



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XVI

#### GENERAL AND MISCELLANEOUS

##### *Byelaws*

#### **313 Byelaws with respect to houses in multiple occupation.**

- (1) The power of making and enforcing byelaws under section 72 of the <sup>M1</sup>Public Health (Scotland) Act 1897 with respect to houses or parts of houses which are let in lodgings or occupied by members of more than one family shall extend to the making and enforcing of byelaws imposing any duty (being a duty which may be imposed by the byelaws and which involves the execution of work) on the owner within the meaning of that Act of the said house, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged.
- (2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises.
- (3) Where an owner or other person has failed to carry out any work which he has been required to carry out under the byelaws, the local authority may, after giving to him not less than 21 days' notice in writing, themselves carry out the works and recover the costs and expenses.
- <sup>F1</sup>(4) .....
- (5) In this section "owner", in relation to a house mentioned in subsection (1), means the person entitled to receive, or who would if the premises were let, be entitled to receive the rents of the premises, and includes a trustee, factor, tutor, or curator, and in the case of public or municipal property applies to the persons to whom the management is entrusted.

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F1** S. 313(4) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

#### Marginal Citations

**M1** 1897 c. 38.

### 314 Byelaws with respect to accommodation for agricultural workers.

- (1) A local authority shall make, with respect to bothies, chaumers and similar premises which are used for the accommodation of agricultural workers and are not part of a farmhouse, byelaws regarding any of the following matters—
- (a) the provision of a separate entrance in any case where the premises form part of other premises;
  - (b) the provision of ventilation and floor area;
  - (c) the provision of adequate heating and lighting;
  - (d) the prevention of and safety from fire;
  - (e) the provision of a ventilated larder and a fireplace or stove suitable for cooking food and sufficient cooking utensils;
  - (f) the provision of furnishing, including the provision of a separate bed and bedding for each worker;
  - (g) the provision of accommodation for personal clothing, and of facilities for personal ablution;
  - (h) the painting, whitewashing or other cleansing of the premises at regular intervals;
  - (i) intimation to the local authority by farmers of the number of workers employed by them who are accommodated in bothies or in chaumers or similar premises;
  - (j) such other matters as may from time to time be prescribed:

Provided that, if the local authority show to the satisfaction of the Secretary of State that it is unnecessary to make byelaws under this section, the Secretary of State may dispense with the making of such byelaws.

- (2) Byelaws regarding the matters specified in paragraph (e) of subsection (1) shall apply only to premises in which the occupants cook their meals.
- (3) Byelaws made by a local authority under this section may be limited to particular parts of the authority's area.
- (4) Where a local authority fail, within such period as the Secretary of State may allow, to make with respect to any of the matters specified in subsection (1) byelaws which are in the opinion of the Secretary of State sufficient and satisfactory, the Secretary of State may himself make such byelaws which shall be of the like force and effect as if they had been made by the authority and confirmed.

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### **315 Byelaws with respect to accommodation for seasonal workers.**

- (1) Subject to the provisions of this section, a local authority shall make byelaws for the whole or any part of their area with a view to providing proper accommodation for seasonal workers in respect of—
  - (a) intimation to the local authority of the intention to employ seasonal workers;
  - (b) the nature and extent of the accommodation to be provided for such workers, including due provision for—
    - (i) sleeping accommodation and separation of the sexes;
    - (ii) lighting, ventilation, cubic space, cleanliness and furnishing, including beds and bedding and cooking utensils;
    - (iii) storage of food, washing of clothes and drying of wet clothes;
    - (iv) water closets or privies for the separate use of the sexes; and
    - (v) a suitable supply of water;
  - (c) determining the persons responsible for the provision of the accommodation required by the byelaws, taking into account the terms of current contracts;
  - (d) inspection of the premises;
  - (e) exhibition on the premises of the byelaws;
  - (f) such other matters relating to the accommodation of seasonal workers (including determining the persons responsible for regulating the use by the workers of the accommodation) as may from time to time be prescribed.
- (2) If the local authority show to the satisfaction of the Secretary of State that it is unnecessary to make byelaws under this section, the Secretary of State may dispense with the making of such byelaws.
- (3) The Secretary of State may suspend, as respects the area of any local authority or any part of that area, the operation of any byelaw made under this section which affects agricultural interests in cases of emergency.
- (4) If in consequence of any byelaws made under this section a farmer or a fruit grower is required to provide accommodation involving the erection of additional buildings, he may require the landlord to erect such buildings on terms and conditions to be determined, failing agreement, by the Secretary of State.
- (5) In this section the expression “seasonal workers” includes navvies, harvesters, potato-workers, fruit-pickers, herring-gutters, and such other workers engaged in work of a temporary nature as may from time to time be prescribed.
- (6) Where a local authority fail, within such period as the Secretary of State may allow, to make in respect of any of the matters specified in subsection (1) byelaws which are in the opinion of the Secretary of State sufficient and satisfactory, the Secretary of State may himself make such byelaws which shall have force and effect as if they had been made by the authority and confirmed.

