



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART III **S**

#### RIGHTS OF PUBLIC SECTOR TENANTS

##### *Security of tenure*

**F1**44 ..... **S**

#### Textual Amendments

**F1** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

**F2**45 ..... **S**

#### Textual Amendments

**F2** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F3**46 ..... **S**

#### Textual Amendments

**F3** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3-5)

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<sup>F4</sup>47 ..... **S**

**Textual Amendments**

**F4** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

<sup>F5</sup>48 ..... **S**

**Textual Amendments**

**F5** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

<sup>F6</sup>49 ..... **S**

**Textual Amendments**

**F6** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

<sup>F7</sup>50 ..... **S**

**Textual Amendments**

**F7** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

<sup>F8</sup>51 ..... **S**

**Textual Amendments**

**F8** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Succession*

<sup>F9</sup>52 ..... **S**

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**Textual Amendments**

**F9** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Leases*

**F10** **53** .....



**Textual Amendments**

**F10** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F11** **54** .....



**Textual Amendments**

**F11** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Subletting*

**F12** **55** .....



**Textual Amendments**

**F12** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F13** **56** .....



**Textual Amendments**

**F13** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Repairs and improvements*

**F14** **57** .....



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**Textual Amendments**

**F14** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F15** **58** ..... **S**

**Textual Amendments**

**F15** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F16** **58A** ..... **S**

**Textual Amendments**

**F16** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F17** **59** ..... **S**

**Textual Amendments**

**F17** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F18** **60** ..... **S**

**Textual Amendments**

**F18** Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Right to buy*

**61** **Secure tenant’s right to purchase** **S**

(1) Notwithstanding anything contained in any agreement, a tenant of a house to which this section applies (or such one or more of joint tenants as may be agreed between them) shall, subject to this Part, have the right to purchase the house at a price fixed under section 62.

(2) This section applies to every house let under a [<sup>F19</sup>Scottish] secure tenancy where—

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- (a) the landlord is <sup>F20</sup>, or was when the tenancy was granted,] either—
  - <sup>F21</sup>(i) a local authority, or a joint board or joint committee of two or more local authorities, or the common good of a local authority or any trust under the control of a local authority; or
    - <sup>F22</sup>(ia) [ a registered social landlord; or
    - [ Scottish Water;]]
  - <sup>F23</sup>(iia)
  - (iii) .....
  - <sup>F24</sup>(iv) .....
  - <sup>F24</sup>(v) .....
  - <sup>F24</sup>(vi) .....
  - <sup>F24</sup>(vii) .....
  - <sup>F24</sup>(viii) .....
  - <sup>F24</sup>(ix) . . . and
- (b) the landlord is the heritable proprietor of the house <sup>F25</sup> . . . ; and
- (c) immediately prior to the date of service of an application to purchase, the tenant has been for not less than <sup>F26</sup>5 years] in occupation of a house (including accommodation provided as mentioned in subsection (11)(n)) or of a succession of houses provided by any persons mentioned in subsection (11).

<sup>F27</sup>(2A) For the purposes of subsection (2)(c), where the house was provided by a body which, at any time while the house was so provided, was not a registered social landlord, the body shall, if it became a registered social landlord at any later time, be deemed to have been a registered social landlord.]

- (3) This section also applies to a house let under a <sup>F28</sup>Scottish] secure tenancy granted in pursuance of section <sup>F29</sup>282(2) or (3)] (grant of <sup>F28</sup>Scottish] secure tenancy on acquisition of defective dwelling), if the tenant would not otherwise have the right to purchase under this Part; and where it so applies—

- (a) paragraph (c) of subsection (2) shall not have effect;
- <sup>F30</sup>(b) the words “beyond 5” in section 62(3)(b) and “after 5” in section 62(5)(b) shall not have effect.]

- (4) This section does not apply—

- <sup>F31</sup>(a) .....
- <sup>F31</sup>(b) .....
- (c) where <sup>F32</sup>a landlord which is a registered social landlord] has at no time let (or had available for letting) more than 100 dwellings;
- <sup>F33</sup>(ca) where a landlord which is a registered social landlord is a co-operative housing association;] or
- <sup>F31</sup>(d) .....
- <sup>F34</sup>(e) where a registered social landlord is registered as such by virtue of section 57(2) of the Housing (Scotland) Act 2001 (asp 10) and was, on the date on which that Act received Royal Assent, a recognised body within the meaning of section 1(7) (Scottish charities) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40);]

- <sup>F35</sup>(ea) to a house that is one of a group of houses which has been designed for persons with special needs where one or more of the following conditions is satisfied—

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- (i) the houses are provided with, or situated near, special facilities for use by their tenants (whether or not exclusively),
- (ii) the tenants of the houses are provided with housing support services (within the meaning of section 91 of the Housing (Scotland) Act 2001 (asp 10)).]

(f) .....

<sup>F36</sup>(4A) .....

- (5) Where the spouse of a tenant or, where there is a joint tenancy, the spouse of a joint tenant, occupies the house as his only or principal home but is not himself a joint tenant, the right to purchase the house under subsection (1) shall not be exercised without the consent of such spouse.
- (6) A tenant may exercise his right to purchase, if he so wishes, together with one or more members of his family acting as joint purchasers, provided—
  - (a) that such members are at least 18 years of age, that they have, during the period of 6 months ending with the date of service of the application to purchase, had their only or principal home with the tenant and that their residence in the house is not a breach of any obligation of the tenancy; or
  - (b) where the requirements of paragraph (a) are not satisfied, the landlord has consented.

<sup>F36</sup>(7) .....

<sup>F36</sup>(8) .....

<sup>F36</sup>(9) .....

- (10) In this section and [<sup>F37</sup>section 62]—
  - (a) references to occupation of a house [<sup>F38</sup>are to continuous occupation and] include occupation—
    - (i) in the case of joint tenants, by any one of them;
    - (ii) by any person occupying the house rent-free;
    - (iii) as the spouse of the tenant, joint tenant or of any such person;
    - (iv) as the child, or the spouse of a child, of a tenant or a person occupying the house rent free who has succeeded, directly or indirectly, to the rights of that person in a house occupation of which would be reckonable for the purposes of this section; but only in relation to any period when the child, or as the case may be spouse of the child, is at least 16 years of age; or
    - (v) ....., <sup>F39</sup> as a member of the family of a tenant or a person occupying the house rent free who, not being that person’s spouse or child (or child’s spouse), has succeeded, directly or indirectly, to such rights as are mentioned in paragraph (iv); but only in relation to any period when the member of the family is at least 16 years of age.
  - (b) for the purpose of determining the period of occupation—
    - <sup>F40</sup>(i) .....
    - <sup>F40</sup>(ii) .....
    - [<sup>F41</sup>(iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age

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and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.]

[<sup>F42</sup>(iv) the landlord may, if it thinks fit, disregard as not affecting continuity any interruption in occupation which appears to it to result from circumstances outwith the control of the person in question.]

(11) The persons providing houses referred to in subsection (2)(c) (occupation requirement for exercise of right to purchase) and in section 62(3)(b) (calculation of the discount from the market value) are—

(a) [<sup>F43</sup>any local authority] in Scotland; any local authority in England and Wales or in Northern Ireland; and the statutory predecessors of any such <sup>F44</sup> . . . authority, or the common good of any such [<sup>F43</sup>authority], or any trust under the control of any such [<sup>F43</sup>authority];

[<sup>F45</sup>(aa) a registered social landlord;]

(b) the Commission for the New Towns;

(c) a development corporation, an urban development corporation; and any development corporation established under corresponding legislation in England and Wales or in Northern Ireland; and the statutory predecessors of any such authority;

[<sup>F46</sup>(d) Scottish Homes and the Scottish Special Housing Association;]

(e) a registered housing association;

(f) the Housing Corporation;

(g) a housing co-operative within the meaning of section 22 or a housing co-operative within the meaning of section 27B of the <sup>M1</sup>Housing Act 1985;

<sup>F47</sup>(h) . . . . .

(i) the Northern Ireland Housing Executive or any statutory predecessor;

(j) a police authority or the statutory predecessors of any such authority;

(k) a fire authority or the statutory predecessors of any such authority;

(l) [<sup>F48</sup>Scottish Water]; any water authority constituted under corresponding legislation in England and Wales or in Northern Ireland; and the statutory predecessors of [<sup>F49</sup>Scottish Water and]any such authority;

(m) the Secretary of State, where the house was at the material time used for the purposes of the Scottish Prison Service or of a prison service for which the Home Office or the Northern Ireland Office have responsibility;

(n) the Crown, in relation to accommodation provided in connection with service whether by the tenant or his spouse as a member of the regular armed forces of the Crown;

(o) the Secretary of State, where the house was at the material time used for the purposes of a health board constituted under section 2 of the <sup>M2</sup>National Health Services (Scotland) Act 1978 or for the purposes of a corresponding board in England and Wales, or for the purposes of the statutory predecessors of any such board; or the Department of Health and Social Services for Northern Ireland, where the house was at the material time used for the purposes of a Health and Personal Services Board in Northern Ireland, or for the purposes of the statutory predecessors of any such board;

(p) the Secretary of State, or the Minister of Agriculture, Fisheries and Food, where the house was at the material time used for the purposes of the Forestry Commission;

(q) the Secretary of State, where the house was at the material time used for the purposes of a State Hospital [<sup>F50</sup>provided under section 102(1) of the

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- National Health Service (Scotland) Act 1978] or for the purposes of any hospital provided under corresponding legislation in England and Wales;
- (r) the Commissioners of Northern Lighthouses;
  - (s) the Trinity House;
  - (t) the Secretary of State, where the house was at the material time used for the purposes of Her Majesty’s Coastguard;
  - (u) the United Kingdom Atomic Energy Authority;
  - (v) the Secretary of State, where the house was at the material time used for the purposes of any function transferred to him under section 1(2) of the <sup>M3</sup>Defence (Transfer of Functions) Act 1964 or any function relating to defence conferred on him by or under any subsequent enactment;
  - (w) such other person as the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament prescribe.

