), Sch. 7 (with s. 193); S.S.I. 2009/122, art. 3

F58 7

Changes to legislation: *Housing (Scotland) Act 1988 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes*

Textual Amendments

F58 Sch. 8 para. 7 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [Sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

- 8 In section 255 (exchequer contributions in respect of amenities) in subsection (7) after “(6)” there shall be inserted the words “ or for such other amount as may be substituted under this subsection ”.
- 9 In Schedule 10 (landlord’s repairing obligations)—
- (a) for paragraph 1(1) there shall be substituted—
- “(1) This paragraph applies to any contract (whether entered into before or after the coming into force of Schedule 8 to the Housing (Scotland) Act 1988) for letting a house for human habitation under which no rent is payable or the rent payable is less than that specified by order made by the Secretary of State.
- (1A) In determining whether this paragraph applies to any contract, there shall be disregarded such part (if any) of the sums payable by the tenant as is expressed (in whatever terms) to be payable in respect of services, repairs, maintenance or insurance unless it could not have been regarded by the parties to the tenancy as a part so payable.
- (1B) An order under sub-paragraph (1) above may specify different rents in relation to—
- (a) different kinds of houses;
- (b) different areas.
- (1C) An order under sub-paragraph (1) above may specify rent by reference to such periods or such different periods or such other factors or such combinations thereof as may be specified in the order.
- (1D) An order under sub-paragraph (1) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (1E) This paragraph does not apply to a contract for the letting by a local authority of any house purchased or retained by the authority under section 121 or paragraph 5 of Schedule 8 for use for housing purposes.”;
- (b) after paragraph 3(1) there shall be inserted—
- “(1A) If a lease to which this paragraph applies is a lease of a house which forms part only of a building, then, subject to sub-paragraph (1B) of this paragraph, the provision implied by this paragraph (hereinafter referred to as “the implied repairs provision”) shall have effect as if—
- (a) the reference in paragraph (a) of sub-paragraph (1) of this paragraph to the house included a reference to any part of the building in which the lessor has an interest; and

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(b) any reference in paragraph (b) of sub-paragraph (1) of this paragraph to installations in the house included a reference to installations which, directly or indirectly, serve the house and in which the lessor has an interest.

(1B) Nothing in sub-paragraph (1A) of this paragraph shall be construed as requiring the lessor to carry out any works or repairs unless the disrepair (or failure to maintain in working order) is such as to affect the lessee’s enjoyment of the house or of any common parts.

(1C) In sub-paragraph (1B) of this paragraph “common parts” in relation to any building or part of a building includes the structure and exterior of that building or part and any common facilities within it.”;

(c) in paragraph 3(2) for the words from “The provision” to “provision”)” there shall be substituted the words “ The implied repairs provision ”;

(d) after sub-paragraph (3) there shall be inserted—

“(3A) In any case where—

(a) the implied repairs provision has effect as mentioned in sub-paragraph (1A) of this paragraph; and

(b) in order to comply with the provision the lessor needs to carry out works or repairs otherwise than in, or to an installation in, the house; and

(c) the lessor does not have sufficient right in the part of the building or the installation concerned to enable him to carry out the required works or repairs,

then, in any proceedings relating to a failure to comply with the implied repairs provision, so far as it requires the lessor to carry out the works or repairs in question, it shall be a defence for the lessor to prove that he used all reasonable efforts to obtain, but was unable to obtain, such rights as would be adequate to enable him to carry out the works or repairs.”.

The amendments made by sub-paragraphs (b) to (d) of this paragraph do not have effect with respect to—

(i) a lease entered into before this Act comes into force; or

(ii) a lease entered into pursuant to a contract made before this Act comes into force.

10 In Schedule 15 (housing revenue account) in paragraph 9(2) for the words “rate fund contribution” there shall be substituted the words “ contribution out of the said general fund ”.

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SCHEDULE 9

Section 72.

CONSEQUENTIAL AMENDMENTS

Land Compensation (Scotland) Act 1973 c. 56.

1 In section 27(4) (right to home loss payment) after paragraph (b) there shall be inserted the following paragraph—

“(bb) a right to occupy the dwelling as a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988;”.