### **316 Confirmation of byelaws.**

For the purposes of section 202 of the <sup>M2</sup>Local Government (Scotland) Act 1973 (which relates to the procedure and other matters connected with the making of byelaws) the Secretary of State shall be the person by whom byelaws made under this Act are to be confirmed.

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### **Marginal Citations**

**M2** 1973 c. 65.

### *Entry*

#### **317 Power of entry for survey, etc.**

- (1) Subject to the provisions of this section, any person authorised by a local authority or by the Secretary of State may at all reasonable times enter any house, premises or building—
  - (a) for the purpose of survey and examination, where it appears to the local authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Act should be exercised in respect of any house, premises or building;
  - (b) for the purpose of survey and examination, in the case of any house in respect of which a notice under this Act requiring the execution of works has been served or a closing order, or a demolition order has been made;
  - (c) for the purpose of survey or valuation, in the case of houses, premises or buildings which the local authority are authorised to purchase compulsorily under this Act;
  - (d) for the purpose of measuring the rooms of a house in order to ascertain for the purposes of Part VII the number of persons permitted to use the house for sleeping;
  - (e) for the purpose of ascertaining whether there has been a contravention of any regulation or direction made or given under Part VIII;
  - (f) for the purpose of ascertaining whether there has been an offence under section 165.
- (2) Any person so authorised shall, except where entry is only for the purpose mentioned in paragraph (e) or paragraph (f) of subsection (1), give 24 hours' notice of his intention to enter any house, premises or building to the occupier thereof and to the owner, if the owner is known.
- (3) An authorisation under this section shall be in writing and shall state the particular purpose or purposes for which the entry is authorised.

### *Offences*

#### **318 Penalty for obstructing execution of Act.**

If any person obstructs any officer of a local authority or any officer of the Secretary of State or any person authorised to enter houses, premises or buildings in pursuance of this Act in the performance of anything which such officer, authority or person is by this Act required or authorised to do, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **319 Penalty for preventing execution of works, etc.**

- (1) If any person, after receiving notice of the intended action—

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) being the occupier of any premises, prevents the owner or other person having control of them, or his officers, agents, servants or workmen from carrying into effect with respect to those premises <sup>F2</sup>... any of the provisions of a byelaw made under section 313; or
- (b) being the owner or occupier of any premises, or a person having control of any premises, prevents any officers, agents, servants or workmen of the local authority, from so doing; or
- (c) being the occupier of any part of a house subject to a control order under Part VIII, prevents any officers, agents, servants or workmen of the local authority from carrying out any works in the house,

the sheriff or any two justices of the peace sitting in open court or any magistrate having jurisdiction in the place on proof thereof may order that person to permit to be done on the premises all things requisite for carrying into effect such provisions with respect to the premises or, in a case falling under paragraph (c), everything which the local authority consider necessary.

- (2) If any such person fails to comply with such an order, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

- F2** Words in s. 319(1)(a) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

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

- C1** S. 319 applied (27.8.1993) by [1993 c. 11](#), [ss. 62\(2\)\(a\)\(ii\)](#), 68(2).  
S. 319 modified (27.8.1993) by [1993 c. 11](#), [ss. 62\(2\)\(d\)](#), 68(2).

### 320 Penalty for damage to houses, etc.

Any person who wilfully or by culpable negligence damages or suffers to be damaged any house provided under this Act, or any of the fittings or appurtenances of any such house, including the drainage and water supply and any apparatus connected with the drainage or water supply, and the fence of any enclosure, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale, without prejudice to any remedy for the recovery of the amount of the damage.