#### Textual Amendments

- F19** Words in s. 61(2) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(i)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F20** Words in s. 61(2)(a) inserted (30.9.2002) by 2001 asp 10, s. 42(1)(a); S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F21** S. 61(2)(a): sub-paras. (i) and (ia) substituted (1.4.1996) for sub-paras. (i) and (ii) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(2)(a)**; S.I. 1996/323, art. 4
- F22** S. 61(2)(a)(ia) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F23** S. 61(2)(a)(ia) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(a)** (with s. 67); S.S.I. 2002/118, art. 2 (subject to savings in art. 3)
- F24** S. 61(2)(a)(iii)-(ix) and in each case the preceding “or” repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(iii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F25** Words in s. 61(2)(b) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(iv)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F26** Words in s. 61(2)(c) substituted (30.9.2002) by 2001 asp 10, s. 42(1)(b); S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F27** S. 61(2A) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F28** Words in s. 61(3) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(c)(i)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F29** Words substituted by **Local Government and Housing Act 1989 (c. 42, SIF 61)**, s. 194(1), **Sch. 11 para. 93**
- F30** S. 61(3)(b) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(c)(iii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F31** S. 61(4)(a)(b)(d)(f) repealed (30.9.2002) by 2001 asp 10, s. 43(2); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F32** Words in s. 61(4)(c) substituted (30.9.2002) by 2001 asp 10, s. 43(3); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F33** S. 61(4)(ca) inserted (30.9.2002) by 2001 asp 10, s. 43(4); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F34** S. 61(4)(e) substituted (30.9.2002) by 2001 asp 10, s. 43(5); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F35** S. 61(4)(ea) inserted (30.9.2002) by 2001 asp 10, s. 43(6); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)



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- F36** S. 61(4A)(7)-(9) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(d)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F37** Words in s. 61(10) substituted (30.9.2002) by 2001 asp 10, s. 42(2)(a); S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F38** Words in s. 61(10)(a) inserted (30.9.2002) by 2001 asp 10, s. 42(2)(b); S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F39** Words repealed by **Local Government and Housing Act 1989** (c. 42, SIF 61), ss. 176(1)(a)(2), 194(4), **Sch. 12 Pt. II**
- F40** S. 61(10)(b)(i)(ii) repealed (27.9.1993) by 1993 c. 28, ss. 157(2), 187(2), **Sch. 22**; S.I. 1993/2163, art. 2, **Sch. 1.**
- F41** Word “and” and s. 61(10)(b)(iii) added by **Local Government and Housing Act 1989** (c. 42, SIF 61), s. 176(1)(b)(2)
- F42** S. 61(10)(b)(iv) inserted (30.9.2002) by 2001 asp 10, s. 42(2)(c); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3-5)
- F43** Words in s. 61(11)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(2)(b)(i)(iii)**; S.I. 1996/323, art. 4
- F44** Words in s. 61(11)(a) repealed (1.4.1996) by 1994 c. 39, s. 180, **Sch. 13 para. 152(2)(b)(ii)**, **Sch. 14**; S.I. 1996/323, art. 4
- F45** S. 61(11)(aa) inserted (30.9.2002) by 2001 asp 10, ss. 112, **Sch. 10 para. 13(6)(e)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F46** S. 61(11)(d) substituted by **Housing (Scotland) Act 1988** (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(d)**
- F47** S. 61(11)(h) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV**; S.I. 1999/2244, art. 4
- F48** Words in s. 61(11)(l) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(b)(i)** (with s. 67); S.S.I. 2002/118, art. 2 (subject to savings in art. 3)
- F49** Words in s. 61(11)(l) inserted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(b)(ii)** (with s. 67); S.S.I. 2002/118, art. 2 (subject to savings in art. 3)
- F50** Words in s. 61(11)(q) substituted (27.9.2005) by **The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005** (S.S.I. 2005/465), art. 1, **sch. 1 para. 19(2)**

#### Modifications etc. (not altering text)

- C1** S. 61 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**
- C2** S. 61(2)(c) excluded (30.9.2002) by S.S.I. 2002/318, art. 2(2)

#### Marginal Citations

- M1** 1985 c. 68.
- M2** 1978 c. 29.
- M3** 1964 c. 15

### [<sup>F51</sup>61A Limitation on right to purchase from registered social landlords **S**

- (1) Subject to subsection (2), this section applies to a Scottish secure tenancy where the landlord is a registered social landlord and—
- the tenancy was created on or after the date specified in relation to the landlord in an order under section 11(1) of the Housing (Scotland) Act 2001 (asp 10), or
  - the tenancy became a Scottish secure tenancy by virtue of such an order.
- (2) This section does not apply—
- to a tenancy of a house acquired by the landlord after the date referred to in subsection (1)(a),
  - to a tenancy of a house constructed by the landlord after that date if an offer of grant in connection with the construction was made by the Scottish Ministers or a local authority after that date,

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- (c) in such other circumstances as the Scottish Ministers may specify by order made by statutory instrument.
- (3) Where this section applies, section 61(1) does not apply in relation to a house let under the tenancy until the expiry of—
  - (a) the period of 10 years beginning with the date referred to in subsection (1)(a), and
  - (b) any further period determined under subsection (4).
- (4) The Scottish Ministers may if they think fit, on an application made by the landlord before the expiry of a period mentioned in subsection (3)(a) or (b), determine a further period, not exceeding 10 years, for the purposes of paragraph (b) of that subsection.
- (5) The Scottish Ministers may issue guidance as to—
  - (a) the form of such an application,
  - (b) the information to be provided by the landlord in support of such an application.
- (6) Before making an application under subsection (4), the landlord shall consult—
  - (a) any heritable creditor of the landlord having an interest in a house of the landlord's in relation to which this section applies, and
  - (b) such other persons as it thinks fit.
- (7) If a registered social landlord so elects by notice in writing to the Scottish Ministers, subsection (3) ceases, on the date specified in the notice, to have effect in relation to houses let (whether before or after that date) by the landlord.
- (8) A notice given under subsection (7) cannot be withdrawn after the date specified in it.
- (9) Where a landlord gives a notice under subsection (7) it shall take such steps as are reasonable to inform—
  - (a) those of its tenants affected by the operation of subsection (3), and
  - (b) any heritable creditor referred to in subsection (6)(a),
 that the notice has been given and of its effect.
- (10) A statutory instrument containing an order under subsection (2)(c) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### Textual Amendments

**F51** S. 61A inserted (30.9.2002) by 2001 asp 10, s. 44; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

#### [<sup>F52</sup> 61B Limitation on right to purchase: pressured areas **S**

- (1) The Scottish Ministers may, from time to time, on a proposal from a local authority, designate any part of the local authority's area as a pressured area if they consider that—
  - (a) the needs of that part for housing accommodation in houses provided by the authority or by registered social landlords exceed substantially, or are likely to exceed substantially, the amount of such housing accommodation which is, or is likely to be, available in that part, and

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- (b) the exercise by tenants of houses in that part of the right under section 61(1) to purchase such houses is likely to increase the extent by which such needs exceed the amount of such housing accommodation.
- (2) A designation under subsection (1)—
  - (a) may be in terms of the proposal or in such other terms as the Scottish Ministers think fit,
  - (b) has effect for such period, not exceeding 5 years, as the Scottish Ministers may specify.
- (3) For so long as an area is designated as a pressured area, section 61(1) does not apply in relation to a house in the area—
  - (a) let under a tenancy created on or after the date specified in relation to the landlord in an order under section 11(1) of the Housing (Scotland) Act 2001 (asp 10), or
  - (b) let under a tenancy created before that date where—
    - (i) the tenant did not, immediately before that date, have a right under section 61(1) to purchase the house, or
    - (ii) the tenant succeeded to the tenancy on or after that date.
- (4) In determining for the purposes of subsection (3)(b)(i) whether a tenant had a right to purchase a house, section 61(2)(c) is to be left out of account.
- (5) A designation under subsection (1) shall—
  - (a) identify the pressured area,
  - (b) specify the date on which the designation takes effect, and
  - (c) specify the period for which it has effect.
- (6) The local authority shall take such steps as are reasonable to publicise—
  - (a) a designation under subsection (1) and its effect,
  - (b) any amendment or revocation of such a designation under subsection (8) and its effect.
- (7) Where a local authority landlord or a registered social landlord offers a person a tenancy of a house in an area in relation to which, on the proposed commencement date of the tenancy, a designation under subsection (1) will be in force, the landlord shall inform the person of the designation and its effect.
- (8) A designation under subsection (1) may be amended or revoked by the Scottish Ministers at any time if the local authority propose that they should do so and provide reasons for that proposal sufficient to justify the amendment or revocation.
- (9) A local authority may make a further proposal under subsection (1) in relation to a part of their area despite a designation under that subsection being, or having been, in force in relation to that part.
- (10) Nothing in this section affects a notice to purchase served prior to the designation of an area as a pressured area.]

#### **Textual Amendments**

**F52** S. 61B inserted (30.9.2002) by 2001 asp 10, s. 45; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

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<sup>F53</sup>**61C Pressured area proposals: procedure** S

- (1) A proposal by a local authority under section 61B(1) shall specify—
  - (a) the part of their area proposed for designation as a pressured area, and
  - (b) the period, not exceeding 5 years, for which it is proposed the designation should have effect.
- (2) The Scottish Ministers may issue guidance as to—
  - (a) the form of such a proposal,
  - (b) the information to be provided by a local authority in support of such a proposal.
- (3) Before making a proposal under section 61B(1) in relation to any part of their area a local authority shall consult—
  - (a) every registered social landlord holding houses for housing purposes in the part in question, and
  - (b) such bodies representing the interests of tenants and other residents in that part, and such other persons, as the authority think fit.