Local Government, Planning and Land Act 1980 c. 65.

2 In Schedule 28, in paragraph 10 (urban development corporations, displacement of persons), after the ^{M14}words “Rent (Scotland) Act 1984” there shall be inserted the words “ or the Housing (Scotland) Act 1988 ”.

Marginal Citations

M14 1984 c. 58.

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

3 In section 22 (interpretation) in the definition of “tenant” for the words “Rent (Scotland) Act 1971” there shall be substituted the words “ Rent (Scotland) Act 1984 and a statutory assured tenant as defined in section 16(1) of the Housing (Scotland) Act 1988 ”.

Rent (Scotland) Act 1984 c. 58.

4 In section 103 (application to sheriff)—

- (a) in subsection (1) for the words from “a summary application” to the end there shall be substituted the words “ by way of summary application ”;
- (b) in subsection (2) for the word “paragraph” there shall be substituted the words “ paragraphs 2 and ”.

5 In Schedule 1 (statutory tenants by succession) in paragraph 2 for the word “his” there shall be substituted the words “ that spouse’s ”.

Housing Associations Act 1985 c. 69.

^{F59}6 In section 10(2)—

- (a) in paragraph (b) for the words “2 to 7 of Schedule 1 to the Tenants’ Rights, Etc. (Scotland) Act 1980” there shall be substituted the words “ 1 to 8 of Schedule 2 to the ^{M15}Housing (Scotland) Act 1987 ”;
- (b) ^{F60}]

Textual Amendments

F59 Sch. 9 para. 6 repealed (S.) (1.11.2001) by 2001 asp 10, ss. 112, 113(1), Sch. 10 para. 14(15); S.S.I. 2001/336, art. 2(3), Sch. Pt. II Table (subject to transitional provisions in art. 3)

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F60 Sch. 9 paras. 6(b) and 7 repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

Marginal Citations

M15 1987 c. 26.

7 **F61**

Textual Amendments

F61 Sch. 9 paras. 6(b) and 7 repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

[^{F62}8 In section 39, in the definition of “secure tenancy” for the words “section 10 of the Tenants’ Rights, Etc. (Scotland) Act 1980” there shall be substituted the words “44 of the Housing (Scotland) Act 1987 ”.]

Textual Amendments

F62 Sch. 9 para. 8 repealed (S.) (1.11.2001) by 2001 asp 10, ss. 112, 113(1), **Sch. 10 para. 14(15)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** Table (subject to transitional provisions in art. 3)

[^{F63}9 In section 106(2) for the definition of “shared ownership agreement” there shall be substituted the following definition–

““shared ownership agreement” means an agreement whereby–

- (a) a pro indiviso right in a dwelling is sold to a person and the remaining pro indiviso rights therein are leased to him subject to his being entitled, from time to time, to purchase those remaining rights until he has purchased the entire dwelling; or
- (b) pro indiviso rights in dwellings are conveyed to trustees to hold on behalf of persons each of whom, by purchasing a share in those dwellings, becomes entitled to exclusive occupancy of one of the dwellings but with any such person who wishes to sell or otherwise dispose of his share being required to do so through the agency of the trustees,

or such other agreement as may be approved whereby a person acquires a pro indiviso right in a dwelling or dwellings and thereby becomes entitled to exclusive occupancy of the dwelling or, as the case may be, one of the dwellings; ”.]

Textual Amendments

F63 Sch. 9 para. 9 repealed (S.) (1.11.2001) by 2001 asp 10, ss. 112, 113(1), **Sch. 10 para. 14(15)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** Table (subject to transitional provisions in art. 3)

Housing (Scotland) Act 1987 c. 26.

^{F64}10

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Textual Amendments

F64 Sch. 9 para. 10 repealed (S.) (30.9.2002) by 2001 asp 10, ss. 112, 113(1), Sch. 10 para. 14(15); S.S.I. 2002/321, art. 2(2), Sch. Table (subject to transitional provisions in arts. 3-5)

- 11 In section 64(7) (circumstances where prohibition of landlord’s option to repurchase does not apply)—
- (a) in paragraph (a), after the word “sold” there shall be inserted the words “whether under this Part or otherwise”;
 - (b) for paragraph (b) there shall be substituted the following paragraph—
 - “(b) the Secretary of State is satisfied that an unreasonable proportion of the houses sold consists of houses which have been resold and are not—
 - (i) being used as the only or principal homes of the owners; or
 - (ii) subject to regulated tenancies within the meaning of section 8 of the Rent (Scotland) Act 1984 or assured tenancies for the purposes of Part II of the Housing (Scotland) Act 1988.”.