### 321 Liability of directors, etc. in case of offence by body corporate.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished accordingly.
- (2) Subject to subsection (3), where a person is convicted of an offence under subsection (1) and the body corporate in question is liable under sections 152 to 177 to a higher penalty by reason of a previous conviction than it would have been if not

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

so convicted, that person shall be liable under those sections to the same penalties as the body corporate would be liable if a natural person, including imprisonment.

- (3) The person mentioned in subsection (2) shall not be so liable if he shows—
- (a) at the time of the offence he did not know of the previous conviction; and
  - (b) at the time of the previous conviction he was not acting, or purporting to act, as a director, manager, secretary, or other similar officer of the body corporate.

*Powers of sheriff for housing purposes*

**322 Sheriff may determine lease in certain cases.**

- (1) Where in respect of any premises that are leased—
- (a) a closing order, a demolition order or a resolution passed under section 125 has become operative, and
  - (b) the lease is not determined,
- the landlord, the tenant, or any other person deriving right under the lease may apply to the sheriff within whose jurisdiction the premises are situated for an order determining the lease.
- (2) On any such application the sheriff, after giving to any subtenant or other person whom he considers to be interested in the matter an opportunity of being heard, may, if he thinks fit, order that the lease shall be determined, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of compensation or damages or otherwise) as he may think it just and equitable to impose.
- (3) In making an order under subsection (2) the sheriff shall have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.
- (4) The sheriff shall not be entitled to order any payment to be made by the landlord to the tenant in respect of the lease of a house.
- (5) In this section the expression “lease” includes a sublease and any tenancy or tacit relocation following on a lease.

**323 Sheriff may authorise superior to execute works, etc.**

- (1) Subject to the provisions of this section, the superior of any lands and heritages may apply to the sheriff for an order entitling him to enter on those lands and heritages to execute works (including demolition works) within such period as may be specified in the order.
- (2) The sheriff may make such an order if—
- (a) the following notices or orders under this Act in respect of those lands and heritages are not being complied with—
    - (i) a notice requiring the execution of works, or
    - (ii) a closing order, or
    - (iii) a notice or resolution requiring the demolition of a building under Part VI, and
  - (b) the interests of the superior are thereby prejudiced, and

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the sheriff thinks it just to make the order.

(3) Before an order is made under this section notice of the application shall be given to the local authority.

### **324 Procedure on applications and appeals to sheriff.**

(1) An application to the sheriff under paragraph 5 of Schedule 10 (restriction on contracting out) or section 110 (recovery of expenses by lessee) or Part VIII (houses in multiple occupation) shall be made by a summary application, and the sheriff's decision on any such application shall be final.

(2) The Court of Session may prescribe by rules of court the procedure on any appeal to the sheriff under this Act.

(3) The sheriff may, before considering an appeal which may be made to him under this Act, require the appellant to deposit such sum to cover the expenses of the appeal as may be prescribed by rules of court.

(4) The sheriff in deciding an appeal under this Act may make such order as he thinks just.

(5) Any such order shall be final.

(6) In the case of an appeal against a notice given or an order made by a local authority, the sheriff may either confirm, vary or quash the notice or order.

(7) The sheriff—

(a) may at any stage of the proceedings on an appeal under this Act, state a case to the Court of Session on any question of law that arises;

(b) shall do so if so directed by the Court of Session.

(8) A notice or order in respect of which an appeal lies to the sheriff under this Act (other than Part VIII) shall not have effect until either—

(a) the time for appealing has expired without an appeal being made, or

(b) in a case where an appeal is made, the appeal is determined or abandoned,

and no work shall be done or proceedings taken under such notice or order until it has effect.

### *Service*

### **325 Occupier or tenant may be required to state interest.**

(1) A local authority may, for the purpose of enabling them to serve—

(a) any order made by them under section 114 or section 115, or section 119; or

(b) any notice which they are by this Act authorised or required to serve,

require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his own interest in the premises and the name and address of any other person known to him as having an interest in them whether as holder of a heritable security, lessee or otherwise.