**Textual Amendments**

**F53** S. 61C inserted (30.9.2002) by 2001 asp 10, s. 45; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

<sup>F54</sup>**61D Limitation on right to purchase: arrears of rent, council tax etc.** S

- (1) Subsections (2) and (3) apply where a tenant serves on a landlord an application to purchase at a time when the tenant, or any joint purchaser (within the meaning of section 61(6))—
  - (a) has not paid the landlord rent or any other charge lawfully due to the landlord under that or any other tenancy, or
  - (b) has not paid any sum lawfully due in respect of—
    - (i) council tax in respect of the house or any other house in the local government area in which the house is situated, or
    - (ii) water and sewerage charges in relation to the house or any other such house.
- (2) If the landlord is a local authority landlord, it is entitled (but not required) to serve on the tenant a notice of refusal under section 68.
- (3) If the landlord is a registered social landlord—
  - (a) where the sum is a sum referred to in subsection (1)(a), the landlord is entitled (but not required) to serve such a notice on the tenant,
  - (b) where the sum is a sum referred to in subsection (1)(b), the landlord shall—
    - (i) consult the local authority for the area in which the house is situated, and
    - (ii) serve such a notice on the tenant unless the authority agree that such a notice should not be served.]

*Status: Point in time view as at 03/01/2011.*

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#### Textual Amendments

**F54** S. 61D inserted (30.9.2002) by [2001 asp 10, s. 46\(1\)](#); [S.S.I. 2002/321, art. 2, Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

#### [<sup>F55</sup> **61E Limitation on right to purchase: conduct** **S**

- (1) Subsection (3) applies where—
  - (a) the landlord has served on the tenant a notice under section 14(2) of the Housing (Scotland) Act 2001 (asp 10) specifying a ground set out in any of paragraphs 1 to 7 of schedule 2 to that Act as the ground on which proceedings for recovery of possession of the house are to be raised, and
  - (b) neither of the following has occurred—
    - (i) the notice has ceased to be in force in accordance with section 14(5) of that Act or has been withdrawn by the landlord without proceedings for recovery of possession having been raised, or
    - (ii) such proceedings have been raised and have been finally determined.
- (2) For the purposes of subsection (1)(b)(ii) proceedings are finally determined when—
  - (a) the period for appealing against the interlocutor disposing of the proceedings has expired without an appeal being lodged, or
  - (b) where an appeal has been lodged, the appeal is withdrawn or finally determined.
- (3) Where this subsection applies, section 61(1) does not apply in relation to the house referred to in subsection (1) of this section.
- (4) Nothing in this section affects an application to purchase served prior to service of the notice referred to in subsection (1).]

#### Textual Amendments

**F55** S. 61E inserted (30.9.2002) by [2001 asp 10, s. 47](#); [S.S.I. 2002/321, art. 2, Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

#### [<sup>F56</sup> **61F Limitation on right to purchase: new supply social housing** **S**

- (1) Section 61 does not apply to a new supply social house.
- (2) Subsection (1) does not affect the right of a tenant to purchase a new supply social house under this Part if—
  - (a) the tenant moved to the new supply social house in pursuance of—
    - (i) an order for recovery of possession made under section 16(2) of the Housing (Scotland) Act 2001 (asp 10), on any of the grounds set out in paragraphs 9 to 15 of schedule 2 to that Act, in respect of a house subject to a Scottish secure tenancy created before the relevant day; or
    - (ii) the operation of section 19(3)(b), 21(3)(b) or 22(6) of that Act following termination of a Scottish secure tenancy created before the relevant day;

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- (b) the tenant moved to the new supply social house from a house subject to a Scottish secure tenancy created before the relevant day in pursuance of a decision by the landlord to demolish that other house as a result of which—
    - (i) the tenancy of that other house was terminated by written agreement between the landlord and the tenant; and
    - (ii) the new supply social house was made available to the tenant;
  - (c) the tenant occupied the new supply social house immediately before the relevant day under a short Scottish secure tenancy which has, since that day, been converted into a Scottish secure tenancy under section 37 of the Housing (Scotland) Act 2001 (asp 10); or
  - (d) the landlord failed to give the tenant notice (in the prescribed form) of the effect of subsection (1)—
    - (i) where the landlord acquired the new supply social house from the tenant, at least 7 days before the missives for that acquisition were concluded; or
    - (ii) in any other case, at least 7 days before the creation of the Scottish secure tenancy to which the new supply social house is subject.
- (3) In this section—
- “new supply social house” means a house let under a Scottish secure tenancy created on or after the relevant day which—
- (a) was not let under a Scottish secure tenancy on or before 25 June 2008; or
  - (b) was acquired by the landlord on or after 25 June 2008; and
- “relevant day” means the day on which section 143 of the Housing (Scotland) Act 2010 (asp 17) comes into force.]

#### Textual Amendments

**F56** S. 61F inserted (3.1.2011 for specified purposes) by [Housing \(Scotland\) Act 2010 \(asp 17\), ss. 143, 166\(2\); S.S.I. 2010/444, art. 2](#)

## 62 The price. **S**

- (1) Subject to [<sup>F57</sup>subsection (6A)], the price at which a tenant entitled to purchase a house under this Part shall be fixed [<sup>F58</sup>as at the date of service of the application to purchase] by subtracting a discount from the market value of the house.
- (2) The market value for the purposes of this section shall be determined by [<sup>F59</sup>either]—
  - (a) a qualified valuer nominated by the landlord and accepted by the tenant; or
  - (b) the district valuer,

[<sup>F60</sup>as the landlord thinks fit] as if the house were available for sale on the open market with vacant possession at the date of service of the application to purchase.

For the purposes of this subsection, no account shall be taken of any element in the market value of the house which reflects an increase in value as a result of work the cost of which would qualify for a reimbursement under [<sup>F61</sup>section 29 of the Housing (Scotland) Act 2001 (asp 10)].
- (3) Subject to subsection (5), the discount for the purposes of subsection (1) shall be—
  - [<sup>F62</sup>(a) 20 per cent of the market value of the house,]

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together with

- (b) an additional one per cent. [<sup>F63</sup>of the market value for every year beyond 5] of <sup>F64</sup> . . . occupation by the appropriate person, <sup>F64</sup> . . . preceding the date of service of the application to purchase, of a house (including accommodation provided as mentioned in section 61(11)(n) or of a succession of houses provided by any persons mentioned in section 61(11),

up to a maximum discount of [<sup>F65</sup>35 per cent or £15,000, whichever is less].

[<sup>F66</sup>(3A) There shall be deducted from the discount an amount equal to any previous discount, or the aggregate of any previous discounts, received by [<sup>F67</sup>any of the persons mentioned in subsection (4)(a)(i) to (iv)] on any previous purchase of a house <sup>F68</sup> . . . from a landlord who is a person specified in subsection (11) of section 61 or prescribed in an order made under that subsection, reduced by any amount of such previous discount recovered by such a landlord.]

[<sup>F69</sup>(3B) Where a previous discount was received by two or more persons jointly, subsection (3A) has effect as if each of them had received an equal proportion of the discount.]

(4) For the purposes of subsection (3)

[<sup>F70</sup>(a) the “appropriate person” is whoever of—

- (i) the tenant; or
- (ii) the tenant’s spouse if living with him at the date of service of the application to purchase; or
- (iii) a deceased spouse if living with the tenant at the time of death; or
- (iv) any joint tenant who is a joint purchaser of the house,

has the longer or longest [<sup>F71</sup>occupation of the type mentioned in subsection (3)(b)];]

[<sup>F72</sup>(b) where the house was provided by a body which, at any time while the house was so provided, was not a registered social landlord, the body shall, if it became a registered social landlord at any later time, be deemed to have been a registered social landlord at all times since it first provided the house]

<sup>F73</sup> . . .

(5) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—

- (a) the minimum percentage discount,
- (b) the percentage increase for each complete year of the qualifying period after the first [<sup>F74</sup>5], or
- (c) the maximum percentage discount,

shall be such percentage, [<sup>F75</sup>other] than that specified in subsection (3), as may be specified in the order.

[<sup>F76</sup>(5A) The Scottish Ministers may by order vary the maximum amount of discount for the time being specified in subsection (3).]

(6) An order under subsection (5) [<sup>F77</sup>or (5A)]—

- (a) may make different provision with respect to different cases or descriptions of case [<sup>F78</sup>or different areas],
- (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and

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- (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- [<sup>F79</sup>(6A) Except where the Secretary of State so determines, the discount for the purpose of subsection (1) shall not reduce the price below the amount which, in accordance with a determination made by him, is to be taken as representing so much of the costs incurred in respect of the house as, in accordance with the determination, is to be treated as—
- (a) incurred in the period commencing with the beginning of the financial year of the landlord which was current 5 years prior to the date of service of the application to purchase the house or such other period as the Secretary of State may by order provide; and
  - (b) relevant for the purposes of this subsection,
- and, if the price before discount is below that amount, there shall be no discount.
- (6B) An order under subsection (6A) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may make different provision in relation to different cases or circumstances or different areas.]
- (10) Where at the date of service of an offer to sell under section 63 any of the costs referred to in subsection [<sup>F80</sup>(6A)] are not known, the landlord shall make an estimate of such unknown costs for the purposes of that subsection.
- (11) . . . . . <sup>F81</sup>