F65 12

Textual Amendments

F65 Sch. 9 para. 12 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), Sch. 7 (with s. 193); S.S.I. 2009/122, art. 3

- 13 In section 128 (recovery of possession of house to which Rent (Scotland) Act 1984 applies) after “1984” there shall be inserted the words “ or in Part II of the Housing (Scotland) Act 1988 ”.
- 14 In section 145 (recovery of possession of overcrowded house that is let) after “1984” there shall be inserted the words “ or in Part II of the Housing (Scotland) Act 1988 ”.
- 15 In section 177 (statutory tenant to be regarded as lessee for purposes of the Act), in paragraph (a), after “1984” there shall be inserted the words “ or Part II of the Housing (Scotland) Act 1988 ”.
- 16 In section 180 (effect of control order), in subsection (4)—
- (a) after the words “the Act)” there shall be inserted the words “ and paragraph 11 of Schedule 4 to the Housing (Scotland) Act 1988 (which excludes lettings by local authorities from being assured tenancies within the meaning of the Act) ”;
 - (b) after “1984” where it second occurs there shall be inserted the words “ or an assured tenancy, within the meaning of the Housing (Scotland) Act 1988, ”;
 - (c) for the words “protected or statutory” where they second and third occur there shall be substituted the words “ protected, statutory or assured ”;
 - (d) for the words “that Act” there shall be substituted the words “ those Acts ”.
- 17 In section 207 (local authority’s duty to keep slum clearance revenue account) for paragraph (b) of subsection (2) there shall be substituted the following paragraph—

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- “(b) such of the expenditure of the authority in respect of houses and other property, being expenditure not included in paragraph (a), together with any income related to that expenditure as may be approved by the Secretary of State and falls within any of the following categories—
 - (i) any payment under section 308 (payments to certain owner-occupiers and others in respect of houses not meeting tolerable standard which are purchased or demolished) other than any such payment in respect of an interest in a house which has been purchased by the local authority for the purpose of bringing that house or another house up to the tolerable standard;
 - (ii) any payment under section 304 (payments in respect of well-maintained houses) other than any such payment in respect of an interest in a house which has been purchased by the local authority for the purpose of bringing that house or another house up to the tolerable standard;
 - (iii) any payment under section 234(5) or (6) (payment of removal and other allowances to person displaced);
 - (iv) such other expenditure as the Secretary of State may direct.”.

18 In section 311 (interpretation of sections 308 to 310), in subsection (2), in the definition of “interest” after “1984” there shall be inserted the words “ or of a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988 ”.

19 In section 328 (duty to inform tenant of assignation of landlord’s interest), in subsection (6), after “1984” there shall be inserted the words “ and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988 ”.

20 In section 338 (interpretation), in subsection (1) in the definition of “tenancy” after the word “applies” there shall be inserted the words “ and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988 ”.

F6621

Textual Amendments
F66 Sch. 9 para. 21 repealed (30.9.2002) by 2001 asp 10, s. 112, Sch. 10 para. 14(15); S.I. 2002/321, arts. 2(2), Sch. Table (subject to transitional provisions in arts. 3-5)

SCHEDULE 10

Section 72.