(2) Any person who has been required by a local authority under subsection (1) to give them any information and either fails to do so or knowingly makes a false statement,

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

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

**C2** S. 325 applied (27.8.1993) by 1993 c. 11, ss. 62(2)(a)(ii), 68(2).

**326 Service by description on certain persons whose identity is unknown and on a number of persons of one description.**

- (1) An order, notice or other document required or authorised to be served under this Act on any person as a person having control of premises may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served by addressing it to him by the description of “person having control of” the premises (naming them) to which it relates and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.
- (2) A document to be served on the person having control of premises, or on the person managing premises, or on the owner of premises under Parts IV, V, VI and VIII may be served on more than one person who comes within those descriptions.

*Landlord’s identity*

**327 Disclosure of landlord’s identity.**

- (1) If the tenant of premises occupied as a house makes a written request for the landlord’s name and address to any person who demands or to the last person who received rent payable under the tenancy or to any other person for the time being acting as agent for the landlord in relation to the tenancy, and that person fails without reasonable excuse to supply a written statement of the name and address within the period of 21 days beginning with the day on which he receives the tenant’s request, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) In any case where—
  - (a) in response to a request under subsection (1), a tenant is supplied with the name and address of the landlord of the premises concerned; and
  - (b) the landlord is a body corporate; and
  - (c) the tenant makes a further written request to the landlord for information under this subsection,
 the landlord shall, within the period of 21 days beginning with the day on which he receives the request under this subsection, supply to the tenant a written statement of the name and address of every director and the secretary of the landlord.
- (3) Any reference in subsection (1) or subsection (2) to a person’s address is a reference to his place of abode or his place of business or, in the case of a company, its registered office.
- (4) A request under subsection (2) shall be deemed to be duly made to the landlord if it is made to an agent of the landlord or to a person who demands the rent of the premises



*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

concerned, and any such agent or person to whom such a request is made shall as soon as may be forward it to the landlord.

(5) A landlord who fails without reasonable excuse to comply with a request under subsection (2) within the period mentioned in that subsection and a person who fails without reasonable excuse to comply with any requirement imposed on him by subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) In this section—

“landlord” means the immediate landlord and, in relation to premises occupied under a right conferred by an enactment, includes the person who, apart from that right, would be entitled to possession of the premises;

“tenant” includes a sub-tenant and a tenant under a right conferred by an enactment.

### **328 Duty to inform tenant of assignment of landlord’s interest.**

(1) If the interest of the landlord under a tenancy of premises which consist of or include a house is assigned, the person to whom that interest is assigned (in this section referred to as “the new landlord”) shall, within the appropriate period, give notice in writing to the tenant of the assignment and of the name and address of the new landlord.

(2) In subsection (1), “the appropriate period” means the period beginning on the date of the assignment in question and ending either two months after that date or, if it is later, on the first day after that date on which rent is payable under the tenancy.

(3) Subject to subsection (4), the reference in subsection (1) to the new landlord’s address is a reference to his place of abode or his place of business or, if the new landlord is a company, its registered office.

(4) If trustees as such constitute the new landlord, it shall be a sufficient compliance with the obligation in subsection (1) to give the name of the new landlord to give a collective description of the trustees as the trustees of the trust in question, and where such a collective description is given—

(a) the address of the new landlord for the purpose of that subsection may be given as the address from which the affairs of the trust are conducted; and

(b) a change in the persons who are for the time being the trustees of the trust shall not be treated as an assignment of the interest of the landlord.

(5) If any person who is the new landlord under a tenancy falling within subsection (1) fails, without reasonable excuse, to give the notice required by that subsection, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) In this section, “tenancy” includes a sub-tenancy and a statutory tenancy, within the meaning of the <sup>M3</sup>Rent (Scotland) Act 1984 [<sup>F3</sup> and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988] and “tenant” shall be construed accordingly.

(7) In this section, “assignment” means a conveyance or other transfer (other than in security), and any reference to the date of the assignment means the date on which the conveyance or other transfer was granted, delivered or otherwise made effective.