#### Textual Amendments

- F57** Words substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), **s. 65(1)(6)**
- F58** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 94**
- F59** Word inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), **Sch. 8 para. 2(a)(i)**
- F60** words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), **Sch. 8 para. 2(a)(ii)**
- F61** Words in s. 62(2) substituted (30.9.2002) by [2001 asp 10](#), s. 112, **Sch. 10 para. 13(7)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F62** S. 62(3)(a) substituted (30.9.2002) by [2001 asp 10](#), **s. 49(2)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F63** Words in s. 62(3)(b) substituted (30.9.2002) by [2001 asp 10](#), **s. 49(2)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F64** Words in s. 62(3)(b) repealed (27.9.1993) by [1993 c. 28](#), ss. 157(3)(a), 187(2), **Sch. 22**; S.I. 1993/2163, art. 2, **Sch. 1**
- F65** Words in s. 62(3) substituted (30.9.2002) by [2001 asp 10](#), **s. 49(2)(c)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F66** S. 62(3A) inserted (27.9.1993) by [1993 c. 28](#), **s. 157(3)(b)**; S.I. 1993/2163, art. 2, **Sch. 1**.
- F67** Words in s. 62(3A) substituted (30.9.2002) by [2001 asp 10](#), **s. 49(3)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F68** Words in s. 62(3A) repealed (30.9.2002) by [2001 asp 10](#), **s. 49(3)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F69** S. 62(3B) inserted (30.9.2002) by [2001 asp 10](#), **s. 49(4)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F70** S. 62(4)(a) substituted (27.9.1993) by [1993 c. 28](#), **s. 157(3)(c)(i)**; S.I. 1993/2163, art. 2, **Sch. 1**.
- F71** Words in s. 62(4)(a) substituted (30.9.2002) by [2001 asp 10](#), **s. 49(5)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F72** S. 62(4)(b) substituted (30.9.2002) by [2001 asp 10](#), s. 112, **Sch. 10 para. 13(7)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)



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- F73** Words in s. 62(4) repealed (30.9.2002) by 2001 asp 10, s. 49(5)(b); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F74** Word in s. 62(5)(b) substituted (30.9.2002) by 2001 asp 10, s. 49(6)(a); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F75** Words in s. 62(5) substituted (30.9.2002) by 2001 asp 10, s. 49(6)(b); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F76** S. 62(5A) inserted (30.9.2002) by 2001 asp 10, s. 49(7); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F77** Words in s. 62(6) inserted (30.9.2002) by 2001 asp 10, s. 49(8)(a); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F78** Words in s. 62(6)(a) inserted (30.9.2002) by 2001 asp 10, s. 49(8)(b); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F79** S. 62(6A)(6B) substituted for s. 62(7)–(9) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 65(2)(6)
- F80** “(6A)” substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 65(3)(6)
- F81** S. 62(11)–(13) repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 65(4)(6), 72(3), **Sch. 10**

**Modifications etc. (not altering text)**

- C3** S. 62 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

<sup>F82</sup> **62A** ..... **S**

**Textual Amendments**

- F82** S. 62A repealed (30.9.2002) by 2001 asp 10, s. 51(1); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Procedure*

**63 Application to purchase and offer to sell. S**

(1) A tenant who seeks to exercise a right to purchase a house purchase and offer under section 61 shall serve on the landlord a notice (referred to in this to sell. Part as an ”application to purchase”) which shall be in such form as the Secretary of State shall by order made by statutory instrument prescribe, and shall contain—

- (a) notice that the tenant seeks to exercise the right to purchase;
- (b) a statement of any period of occupancy of a house on which the tenant intends to rely for the purposes of section 61 and 62; and
- (c) the name of any joint purchaser within the meaning of section 61(6) <sup>F83</sup> . . .
- <sup>F83</sup>(d) .....

[<sup>F84</sup>(1A) Where the landlord is a registered social landlord the tenant shall, when serving on the landlord the application to purchase, give the landlord a certificate issued by the local authority for the area in which the house is situated stating—

- (a) whether the tenant and any joint purchaser have, as at the date of the certificate (which must be no more than one month before the date of the application to purchase), paid the sums referred to in section 61D(1)(b), and
- (b) if they have not, the amount of any such sum lawfully due by the tenant or, as the case may be, the joint purchaser as at the date of the certificate.

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- (1B) A local authority shall, on the application of a tenant or joint purchaser referred to in subsection (1A), issue to that person free of charge a certificate as to the matters specified in paragraphs (a) and (b) of that subsection so far as relating to that person.
- (1C) A certificate under subsection (1B) shall be issued not later than 21 days after the receipt of the application by the authority.]
- (2) Where an application to purchase is served on a landlord, and the landlord does not serve a notice of refusal under sections 68 to 70 it shall, within 2 months after service of the application to purchase, serve on the tenant a notice (referred to in this Part as an “offer to sell”) containing—
  - (a) the market value of the house determined under section 62(2);
  - (b) the discount calculated under section 62(3);
  - (c) the price fixed under section 62(1);
  - <sup>F85</sup>(cc) .....
  - (d) any conditions which the landlord intends to impose under section 64; <sup>F86</sup> ...
  - (e) an offer to sell the house to the tenant and any joint purchaser named in the application to purchase at the price referred to in paragraph (c) and under the conditions referred to in paragraph (d) [<sup>F87</sup>; and
  - (f) information prescribed under section 63A.]

<sup>F85</sup>(3) .....

**Textual Amendments**

**F83** S. 63(1)(d) and preceeding word “and” repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(8)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F84** S. 63(1A)-(1C) inserted (30.9.2002) by 2001 asp 10, s. 46(2); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F85** S. 63(2)(cc)(3) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(8)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F86** Word in s. 63(2) repealed (1.12.2008) by Housing (Scotland) Act 2006 (asp 1), **ss. 113(2)(a)**, 195(3) (with s. 193); S.S.I. 2008/308, art. 3 (with art. 4)

**F87** S. 63(2)(f) and word inserted (1.12.2008) by Housing (Scotland) Act 2006 (asp 1), **ss. 113(2)(b)**, 195(3) (with s. 193); S.S.I. 2008/308, art. 3 (with art. 4)

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**Modifications etc. (not altering text)**

**C4** S. 63 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

<sup>F88</sup>**63A Information to be prescribed** S

- (1) The Scottish Ministers may by regulations made by statutory instrument—
  - (a) prescribe information for the purpose of paragraph (f) of section 63(2); and
  - (b) make such further provision about that information as they think fit.
- (2) Information prescribed under subsection (1) may include information which—
  - (a) provides a reasonable estimate of any costs of maintaining the house and any common parts;
  - (b) states how long—
    - (i) any common parts;

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- (ii) any fixtures and fittings; or
  - (iii) any items in, forming part of or relating to the house as may be prescribed by the regulations,  
are expected to last, including a reasonable estimate of the cost of replacing each of the things to which the information relates; and
  - (c) relates to any other matters which may be of interest to a tenant who has served an application to purchase.
- (3) Regulations made under subsection (1) may, in particular, specify circumstances in which an offer to sell need not contain prescribed information unless the tenant pays, or undertakes to pay, to the landlord such sum as may be specified in the regulations.
- (4) In this section “common parts” means any—
- (a) part of the house;
  - (b) part of any building of which the house forms part; or
  - (c) other property,
- which the tenant, as owner of the house, would own in common with others or would have an obligation in common with others to maintain.
- (5) Regulations may not be made under subsection (1) unless a draft of the statutory instrument containing the regulations has been laid before and approved by resolution of the Scottish Parliament.]

#### Textual Amendments

**F88** S. 63A inserted (1.12.2008) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 113(3)**, 195(3) (with s. 193); [S.S.I. 2008/308](#), **art. 3** (with **art. 4**)

64

**S**

- (1) Subject to section 75, an offer to sell under section 63(2) shall contain such conditions as are reasonable, provided that—
- (a) the conditions shall have the effect of ensuring that the tenant has as full enjoyment and use of the house as owner as he has had as tenant;
  - (b) the conditions shall secure to the tenant such additional rights as are necessary for his reasonable enjoyment and use of the house as owner (including, without prejudice to the foregoing generality, common rights in any part of the building of which the house forms part) and shall impose on the tenant any necessary duties relative to rights so secured; and
  - (c) the conditions shall include such terms as are necessary to entitle the tenant to receive a good and marketable title to the house.
- (2) A condition which imposes a new charge or an increase of an existing charge for the provision of a service in relation to the house shall provide for the charge to be in reasonable proportion to the cost to the landlord of providing the service.
- (3) No condition shall be imposed under this section which has the effect of requiring the tenant to pay any expenses of the landlord.
- (4) Subject to subsection (6), no condition shall be imposed under this section which has the effect of requiring the tenant or any of his successors in title to offer to the landlord, or to any other person, an option to purchase the house in advance of its sale to a

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third party, except in the case of a house which has facilities which are substantially different from those of an ordinary house and which has been designed or adapted for occupation by a person of pensionable age or disabled person whose special needs require accommodation of the kind provided by the house.

- (5) Where an option to purchase permitted under subsection (4) is exercised, the price to be paid for the house shall be determined by the district valuer who shall have regard to the market value of the house at the time of the purchase and to any amount due to the landlord under section 72 (recovery of discount on early re-sale).
- (6) Subsection (4) shall not apply to houses in an area which is designated a rural area by the [<sup>F89</sup>local authority] within whose area it is situated where the Secretary of State, on the application of the [<sup>F89</sup>local authority] concerned, makes an order, which shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, to that effect.
- (7) An order under subsection (6) may be made where—
- (a) within the said rural area more than one-third of all relevant houses have been sold [<sup>F90</sup>whether under this Part or otherwise]; and
  - [<sup>F91</sup>(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 <sup>M4</sup>1984 or assured tenancies for the purposes of Part II of the Housing (Scotland) Act 1988.]
- (8) For the purposes of subsection (7)(a), a “relevant house” is one of which—
- (a) at 3rd October 1980, the council concerned, or
  - (b) at 7th January 1987, a registered housing association, is landlord.
- (9) A condition imposed by virtue of subsection (6) shall not have effect in relation to any house for more than 10 years from the date of its conveyance to a tenant in pursuance of his right to purchase under this Part and subsection (5) shall apply to any option to purchase exercised under such a condition.