REPEALS

1951 c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 16, in each of subsections (3) and (4), the words “30 or”.
1971 c. 40.	The Fire Precautions Act 1971.	In Part III of the Schedule, in paragraph 3(1) the

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1975 c. 24.	The House of Commons Disqualification Act 1975.	words from “(and the” in sub-sub-paragraph (a) to “accordingly); and”.
1984 c. 58.	The Rent (Scotland) Act 1984.	In Schedule 1, in Part III the words “Chairman, Deputy Chairman or member of the Council of Management of the Scottish Special Housing Association, appointed at a salary.”. In section 28(2), the words “and 49(5)”. In section 29(2), the words “Subject to section 49(5) below”. Section 30. In section 32(1) the words “or 30(2)”.
1984 c. 58. <i>cont.</i>	The Rent (Scotland) Act 1984 <i>cont.</i>	The proviso to section 34(1). In section 40, the words “or rates”. Section 42(2). Section 49(4) and (5). Section 54(2). In section 56(2) the words “(except section 49(5))”. The proviso to section 57(2). Section 57(5). In section 58(2) the words “subject to section 57(5) above”. In section 61(1) in the definition of “housing association”, paragraph (a). In section 65(1) the words “or the local authority”. In section 66(1) the words “or the local authority”. Section 67(3). In section 68, the words “or the local authority”. Section 69(2).

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		Section 70(2).
		In section 71(1) the words “or the local authority”.
		In section 95(1) paragraph (a) and in paragraph (b) the words “or dwellinghouse exceeding a specified rateable value”.
		Section 98(5).
		In section 103(2) the words “42(2), 54(2)”.
		Section 105(2).
		Schedule 3.
		Schedule 7, paragraph 5.
...
F67	F67	F67
1987 c. 26.	The Housing (Scotland) Act 1987.	Section 62(11) to (13).
		In section 151 in the definition of “house” the words from “, not being” to the end of the definition.
		In section 194, in subsection (1) the words “the Scottish Special Housing Association (“the Association”) and to” and in subsection (2) the words “the Association and to” and “the Association, acting otherwise than as agents, or by”.
1987 c. 26.cont.	The Housing (Scotland) Act 1987.cont.	Section 196.
		Section 200.
		Sections 254 and 255.
		Sections 296 and 297.
		In Schedule 12, in paragraph 2, Part III.
		In Schedule 13, the entries relating to section 59 of the Housing (Scotland) Act 1969, Part I of the Housing (Scotland) Act 1974 and

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		sections 254 and 255 of the Housing (Scotland) Act 1987.
		In Schedule 14, the entries relating to section 59 of the Housing (Scotland) Act 1969, Part I of the Housing (Scotland) Act 1974 and Part IX and sections 254 and 255 of the Housing (Scotland) Act 1987.
		In Schedule 16, paragraph 1 (b).
1988 c. 9.	The Local Government Act 1988.	In section 1(1), paragraph (1) and the word “and” immediately preceding it.
		In Schedule 2, the words “The Scottish Special Housing Association”.

Textual Amendments

F67 Entry repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 42(1)(d) words repealed by 2014 asp 14 sch. 2 para. 5(2)
- s. 56(3)(e) repealed by 2001 asp 10 Sch. 10 para. 14(5)(b)
- s. 66(1) words inserted by 2001 asp 10 s. 50(2)(a)
- s. 66(1) words substituted by 2001 asp 10 s. 50(2)(b)
- s. 66(1)(c) and word repealed by 2001 asp 10 s. 50(2)(d)
- Sch. 2 para. 2 repealed by 2001 asp 10 Sch. 10 para. 14(11)
- Sch. 2 para. 3(a) repealed by 2001 asp 10 Sch. 10 para. 14(11)
- Sch. 2 para. 14 repealed by 2001 asp 10 Sch. 10 para. 14(11)
- Sch. 4 para. 11B words omitted by 2016 c. 19 Sch. 11 para. 2(b)(v)
- Sch. 5 Pt. 3 para. 1 by 2001 asp 10 Sch. 10 para. 14(13)(a)
- Sch. 5 Pt. 3 para. 3(1)(a) by 2001 asp 10 Sch. 10 para. 14(13)(b)(i)
- Sch. 5 Pt. 3 para. 3(2) by 2001 asp 10 Sch. 10 para. 14(13)(b)(ii)
- Sch. 5 Pt. 3 para. 56 by 2001 asp 10 Sch. 10 para. 14(13)(c)(d)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by 2001 asp 10 s. 50(2)(c)
- s. 66(2A) inserted by 2001 asp 10 s. 50(3)
- s. 66(5A) inserted by 2001 asp 10 s. 50(4)
- sch. 17 para. 19-26 repealed by 2014 asp 14 sch. 2 para. 5(4)