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F3** Words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(2), [Sch. 9 para. 19](#)

#### Marginal Citations

**M3** [1984 c. 58](#).

### *Powers of Secretary of State*

#### **329 Power of Secretary of State in event of failure of local authority to exercise powers.**

- (1) In any case where—
- (a) a complaint has been made to the Secretary of State as respects the district of any local authority, by any four or more local government electors of the area, that the local authority have failed to exercise any of their powers under this Act in any case where those powers ought to have been exercised; or
  - (b) the Secretary of State is of opinion that an investigation should be made as to whether a local authority have so failed,
- the Secretary of State may cause a public local inquiry to be held.
- (2) If, after the inquiry has been held, the Secretary of State is satisfied that there has been such a failure on the part of the local authority, he may, after giving the authority an opportunity of making representations, make an order enabling him to exercise such of those powers as may be specified in the order.
- (3) Any expenses incurred by the Secretary of State in exercising such powers shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Secretary of State shall on demand be paid by the local authority to the Secretary of State and shall be recoverable as a debt due to the Crown.
- (4) The payment of any such expenses shall, so far as the expenses are of a capital nature, be a purpose for which a local authority may borrow money.
- (5) The Secretary of State may by order vest in and transfer to the local authority any property, debts or liabilities acquired or incurred by him in exercising the powers of the authority.
- (6) If an order made under subsection (2) is revoked, the Secretary of State may, either by the revoking order or by a supplementary order, make such provision as appears to him desirable with respect to the transfer, vesting and discharge of any property, debts or liabilities acquired or incurred by the Secretary of State in exercising the powers and duties to which the order so revoked related.

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

**C3** S. 329 applied (27.8.1993) by [1993 c. 11, ss. 62\(2\)\(a\)\(ii\), 68\(2\)](#).

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### **330 Power of Secretary of State to prescribe forms, etc.**

- (1) Subject to the provisions of this Act, the Secretary of State may by statutory instrument make regulations prescribing—
  - (a) the form of any notice, advertisement, statement or other document which is required or authorised to be used under, or for the purposes of, this Act;
  - (b) any other thing required or authorised to be prescribed under this Act.
- (2) The forms so prescribed or forms as near as may be to those forms shall be used in all cases to which those forms apply.

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

**C4** S. 330 applied (27.8.1993) by 1993 c. 11, ss. 62(2)(a)(ii), 68(2).

### **331 Regulations: procedure.**

Subject to the provisions of this Act, regulations made by a statutory instrument under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **332 Secretary of State's power to dispense with advertisements and notices.**

- (1) The Secretary of State may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act, if he is satisfied that there is reasonable cause for dispensing with the publication or service.
- (2) Any such dispensation may be given by the Secretary of State either before or after the time at which the advertisement is required to be published or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Secretary of State thinks fit, due care being taken by the Secretary of State to prevent the interests of any person being prejudiced by the dispensation.

### **333 Local inquiries.**

For the purposes of the execution of his powers and duties under this Act, the Secretary of State may cause such local inquiries to be held as he may think fit.

#### *Miscellaneous*

### **<sup>F4</sup>334 Power of heir of entail to sell land for housing purposes.**

#### **Textual Amendments**

**F4** S. 334 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 48(13), sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**335 Crown rights.**

Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, or authorise the use of or interference with any land (including tidal lands below high-water mark of ordinary spring tides) belonging to Her Majesty in right of the Crown or to any government department, without the consent of Her Majesty or the government department, as the case may be.

**336 Limitation on liability of trustee etc. for expenses incurred by local authority.**

(1) Where a local authority seek to recover expenses incurred by them under any enactment in respect of work done on a house from a person mentioned in subsection (2), that person’s liability shall, if he proves the matters mentioned in subsection (3), be limited to the total amount of the funds, rents and other assets which he has, or has had, in his hands.

In this section “house” includes a building which contains a house, or a part of such a building.

(2) The person mentioned in subsection (1) is a person who receives the rent of the house as trustee, tutor, curator, factor or agent for or of some other person or as the liquidator of a company.

(3) The matters that person requires to prove are—  
(a) that he is a person mentioned in subsection (2); and  
(b) that he has not, and since the date of service on him of a demand for payment of the expenses has not had, in his hands on behalf of that other person or, in the case of a liquidator of a company, on behalf of the creditors or members of the company, sufficient funds, rents and other assets to pay those expenses in full.

(4) Nothing in this section affects any right of a local authority to recover the whole or any part of those expenses from any other person.

**Modifications etc. (not altering text)**  
C5 S. 336 applied (27.8.1993) by 1993 c. 11, ss. 62(2)(a)(ii), 68(2).  
S. 336 applied (with modifications) (27.8.1993) by 1993 c. 12, ss. 30(4), 51(2) (with ss. 42, 46).