#### Textual Amendments

**F89** Words in s. 64(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(3)**; S.I. 1996/323, **art. 4**

**F90** Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 11(a)**

**F91** S. 64(7)(b) substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 11(b)**

#### Modifications etc. (not altering text)

**C5** S. 64 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

#### Marginal Citations

**M4** 1984 c.58.

## 65 Variation of conditions. **S**

- (1) Where an offer to sell is served on a tenant and he wishes to exercise his right to purchase, but—

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- (a) he considers that a condition contained in the offer to sell is unreasonable; or
- (b) he wishes to have a new condition included in it; or
- (c) he has not previously notified the landlord of his intention to exercise that right together with a joint purchaser, but now wishes to do so; or
- (d) he has previously notified the landlord of his intention to exercise that right together with any joint purchaser but now wishes to exercise the right without that joint purchaser,

he may request the landlord to strike out or vary the condition, or to include the new condition, or to make the offer to sell to the tenant and the joint purchaser, or to withdraw the offer to sell in respect of the joint purchaser, as the case may be, by serving on the landlord within one month after service of the offer to sell a notice in writing setting out his request; and if the landlord agrees, it shall accordingly serve an amended offer to sell on the tenant within one month of service of the notice setting out the request.

- (2) A tenant who is aggrieved by the refusal of the landlord to agree to strike out or vary a condition, or to include a new condition, or to make the offer to sell to the tenant and the joint purchaser, or to withdraw the offer to sell in respect of any joint purchaser under subsection (1), or by his failure timeously to serve an amended offer to sell under the said subsection, may, within one month or, with the consent of the landlord given in writing before the expiry of the said period of one month, within two months of the refusal or failure, refer the matter to the Lands Tribunal for determination.
- (3) In proceedings under subsection (2), the Lands Tribunal may, as it thinks fit, uphold the condition or strike it out or vary it, or insert the new condition or order that the offer to sell be made to the tenant and the joint purchaser, or order that the offer to sell be withdrawn in respect of any joint purchaser, and where its determination results in a variation of the terms of the offer to sell, it shall order the landlord to serve on the tenant an amended offer to sell accordingly within 2 months thereafter.

**Modifications etc. (not altering text)**

C6 S. 65 modified (13.3.1992) by S.I. 1992/325, regs.3, 5, 7, Sch. 1

**66 Notice of acceptance. S**

- (1) Where an offer to sell is served on a tenant and he wishes to exercise his right to purchase and—
  - (a) he does not dispute the terms of the offer to sell by timeously serving a notice setting out a request under section 65(1) or by referring the matter to the Lands Tribunal under subsection (1)(d) of section 71; or
  - (b) any such dispute has been resolved;the tenant shall <sup>F92</sup> . . . serve a notice of acceptance on the landlord within 2 months of whichever is the latest of—
  - (i) the service on him of the offer to sell;
  - (ii) the service on him of an amended offer to sell (or if there is more than one, of the latest amended offer to sell);
  - (iii) a determination by the Lands Tribunal under section 65(3) which does not require service of an amended offer to sell;

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- (iv) a finding or determination of the Lands Tribunal in a matter referred to it under section 71(1)(d) where no order is made under section 71(2)(b);
- (v) the service of an offer to sell on him by virtue of subsection (2)(b) of section 71;

<sup>F93</sup>(vi) .....

<sup>F93</sup>(vii) .....

- (2) Where an offer to sell (or an amended offer to sell) has been served on the tenant and a relative notice of acceptance has been duly served on the landlord, a contract of sale of the house shall be constituted between the landlord and the tenant on the terms contained in the offer (or amended offer) to sell.

#### Textual Amendments

**F92** Words in s. 66(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(9)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F93** S. 66(1)(vi)(vii) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(9)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

#### Modifications etc. (not altering text)

**C7** S. 66 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

### [<sup>F94</sup>66A Abatement of purchase price on landlord's failure before contract of sale. **S**

- (1) Where a tenant who seeks to exercise a right to purchase a house under section 61 has served an application to purchase on the landlord and the landlord—
  - (a) not having served a notice of refusal, has failed to serve an offer to sell on the tenant within 2 months of the application or, where an amended offer to sell falls to be served on the tenant under subsection (3) of section 63, has failed to do so within the time limit specified in that subsection;
  - (b) having agreed to serve an amended offer to sell on the tenant in response to a request under section 65(1), has failed to do so within one month of the request;
  - (c) following an order by the Lands Tribunal to serve an amended offer to sell on the tenant under section 65(3), has failed to do so within 2 months of the date of the order;
  - (d) following a finding by the Lands Tribunal under section 68(4), has failed to serve an offer to sell within 2 months of the date of the finding; or
  - (e) following an order by the Lands Tribunal under section 71(2)(b), has failed to serve an offer or amended offer to sell within the time specified in the order,
 the tenant may serve on the landlord a notice in writing requiring the landlord to serve on him, within one month of the date of the notice, the offer to sell or (as the case may be) the amended offer to sell which the landlord has failed to serve.
- (2) Where the landlord fails to serve the offer to sell or the amended offer to sell within one month of the date of the notice in writing under subsection (1), the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date on which the one month period expired and ending with the date on which the offer is served.]

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#### Textual Amendments

**F94** Ss. 66A-66C inserted (27.9.1993) by 1993 c. 28, s. 144; S.I. 1993/2163, art. 2, Sch. 1.

### **66B** <sup>F95</sup> **Abatement of purchase price on landlord's failure after contract of sale.** **S**

- (1) Where the landlord has failed and continues to fail to deliver a good and marketable title to the tenant in accordance with the contract of sale, the tenant may at any time serve on the landlord a notice (the “initial notice of delay”) setting out the landlord’s failure and specifying—
  - (a) the most recent action of which the tenant is aware which has been taken by the landlord in fulfilment of his duties under this Part;
  - (b) a period (the “response period”), of not less than one month beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (2) will have the effect of cancelling the initial notice of delay.
- (2) If there is no action under this Part which, at the beginning of the response period it was for the landlord to take in order to grant a good and marketable title to the tenant in implementation of the contract of sale, the landlord may serve on the tenant a counter notice either during or after the response period.
- (3) At any time when—
  - (a) the response period specified in the initial notice of delay has expired; and
  - (b) the landlord has not served a counter notice under subsection (2),the tenant may serve on the landlord a notice (the “operative notice of delay”) that this subsection shall apply to the price fixed under section 62; and thereupon the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date of service of the operative notice of delay and ending with whichever is the earlier of the following dates—
  - (i) the date of service by the landlord of a counter notice; or
  - (ii) the date of delivery by the landlord of a good and marketable title in implementation of the contract of sale.
- (4) Where the landlord has served a counter notice under subsection (2) the tenant (together with any joint purchaser) may, by serving on the clerk to the Lands Tribunal a copy of the initial notice of delay and of the landlord’s counter notice together with a request for the matter to be so referred, refer the matter to the Tribunal for its consideration under subsection (5).
- (5) Where the matter has been so referred to the Lands Tribunal it shall consider whether or not in its opinion action which would have enabled a good and marketable title to be delivered in implementation of the contract of sale could have been taken by the landlord and shall find accordingly.
- (6) Where the Lands Tribunal finds that action could have been taken by the landlord the tenant shall be entitled to serve an operative notice of delay as if the landlord had not served a counter notice and in that event the commencement date for the purposes of subsection (3) shall be the date on which an operative notice of delay could first have been served if no counter notice had been served.

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**Textual Amendments**

**F95** Ss. 66A-66C inserted (27.9.1993) by 1993 c. 28, s. 144; S.I. 1993/2163, art. 2, Sch. 1.

**66C** <sup>F96</sup> **Provisions relating to sections 66A and 66B.** **S**

- (1) Where there is more than one period in respect of which the price fixed under section 62 can be reduced under section 66A(2) or 66B(3), the periods may be aggregated and the price reduced by the total amount of the rent.
- (2) If the period in respect of which the price fixed can be so reduced is, or if the periods aggregated under subsection (1) together amount to, more than twelve months, the amount by which the price fixed under section 62 would, apart from this subsection, fall to be reduced shall be increased by 50% or such other percentage as the Secretary of State may by order made by statutory instrument and subject to annulment in pursuance of a resolution of either House of Parliament provide.

**Textual Amendments**

**F96** Ss. 66A-66C inserted (27.9.1993) by 1993 c. 28, s. 144; S.I. 1993/2163, art. 2, Sch. 1.

<sup>F97</sup> **67** ..... **S**

**Textual Amendments**

**F97** S. 67 repealed (30.9.2002) by 2001 asp 10, s. 112, Sch. 10 para. 13(10); S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

**68** **Refusal of applications.** **S**

- (1) Where a landlord on which an application to purchase has been served disputes the tenant's right to purchase a house under section 61, it shall by notice (referred to in this Part as a "notice of refusal") served within one month after service of the application to purchase—
  - (a) refuse the application; or
  - (b) offer to sell the house to the tenant under section 14, or under any other power which the landlord has to sell the house.
- (2) Where a landlord on which an application to purchase has been served, after reasonable enquiry (which shall include reasonable opportunity for the tenant to amend his application), is of the opinion that information contained in the application is incorrect in a material respect it shall issue a notice of refusal within 2 months of the application to purchase.
- (3) A notice of refusal shall specify the grounds on which the landlord disputes the tenant's right to purchase or, as the case may be, the accuracy of the information.



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- (4) Where a landlord serves a notice of refusal on a tenant under this section, the tenant may within one month thereafter apply to the Lands Tribunal for a finding that he has a right to purchase the house under section 61 on such terms as it may determine.

**Modifications etc. (not altering text)**

**C8** S. 68 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, Sch. 1

*Houses provided for special purposes*

**69 Secretary of State's power to authorise refusal to sell certain houses provided for persons of pensionable age. **S****

- (1) This section applies to a house which has facilities which are substantially different from those of an ordinary house and which has been designed or adapted for occupation by a person of pensionable age whose special needs require accommodation of the kind provided by the house.

<sup>F98</sup>(1A) .....