**337** ..... F5

**Textual Amendments**  
F5 S. 337 repealed by Local Government Act 1988 (c. 9, SIF 81:1), ss. 19(11)(b), 23, 41, Sch. 7 Pt. I

**338 Interpretation.**

(1) In this Act, unless the context otherwise requires—  
“Act of 1966” means the <sup>M4</sup>Housing (Scotland) Act 1966;  
“Act of 1968” means the <sup>M5</sup>Housing (Financial Provisions) (Scotland) Act 1968;

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“Act of 1969” means the <sup>M6</sup>Housing (Scotland) Act 1969;

“Act of 1972” means the <sup>M7</sup>Housing (Financial Provisions) (Scotland) Act 1972;

“Act of 1974” means the <sup>M8</sup>Housing (Scotland) Act 1974;

“Act of 1978” means the <sup>M9</sup>Housing (Financial Provisions) (Scotland) Act 1978;

“Act of 1980” means the <sup>M10</sup>Tenants’ Rights, Etc. (Scotland) Act 1980;

“Act of 1985” means the <sup>M11</sup>Housing Act 1985;

“Act of 1986” means the <sup>M12</sup>Housing (Scotland) Act 1986;

[<sup>F6</sup>“agricultural holding” means the land comprised in a lease constituting a 1991 Act tenancy within the meaning of the [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#) or the land comprised in a lease constituting a short limited duration tenancy or a limited duration tenancy (within the meaning of that Act);]

“agriculture” means the use of land for agricultural or pastoral purposes, or for the purpose of poultry farming or market gardening, or as an orchard or woodlands, or for the purpose of afforestation, and “agricultural worker” shall be construed accordingly;

“apparatus” means sewers, drains, culverts, water-courses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to any premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying road lighting;

“bank” means—

- [<sup>F7</sup>(a) a person who has permission under [<sup>F8</sup>Part 4A] of the Financial Services and Markets Act 2000 to accept deposits,
- (ab) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits, or]
- (b) a company as to which the Secretary of State was satisfied immediately before the repeal of the <sup>M13</sup>Protection of Depositors Act 1963 that it ought to be treated as a banking company or discount company for the purposes of that Act;

“building regulations” means any statutory enactments, byelaws, rules and regulations or other provisions under whatever authority made, relating to the construction of new buildings and the laying out of and construction of new roads;

“building society” means a building society within the meaning of the <sup>M14</sup>Building Societies Act 1986;

“closing order” means a closing order made under sections 114 or 119;

“Corporation” means the Housing Corporation;

“croft” and “crofter” have the like meanings respectively as in the Crofters (Scotland) Acts 1955 and 1961;

“demolition order” has the meaning assigned to it by section 115;

“development corporation” means a development corporation established by an order made or having effect as if made under the <sup>M15</sup>New Towns (Scotland) Act 1968;

<sup>F9</sup>  
...

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F10</sup>“disabled person” has the same meaning as in the [<sup>F11</sup>Equality Act 2010,]]

“Exchequer contribution” means a payment (other than a payment by way of advance or loan) which the Secretary of State is required or authorised by or under any Act relating to housing, to make for housing purposes;

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

“financial year”, in relation to a local authority, has the same meaning as in section 96(5) of the <sup>M16</sup>Local Government (Scotland) Act 1973;

“flat” means a separate and self-contained set of premises, whether or not on the same floor and forming part of a building from some other part of which it is divided horizontally;

“friendly society” means a society registered under the <sup>M17</sup>Friendly Societies Act 1974 or earlier legislation;

“holding” has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

“hostel” has the meaning assigned to it by section 2(5);

“house” (except in relation to Part XIV) includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat, and includes also any yard, garden, out-houses and pertinents belonging to the house or usually enjoyed therewith and also includes any structure made available under section 1 of the <sup>M18</sup>Housing (Temporary Accommodation) Act 1944;

<sup>F9</sup> ...

“housing association” has the same meaning as it has in the <sup>M19</sup>Housing Associations Act 1985;

<sup>F12</sup> ...

<sup>F9</sup> ...

<sup>F9</sup> ...