- (2) Where an application to purchase a house is served on a landlord and it appears to the landlord that—
- (a) the house is one to which this section applies; and
  - (b) the tenant would, apart from this section, have a right under section 61 to purchase the house,
- the landlord may, within one month after service of the application to purchase, instead of serving an offer to sell on the tenant, make an application to the Secretary of State under this section.
- (3) An application under subsection (2) shall specify the facilities and features of design or adaptation which in the view of the landlord cause the house to be a house to which this section applies.
- (4) Where the Secretary of State has received an application under this section and it appears to him that the house concerned is one to which this section applies, he shall authorise the landlord to serve on the tenant a notice of refusal under this section, which shall be served as soon as is practicable after the authority is given and in any event within one month thereafter.
- (5) A notice of refusal served under subsection (4) shall specify the facilities and features specified for the purposes of subsection (3) and that the Secretary of State's authority for service of the said notice has been given.
- (6) Where the Secretary of State refuses an application made under subsection (2), the landlord shall serve on the tenant an offer to sell under section 63(2)—
- (a) within the period mentioned in that section; or
  - (b) where the unexpired portion of that period is less than one month or there is not an unexpired portion of that period, within one month of the Secretary of State's refusal.

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#### Textual Amendments

**F98** S. 69(1A) repealed (30.9.2002) by 2001 asp 10, s. 51(2); S.S.I. 2002/321, art. 2 Sch. (subject to transitional provisions and savings in arts. 3-5)

#### Modifications etc. (not altering text)

**C9** S. 69 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, Sch. 1

### 70 Power to refuse to sell certain houses required for educational purposes. **S**

(1) Where an application to purchase a house is served on [<sup>F99</sup>a] council as landlord and—

- (a) the house is—
  - (i) held by the council for the purposes of its functions as education authority; and
  - (ii) required for the accommodation of a person who is or will be employed by the council for those purposes;
- (b) the council is not likely to be able reasonably to provide other suitable accommodation for the person mentioned in paragraph (a)(ii); and
- (c) the tenant would, apart from this section, have a right under section 61 to purchase the house,

the landlord may, within one month of service of the application to purchase, serve a notice of refusal on the tenant.

(2) A refusal by the landlord under subsection (1) shall contain sufficient information to demonstrate that the conditions mentioned in paragraphs (a) and (b) of that subsection are fulfilled in relation to the house.

[<sup>F100</sup>(3) In this section “council” means the local authority for Orkney Islands, Shetland Islands or Western Isles.]

#### Textual Amendments

**F99** Words in s. 70(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 152(4)(a); S.I. 1996/323, art. 4

**F100** S. 70(3) inserted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 152(4)(b); S.I. 1996/323, art. 4

### *[<sup>F101</sup> Houses liable to demolition*

#### Textual Amendments

**F101** S. 70A and cross-heading inserted (30.9.2002) by 2001 asp 10, s. 48; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

### <sup>F102</sup>70A Authorisation of refusal to sell houses liable to demolition **S**

- (1) Where—
- (a) an application to purchase a house liable to demolition is served on a landlord, and

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- (b) it appears to the landlord that the tenant would, apart from this section, have a right under section 61 to purchase the house,  
the landlord may, within one month of service of the application to purchase, instead of serving an offer to sell on the tenant, apply to the Scottish Ministers for authority to serve a notice of refusal.
- (2) For the purposes of this section a house is liable to demolition if the landlord has made a decision to demolish the house.
- (3) An application to the Scottish Ministers under subsection (1) shall be accompanied by such information in support of the application as the Scottish Ministers may prescribe by order made by statutory instrument.
- (4) The Scottish Ministers may grant such an application if they consider it reasonable to do so in all the circumstances; and in deciding whether to grant the application they shall have regard in particular to—
- (a) the period which is expected to elapse before the landlord demolishes the house in question; and
- (b) the extent to which, before deciding to demolish the house, the landlord consulted the tenant about the proposal to demolish it and the effect of the proposal on the tenant's right under section 61 to purchase it.
- (5) Where the Scottish Ministers grant such an application the landlord shall serve on the tenant a notice of refusal under this section as soon as practicable, and in any event within one month of the granting of the application.
- (6) Where the Scottish Ministers refuse such an application the landlord shall serve on the tenant an offer to sell under section 63(2) before—
- (a) the expiry of the period of one month beginning with the refusal; or
- (b) if later, the expiry of the period mentioned in that section.
- (7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### Textual Amendments

**F102** S. 70A and cross-heading inserted (30.9.2002) by 2001 asp 10, s. 48; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

### *Lands Tribunal*

#### 71 Reference to Lands Tribunal. **S**

- (1) Where—
- (a) a landlord who has been duly served with an application to purchase fails to issue timeously either an offer <sup>F103</sup> . . . to sell (even if only such offer <sup>F103</sup> . . . to sell as is mentioned in paragraph (d)) or a notice of refusal; or
- (b) the Lands Tribunal has made a determination under section 65(3) (variation of terms of offer to sell) and the landlord has failed to issue an amended offer to sell within 2 months thereafter; or
- (c) the Lands Tribunal has made a finding under section 68(4) (refusal of right to purchase) or has made an order under subsection (2)(b) of this section and

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the landlord has not duly progressed the application to purchase in accordance with that finding or, as the case may be, order, within 2 months thereafter; or

- (d) a landlord has served an offer <sup>F103</sup> . . . to sell whose contents do not conform with the requirements of paragraphs (a) to (e) of section 63(2) (or where such contents were not obtained in accordance with the provisions specified in those paragraphs) <sup>F103</sup> . . .

the tenant (together with any joint purchaser) may refer the matter to the Lands Tribunal by serving on the clerk to that body a copy of any notice served and of any finding or determination made under this Part, together with a statement of his grievance.

- (2) Where a matter has been referred to the Lands Tribunal under subsection (1), the Tribunal shall consider whether in its opinion—

- (a) any of paragraphs (a) to (c) of that subsection apply, and if it so finds it may—
- (i) give any consent, exercise any discretion, or do anything which the landlord may give, exercise or do under or for the purposes of sections 61 to 84; and
  - (ii) issue such notices and undertake such other steps as may be required to complete the procedure provided for in sections 63 and 65 to [<sup>F104</sup>66C];

and any consent given, any discretion exercised, or anything done, under the foregoing provisions of this subsection shall have effect as if it had been duly given, exercised or done by the landlord; or

- (b) paragraph (d) of that subsection applies, and if it so finds it may order the landlord to serve on the tenant an offer <sup>F103</sup> . . . to sell, in proper form, under section 63(2) <sup>F103</sup> . . . within such time (not exceeding 2 months) as it may specify.

- (3) Nothing in this section shall affect the operation of the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

#### Textual Amendments

**F103** Words in s. 71(1)(a)(d)(2)(b) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(11)(a)(i)(ii)(b)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

**F104** Words in s. 71(2)(a)(ii) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(11)(b)(i)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

#### Modifications etc. (not altering text)

**C10** S. 71 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

### *Recoverability of discount*

## 72 Recovery of discount on early re-sale. **S**

- (1) A person who has purchased a house in exercise of a right to purchase under section 61, or any of his successors in title, who sells or otherwise disposes of the house (except as provided for in section 73) before the expiry of 3 years from the date of service of a notice of acceptance by the tenant under section 66, shall be liable to repay to the landlord, in accordance with subsection (3), a proportion of the difference between the

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market value determined, in respect of the house, under section 62(2) and the price at which the house was so purchased.

[<sup>F105</sup>(1A) Where a tenant has served on the landlord a notice under section 66A(1), the commencement of the period of 3 years referred to in subsection (1) shall be backdated by a period equal to the time (or, where section 66C(1) applies, the aggregate of the times) during which, by virtue of section 66A(2), any payment of rent falls to be taken into account.]

- (2) Subsection (1) applies to the disposal of part of a house except in a case where—
  - (a) it is a disposal by one of the parties to the original sale to one of the other parties; or
  - (b) the remainder of the house continues to be the only or principal home of the person disposing of the part.
- (3) The proportion of the difference which shall be paid to the landlord shall be—
  - (a) 100 per cent. where the disposal occurs within the first year after the date of service of notice,
  - (b) 66 per cent. where it occurs in the second such year, and
  - (c) 33 per cent. where it occurs in the third such year.
- (4) Where as regards a house or part of a house there is, within the period mentioned in subsection (1), more than one disposal to which that subsection would (apart from the provisions of this subsection) apply, that subsection shall apply only in relation to the first such disposal of the house, or part of the house.
- (5) Where a landlord secures the liability to make a repayment under subsection (1) the security shall, notwithstanding section 13 of the <sup>M5</sup>Conveyancing and Feudal Reform (Scotland) Act 1970, have priority immediately after—
  - (a) any standard security granted in security of a loan either—
    - (i) for the purchase of the house, or
    - (ii) for the improvement of the house, and any interest present or future due thereon (including any such interest which has accrued or may accrue) and any expenses or outlays (including interest thereon) which may be, or may have been, reasonably incurred in the exercise of any power conferred on the lender by the deed expressing the said standard security; and
  - (b) if the landlord consents, a standard security over the house granted in security of any other loan, and in relation thereto any such interest, expenses or outlays as aforesaid.
- (6) For the avoidance of doubt, paragraph (a) of subsection (5) applies to a standard security granted in security both for the purpose mentioned in sub-paragraph (i) and for that mentioned in sub-paragraph (ii) as it applies to a standard security so granted for only one of those purposes.

<sup>F106</sup>(7) .....

#### Textual Amendments

**F105** S. 72(1A) inserted (27.9.1993) by 1993 c. 28, s. 145; S.I. 1993/2163, art. 2, Sch. 1.

**F106** S. 72(7) repealed (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), sch. 15 (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

*Status: Point in time view as at 03/01/2011.*

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**Modifications etc. (not altering text)**

**C11** S. 72 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

**Marginal Citations**

**M5** 1970 c. 35.

**73 Cases where discount etc. is not recoverable . S**

(1) There shall be no liability to make a repayment under section 72(1) where the disposal is made—

- (a) by the executor of the deceased owner acting in that capacity; or
- (b) as a result of a compulsory purchase order; or
- (c) in the circumstances specified in subsection (2).

(2) The circumstances mentioned in subsection(1)(c) are that the disposal—

- (a) is to member of the owner’s family who has lived with him for a period of 12 months before the disposal; and
- (b) is for no consideration:

Provided that, if the donee disposes of the house before the expiry of the 3 year period mentioned in section 72(1), the provisions of tht section will apply to him as if this was the first disposal and he was the original purchaser.

**Modifications etc. (not altering text)**

**C12** S. 73 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

*[<sup>F107</sup> Rent to loan scheme]*

**Textual Amendments**

**F107** Ss. 73A-73D and crossnote inserted (27.9.1993) by 1993 c. 28, s. 142; S.I. 1993/2163, art. 2, **Sch. 1**.

<sup>F108</sup>**73A** ..... **S**

**Textual Amendments**

**F108** Ss. 73A-73D repealed (30.9.2002) by 2001 asp 10, s. 51(1); S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

<sup>F109</sup>**73B** ..... **S**

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**Textual Amendments**

**F109** Ss. 73A-73D repealed (30.9.2002) by [2001 asp 10, s. 51\(1\)](#); S.S.I. 2002/321, [art. 2, Sch.](#) (with transitional provisions and savings in [arts. 3-5](#))

<sup>F110</sup>**73C** ..... **S**

**Textual Amendments**

**F110** Ss. 73A-73D repealed (30.9.2002) by [2001 asp 10, s. 51\(1\)](#); S.S.I. 2002/321, [art. 2, Sch.](#) (with transitional provisions and savings in [arts. 3-5](#))

<sup>F111</sup>**73D** ..... **S**

**Textual Amendments**

**F111** Ss. 73A-73D repealed (30.9.2002) by [2001 asp 10, s. 51\(1\)](#); S.S.I. 2002/321, [art. 2, Sch.](#) (with transitional provisions and savings in [arts. 3-5](#))

**74 Duties of landlords. **S****

It shall be the duty of every landlord of a house to which sections 61 to 84 <sup>F112</sup> . . . apply to make provision for the progression of applications under those sections in such manner as may be necessary to enable any tenant who wishes to exercise his rights under this Part to do so, and to comply with any regulations which may be made by statutory instrument by the Secretary of State in that regard.

**Textual Amendments**

**F112** Words in s. 74 repealed (30.9.2002) by [2001 asp 10, s. 112, Sch. 10 para. 13\(12\)](#); S.S.I. 2002/321, [art. 2, Sch.](#) (with transitional provisions and savings in [arts. 3-5](#))

**Modifications etc. (not altering text)**

**C13** S. 74 modified (13.3.1992) by [S.I. 1992/325, regs. 3, 5, 7, Sch. 1](#)

**75 Agreements affecting right to purchase. **S****

- (1) Subject to sections 61(1) <sup>F113</sup> . . . and 72(1)—
- (a) no person exercising or seeking to exercise a right to purchase under section 61(1) shall be obliged, notwithstanding any agreement to the contrary, to make any payment to or lodge any deposit with the landlord which he would not have been obliged to make, or as the case may be lodge, had he not exercised (or sought to exercise) the right to purchase;
  - (b) a landlord mentioned in section 61(2)(a)(i) or (ii) is required neither to enter into, nor to induce (or seek to induce) any person to enter into, such agreement

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as is mentioned in paragraph (a), or into any agreement which purports to restrict that person's rights under this Part.

(2) Paragraph (a) of subsection (1) does not apply to the expenses in any court proceedings.

**Textual Amendments**

**F113** Words in s. 75(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(13)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

**Modifications etc. (not altering text)**

**C14** S. 75 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

<sup>F114</sup>**75A** ..... **S**

**Textual Amendments**

**F114** S. 75A repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(14)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

<sup>F115</sup>**76** ..... **S**

**Textual Amendments**

**F115** S. 76 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(14)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

*Powers of Secretary of State*

**77 Secretary of State may make provision for vesting in landlord to bring into being tenant's right to purchase house.** **S**

- (1) Subject to subsection (2), where, but for the fact that a landlord is not the heritable proprietor of land on which houses have been let (or made available for letting) by it, one or more of its tenants would have a right to purchase under section 61, the Secretary of State may by order made by statutory instrument provide that the whole of the heritable proprietor's interest in the land shall vest in the landlord.
- (2) An order under this section shall only be made where—
  - (a) heritable proprietor is a body mentioned in paragraph (a) of section 61(2); and
  - (b) the Secretary of State is of the opinion, after consultation with the heritable proprietor and with the landlord, that the order is necessary if the right to purchase is to come into being.
- (3) An order under this section shall have the same effect as a declaration under [F116section 195 of the Town and Country Planning (Scotland) Act 1997] (general vesting declarations), except that, in relation to such an order, the enactments



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mentioned in Schedule 6 shall have effect subject to the modifications specified in that Schedule.

(4) Compensation under the <sup>M6</sup>Land Compensation (Scotland) Act 1963, as applied by subsection (3) and Schedule 6 shall be assessed by reference to values current on the date the order under this section comes into force.

(5) An order under this section shall have no effect until approved by resolution of each House of Parliament.

<sup>F117</sup>(6) . . . . .

(7) An order under this section may include such incidental, consequential or supplementary provisions as may appear to the Secretary of State to be necessary or expedient for the purposes of this Act.

**Textual Amendments**

**F116** Words in s. 77(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 40(1)**

**F117** S. 77(6) repealed (27.7.2000) by S.I. 2000/2040, arts. 1(1), 2(1)(2), **Sch. Pt. I para. 13 Pt. III**

**Marginal Citations**

**M6** 1963 c. 51.

**78 Secretary of State may give directions to modify conditions of sale. S**

(1) Where it appears to the Secretary of State that the inclusion of conditions of a particular kind in offers to sell would be unreasonable he may by direction require landlords generally, landlords of a particular description, or particular landlords not to include conditions of that kind (or not to include conditions of that kind unless modified in such manner as may be specified in the direction) in offers to sell served on or after a date so specified.

(2) Where a condition's inclusion in an offer to sell—  
(a) is in contravention of a direction under subsection (1) or  
(b) in a case where the tenant has not by the date specified in such a direction served a relative notice of acceptance on the landlord, would have been in such contravention had the offer to sell been served on or after that date,  
the condition shall have no effect as regards the offer to sell.

(3) A direction under subsection (1) may—  
(a) make different provision in relation to different areas, cases or classes of case and may exclude certain areas, cases or classes of case; and  
(b) be varied or withdrawn by a subsequent direction so given.

(4) Section 211 of the <sup>M7</sup>Local Government (Scotland) Act 1973 (provision for default of local authority) shall apply as regards a failure to comply with a requirement in a direction under subsection (1) as that section applies as regards such failure as is mentioned in subsection (1) thereof.

**Modifications etc. (not altering text)**

**C15** S. 78 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

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#### Marginal Citations

M7 1973 c. 65.

### 79 Secretary of State may give financial and other assistance for tenants involved in proceedings. **S**

- (1) Where, in relation to any proceedings, or prospective proceedings, to which this section applies, a tenant or purchaser is an actual or prospective party, the Secretary of State may on written application to him by the tenant or purchaser give financial or other assistance to the applicant, if the Secretary of State thinks fit to do so:

Provided that assistance under this section shall be given only where the Secretary of State considers—

- (a) that the case raises a question of principle and that it is in the public interest to give the applicant such assistance; or
  - (b) that there is some other special consideration.
- (2) This section applies to—
- (a) any proceedings under sections 61 to 84 <sup>F118</sup>. . . ; and
  - (b) any proceedings to determine any question arising under or in connection with those sections other than a question as to market value for the purposes of section 62.
- (3) Assistance by the Secretary of State under this section may include—
- (a) giving advice;
  - (b) procuring or attempting to procure the settlement of the matter in dispute;
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel;
  - (d) arranging for representation by a solicitor or counsel;
  - (e) any other form of assistance which the Secretary of State may consider appropriate.
- (4) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, any sums recovered by virtue of an award of expenses, or of an agreement as to expenses, in the applicant's favour with respect to the matter in connection with which the assistance is given shall, subject to any charge or obligation for payment in priority to other debts under the <sup>M8</sup>Legal Aid (Scotland) Act 1986 and to any provision of that Act for payment of any sum into the Scottish Legal Aid Fund, be paid to the Secretary of State in priority to any other debts.
- (5) Any expenses incurred by the Secretary of State in providing assistance under this section shall be paid out of money provided by Parliament; and any sums received by the Secretary of State under subsection (4) shall be paid into the Consolidated Fund.

#### Textual Amendments

**F118** Words in s. 79(2)(a) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(15)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

#### Modifications etc. (not altering text)

**C16** S. 79 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

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**Marginal Citations**

M8 1986 c.47.

**80 Secretary of State may make contributions towards the cost of transfers and exchanges. S**

F119

**Textual Amendments**

F119 S. 80 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 168(4), 194(4), [Sch. 12 Pt. II](#)

**81 Information from landlords in relation to Secretary of State’s powers. S**

(1) Without prejudice to section 199 of the <sup>M9</sup>Local Government (Scotland) Act 1973 (reports and returns by local authorities etc.), where it appears to the Secretary of State necessary or expedient, in relation to the exercise of his powers under sections 61 to 84 <sup>F120</sup> . . . , he may by notice in writing to a landlord require it—

- (a) at such time and at such place as may be specified in the notice, to produce any document; or
- (b) within such period as may be so specified or such longer period as the Secretary of State may allow, to furnish a copy of any document or supply any information.

(2) Any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give that information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.