[<sup>F13</sup>“insurance company” means—

- (a) a person who has permission under [<sup>F14</sup>Part 4A] of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;]

“land” includes any [<sup>F15</sup>right] or interest in land;

“landholder” has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

“Lands Tribunal” means the Lands Tribunal for Scotland;

“loan charges” means, in relation to any borrowed moneys, the sum required for the payment of interest on those moneys and for the repayment thereof either by instalments or by means of a sinking fund;

[<sup>F16</sup>“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and the district of a local authority means the area of such a council;]

[<sup>F17</sup>“local authority landlord” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10);]

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“official representation” means, in the case of a local authority, a representation made to the authority by the proper officer of the local authority;

“open space” means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground;

<sup>M20</sup>“order for possession” has the meaning assigned to it by section 115(1) of the Rent (Scotland) Act 1984;

<sup>M21</sup>“overspill agreement” has the same meaning as in section 9(1) of the Housing and Town Development (Scotland) Act 1957;

“owner” includes any person who under the Lands Clauses Acts would be enabled to sell and convey land to the promoters of an undertaking, but in Part XIII and sections 99 to 104, in relation to a house, means the person who is for the time being entitled to receive the rent of the house or who, if the house were let, would be so entitled and a tenant-at-will;

“prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument;

“proper officer”, in relation to any purpose of a local authority, means an officer appointed for that purpose by that authority;

<sup>F18</sup>“public undertakers” means any corporation, company, body or person carrying on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . , water or other public undertaking [<sup>F19</sup>(including a universal service provider (within the meaning of [<sup>F20</sup>Part 3 of the Postal Services Act 2011] ) in connection with the provision of a universal postal service (within the meaning of [<sup>F21</sup>that Part] ))];

<sup>M22</sup>“registered housing association” means a housing association registered under the Housing Associations Act 1985;

[<sup>F22</sup>“registered social landlord” has the same meaning as in the [<sup>F23</sup>Housing (Scotland) Act 2010 (asp 17)] ;]

<sup>M23M24</sup>“regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955, the regular air force as defined by section 223 of the Air Force Act 1955, Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

<sup>F9</sup>  
...

“road” has the same meaning as it has in the Roads (Scotland) Act 1984;

[<sup>F24</sup>“Scottish secure tenancy” and “short Scottish secure tenancy” have the same meanings as in the Housing (Scotland) Act 2001 (asp 10);]

<sup>F25</sup>  
...

<sup>F26</sup>  
...

“a service charge” means any charge referred to in section 211;

<sup>F27</sup>  
...

<sup>F9</sup>  
...

“statutory small tenant” has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

“statutory tenant” has the same meaning as it has in section 3 of the Rent (Scotland) Act 1984;

<sup>F26</sup>  
...

“tenancy” in Parts IV and XIII includes a sub-tenancy, a statutory tenancy within the meaning of section 115(1) of the Rent (Scotland) Act 1984 and a contract to which Part VII of that Act applies [<sup>F28</sup>and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988] and “tenant” shall be

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

construed accordingly; and any reference to a tenancy of a house or to the tenant thereof shall be construed as including a reference to all the tenancies of that house or to all the tenants thereof as the case may be;

“tolerable standard” has the meaning assigned to it by section 86;

F29

“year” means, in relation to a local authority, a financial year within the meaning of section 96(5) of the Local Government (Scotland) Act 1973 and, in relation to a development corporation, the Scottish Special Housing Association or a housing association, means a year ending on 31st March;

“the year 1986-87” means the year beginning in 1986 and ending in 1987, and so on.

[<sup>F30</sup>(1A) The definitions of “bank” and “insurance company” in subsection (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

(2) For the purposes of this Act—

- (a) the person who for the time being is entitled to receive, or would, if the same were let, be entitled to receive, the rent of any premises, including a trustee, tutor, curator, factor or agent, shall be deemed to be the person having control of the premises; and
- (b) a crofter or a landholder shall be deemed to be the person having control of any premises on his croft or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Crofters (Scotland) Acts 1955 and 1961 or, as the case may be, the Small Landholders (Scotland) Acts 1886 to 1931, as for an improvement.

(3) In this Act, any reference to the demolition of a building shall be deemed to include a reference to such reconstruction of the building as the local authority may approve; and where a building is so reconstructed any reference to selling, letting or appropriating the land, the building on which has been or will be demolished, shall, unless the context otherwise requires, be construed as a reference to selling, letting or appropriating the land and the reconstructed building.