**Textual Amendments**

F120 Words in s. 81(1) repealed (30.9.2002) by [2001 asp 10, s. 112, Sch. 10 para. 13\(16\)](#); [S.S.I. 2002/321, art. 2, Sch.](#) (with transitional provisions and savings in arts. 3-5)

**Marginal Citations**

M9 1973 c.65.

*[<sup>F121</sup> Preservation of right to buy on disposal to private sector landlord]*

**Textual Amendments**

F121 S. 81A and cross heading inserted (21.2.1992) by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 128](#); [S.I. 1992/324, art. 2](#)

<sup>F122</sup>**81A** . . . . . **S**

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**Textual Amendments**

**F122** S. 81A repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(17)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

*[<sup>F123</sup> Consultation before disposal to private sector landlord]*

**Textual Amendments**

**F123** S. 81B and cross heading inserted (21.2.1992) by Housing Act 1988 (c. 50, SIF 61), s. 135(1)(3); S.I. 1992/324, art. 2

<sup>F124</sup>**81B** ..... **S**

**Textual Amendments**

**F124** S. 81B repealed (19.12.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 13(17)**; S.S.I. 2001/467, art. 2(2), **Sch.** Table (subject to art. 3)

*General*

**82 Interpretation of this Part. S**

In this Part and in sections 14, 19, [<sup>F125</sup> and 20], except where provision is made to the contrary,

“application to purchase” has the meaning assigned to it by section 63;

“family” and any reference to membership thereof shall be construed in accordance with section 83;

“fire authority” means a [<sup>F126</sup> relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5));]

“heritable proprietor”, in relation to a house, includes any landlord entitled under section 3 of the <sup>M10</sup>Conveyancing (Scotland) Act 1924 (disposition of the dwelling-house etc. by persons uninfert) to grant a disposition of the house;

“housing co-operative” has the meaning assigned to it by section 22;

“landlord” means a person who lets a house to a tenant for human habitation, and includes his successors in title;

“offer to sell” has the meaning assigned to it by section 63(2) and includes such offer to sell as is mentioned in section 71(1)(d);

“police authority” means a police authority in Scotland within the meaning of section 2(1) or 19(9)(b) of the <sup>M11</sup>Police (Scotland) Act 1967 or a joint police committee constituted by virtue of subsection (2)(b) of the said section 19 and any police authority constituted in England and Wales or Northern Ireland under corresponding legislation;

<sup>F127</sup> . . .

<sup>F127</sup> . . .

. . .

“secure tenancy” means a secure tenancy within the meaning of section 44;

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“tenancy” means any agreement under which a house is made available for occupation for human habitation, and “leases”, “let” and “lets” shall be construed accordingly;

“tenant” means a person who leases a house from a landlord and who derives his right therein directly from the landlord, and in the case of joint tenancies means all the tenants.

#### Textual Amendments

**F125** Words in s. 82 substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(18)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

**F126** Words in s. 82 substituted (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, **sch. 3 para. 13** (with s. 77); S.S.I. 2005/392, art. 2(k)

**F127** Definitions of

“rent to loan purchaser”

and

“rent to loan scheme”

in s. 82 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(18)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

#### Modifications etc. (not altering text)

**C17** S. 82 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

#### Marginal Citations

**M10** 1924 c. 27.

**M11** 1967 c.77.

## 83 Members of a person’s family. **S**

(1) A person is a member of another’s family for the purposes of this Act if—

(a) he is the spouse [<sup>F128</sup>or civil partner] of that person or he and that person live together as husband and wife [<sup>F129</sup>or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex]; or

(b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

(2) For the purposes of subsection (1)(b)—

(a) a relationship by marriage [<sup>F130</sup>or by virtue of civil partnership] shall be treated as a relationship by blood;

(b) a relationship of the half-blood shall be treated as a relationship of the whole blood;

(c) the stepchild of a person shall be treated as his child; and

[<sup>F131</sup>(ca) a person brought up or treated by another person as if the person were the child of the other person shall be treated as that person’s child;]

(d) a child shall be treated as such whether or not his parents are married.

[<sup>F132</sup>(3) Except in subsection (1)(a), references in this Act to a person’s spouse include references to [<sup>F133</sup>that person’s civil partner or to] another person living together with that person as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex.]

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#### Textual Amendments

- F128** Words in s. 83(1)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 54(a)**; S.S.I. 2005/604, arts. 2(c), 4
- F129** Words in s. 83(1)(a) inserted (1.10.2001) by [2001 asp 10](#), s. **108(3)(a)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. I** (with transitional provisions and savings in [art. 3](#)) (as amended by S.S.I. 2001/397, **art. 7(b)**)
- F130** Words in s. 83(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 54(b)**; S.S.I. 2005/604, arts. 2(c), 4
- F131** S. 83(2)(ca) inserted (1.10.2001) by [2001 asp 10](#), s. **108(3)(b)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. I** (with transitional provisions and savings in [art. 3](#)) (as amended by S.S.I. 2001/397, **art. 7(b)**)
- F132** S. 83(3) inserted (1.10.2001) by [2001 asp 10](#), s. **108(3)(c)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. I** (with transitional provisions and savings in [art. 3](#)) (as amended by S.S.I. 2001/397, **art. 7(b)**)
- F133** Words in s. 83(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 54(c)**; S.S.I. 2005/604, arts. 2(c), 4

#### Modifications etc. (not altering text)

- C18** S. 83 applied by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), **ss. 37(4), 52**
- C19** S. 83 modified (13.3.1992) by [S.I. 1992/325](#), regs. 3, 5, 7, **Sch. 1**

## 84 Service of notices. **S**

- (1) A notice or other document which requires to be served on a person under any provision of this Part <sup>F134</sup>. . . may be given to him—
- (a) by delivering it to him;
  - (b) by leaving it at his proper address; or
  - (c) by sending it by recorded delivery post to him at that address.
- (2) For the purposes of this section and of section 7 of the <sup>M12</sup>Interpretation Act 1978 (references to service by post) in its application to this section, a person's proper address shall be his last known address.

#### Textual Amendments

- F134** Words in s. 84(1) repealed (30.9.2002) by [2001 asp 10](#), s. 112, **Sch. 10 para. 13(19)**; S.S.I. 2002/321, **art. 2, Sch.** (with transitional provisions and savings in [arts. 3-5](#))

#### Modifications etc. (not altering text)

- C20** S. 84 modified (13.3.1992) by [S.I. 1992/325](#), regs. 3, 5, 7, **Sch. 1**

#### Marginal Citations

- M12** 1978 c. 30.

## <sup>F135</sup>84A Application of right to buy to cases where landlord is lessee. **S**

- (1) Sections 61 to 84 (but not 76 or 77) <sup>F136</sup>. . . (the “right to buy” provisions) shall, with the modifications set out in this section, apply so as to provide for—
- (a) the acquisition by the tenant of a house let on a [<sup>F137</sup>Scottish] secure tenancy of the landlord's [<sup>F138</sup>real right] in the house as lessee under a registered lease of the house or of land which includes it or as assignee of that [<sup>F138</sup>real right]; and
  - (b) the obtaining of a loan by the tenant in that connection,

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as these sections apply for the purposes of the purchase of a house by the tenant from the landlord as heritable proprietor of it and the obtaining by the tenant of a loan in that connection.

- (2) References in the right to buy provisions to the purchase or sale of a house shall be construed respectively as references to the acquisition or disposal of the landlord's [F138real right] in the house by way of a registered assignation of that [F138real right] and cognate expressions shall be construed accordingly.
- (3) The reference in section 61(2)(b) to the landlord's being the heritable proprietor of the house shall be construed as a reference to the landlord's being the holder of the [F138real right] of the lessee under a registered lease of the house or of land which includes it.
- (4) References in the right to buy provisions to the market value of or price to be paid for a house shall be construed respectively as references to the market value of the landlord's [F138real right] in the house and to the price to be paid for acquiring that [F138real right] .
- (5) References in section 64(1) to the tenant's enjoyment and use of a house as owner shall be construed as references to his enjoyment and use of it as assignee of the landlord's [F138real right] in the house.
- (6) The reference in subsection (4) of section 64 to an option being offered to the landlord or to any other person to purchase the house in advance of its sale to a third party shall be construed as a reference to an option being offered to have the [F138real right] acquired by the tenant re-assigned to the landlord or assigned to the other person in advance of its being disposed of to a third party; and the references in subsection (5) and (9) of that section to an option to purchase shall be construed accordingly.
- (7) In this section and section 76—
  - “registered lease” means a lease—
    - (a) which is recorded in the general register of sasines; or
    - (b) in respect of which the [F138real right] of the lessee is registered in the Land Register of Scotland

under the Registration of Leases (Scotland) Act 1857; and

“registered assignation” means, in relation to such a lease, an assignation thereof which is so recorded or in respect of which the [F138real right] of the assignee has been so registered.]

#### Textual Amendments

- F135** S. 84(A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 178(2)**
- F136** Words in s. 84A(1) repealed (30.9.2002) by [2001 asp 10, s. 112, Sch. 10 para. 13\(20\)\(a\)](#); S.S.I. 2002/321, **art. 2, Sch.** (with transitional provisions and savings in arts. 3-5)
- F137** Word in s. 84A(1)(a) inserted (30.9.2002) by [2001 asp 10, s. 112, Sch. 10 para. 13\(20\)\(b\)](#); S.S.I. 2002/321, **art. 2, Sch.** (with transitional provisions and savings in arts. 3-5)
- F138** Words in s. 84A substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 48\(3\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, **art. 2**

#### Modifications etc. (not altering text)

- C21** S. 84A modified (13.3.1992) by [S.I. 1992/325, regs. 3, 5, 7, Sch. 1](#)

**Status:**

Point in time view as at 03/01/2011.

**Changes to legislation:**

Housing (Scotland) Act 1987, PART III is up to date with all changes known to be in force on or before 13 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.