#### Textual Amendments

- F6** Words in s. 338 substituted (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 10(b)**
- F7** Words in s. 338(1) substituted (1.12.2001) by [S.I. 2001/3649](#), **arts. 1, 226(2)(a)**
- F8** Words in s. 338(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 57(a)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F9** Words in s. 338(1) repealed (1.4.2009 for the repeal of the definition of "standard amenities", 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); [S.S.I. 2009/122](#), art. 3
- F10** Words in s. 338(1) substituted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 6 para. 14** (with s. 193); [S.S.I. 2009/122](#), art. 3
- F11** Words in s. 338(1) substituted by 2010 c. 15 Sch. 26 Pt. 1 para. 8 (as inserted) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), **Sch. 1 para. 2** (see [S.I. 2010/2317](#), art. 2)



*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F12** Words in s. 338 repealed (1.4.2013) by Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11), **ss. 4(a)(ii)**, 5(2)
- F13** Words in s. 338(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(2)(b)
- F14** Words in s. 338(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 57(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F15** Word in s. 338(1) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), **ss. 71, 77(2), sch. 12 para. 48(14)(a)** (with **ss. 58, 62, 75**); S.S.I. 2003/456, art. 2
- F16** Definition of “local authority” in s. 338(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(7)(a)**; S.I. 1996/323, **art. 4**
- F17** Words in s. 338(1) inserted (1.3.2011) by Housing (Scotland) Act 2010 (asp 17), **ss. 144(2)**, 166(2); S.S.I. 2011/96, art. 2, sch. (with art. 6)
- F18** Word in s. 338(1) repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F19** Words in s. 338(1) added (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 73**
- F20** Words in s. 338(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 127(a)**; S.I. 2011/2329, art. 3
- F21** Words in s. 338(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 127(b)**; S.I. 2011/2329, art. 3
- F22** Words in s. 338(1) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(41)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F23** Words in s. 338(1) substituted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **sch. 2 para. 3(5)**; S.S.I. 2012/39, art. 2, sch. 1 (with sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)
- F24** Words in s. 338(1) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(41)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
- F25** Words in s. 338(1) repealed (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 2 para. 4(9)(b)**; S.S.I. 2014/264, art. 2, sch.
- F26** Words in s. 338(1) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), **ss. 71, 77(2), sch. 12 para. 48(14)(b), sch. 13 Pt. 1** (with **ss. 58, 62, 75**); S.S.I. 2003/456, art. 2
- F27** Words in s. 338(1) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)
- F28** Words in s. 338(1) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 20**
- F29** Words in s. 338(1) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)
- F30** S. 338(1A) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(3)

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

- C6** S. 338 extended (1.7.1994) by S.I. 1994/1696, reg. 68, **Sch. 8 Pt. I para. 15**
- C7** S. 338(1) amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para. 26**

#### Marginal Citations

- M4** 1966 c. 49.
- M5** 1968 c. 31.
- M6** 1969 c. 34.
- M7** 1972 c. 46.
- M8** 1974 c. 45.
- M9** 1978 c. 14.
- M10** 1980 c. 52.
- M11** 1985 c. 68.
- M12** 1986 c. 65.
- M13** 1963 c. 16.
- M14** 1986 c. 53.
- M15** 1968 c. 16.
- M16** 1973 c. 65.

*Status: Point in time view as at 01/12/2017.*

*Changes to legislation: Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**M17** 1974 c. 46.  
**M18** 1944 c. 36.  
**M19** 1985 c. 69.  
**M20** 1984 c. 58.  
**M21** 1957 c. 38.  
**M22** 1985 c. 69.  
**M23** 1955 c. 18.  
**M24** 1955 c. 19.

**339 Minor and consequential amendments, transitional provisions and repeals.**

- (1) This Act shall have effect subject to the transitional provisions and savings contained in Schedule 22.
- (2) The enactments specified in Schedule 23 shall have effect subject to the amendments set out in that Schedule being minor amendments and amendments consequential on the provisions of this Act.
- (3) The enactments specified in Schedule 24 are hereby repealed to the extent specified in the third column of that Schedule.

**340 Citation, commencement and extent.**

- (1) This Act may be cited as the Housing (Scotland) Act 1987.
- (2) This Act shall come into force at the end of the period of 3 months beginning with the day on which it is passed.
- (3) This Act extends to Scotland only.

**Status:**

Point in time view as at 01/12/2017.

**Changes to legislation:**

Housing (Scotland) Act 1987, PART XVI is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.