



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XVI

#### GENERAL AND MISCELLANEOUS

##### *Miscellaneous*

#### **334 Power of heir of entail to sell land for housing purposes.**

Without prejudice to any powers, whether statutory or otherwise, already enjoyed by an heir of entail in possession of an entailed estate in Scotland to sell any part of such estate, any such heir in possession may, notwithstanding any prohibition or limitation in any deed of entail or in any Act of Parliament, sell any part or parts of such estate—

(a) to a local authority for any purpose for which a local authority may acquire land under this Act, or

(b) to a housing association for the purpose of the provision of houses,

without its being necessary to obtain the consent of the next heir, and without any restrictions as to the extent of ground to be sold, excepting however, from the provisions of this section the subjects excepted in section 4 of the <sup>M1</sup>Entail (Scotland) Act 1914:

Provided that the price of land so sold shall, in accordance with the provisions of the Entail Acts, be invested for behoof of the heir of entail in possession and succeeding heirs of entail.

#### **Marginal Citations**

**M1** 1914 c. 43.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: Housing (Scotland) Act 1987, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 08 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)**

**C1** 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** ..... <sup>F1</sup>

**Textual Amendments**

**F1** 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>M2</sup>Housing (Scotland) Act 1966;
  - “Act of 1968” means the <sup>M3</sup>Housing (Financial Provisions) (Scotland) Act 1968;

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“Act of 1969” means the <sup>M4</sup>Housing (Scotland) Act 1969;

“Act of 1972” means the <sup>M5</sup>Housing (Financial Provisions) (Scotland) Act 1972;

“Act of 1974” means the <sup>M6</sup>Housing (Scotland) Act 1974;

“Act of 1978” means the <sup>M7</sup>Housing (Financial Provisions) (Scotland) Act 1978;

“Act of 1980” means the <sup>M8</sup>Tenants’ Rights, Etc. (Scotland) Act 1980;

“Act of 1985” means the <sup>M9</sup>Housing Act 1985;

“Act of 1986” means the <sup>M10</sup>Housing (Scotland) Act 1986;

“agricultural holding” means an agricultural holding within the meaning of the <sup>M11</sup>Agricultural Holdings (Scotland) Act 1949;

“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—

- (a) an institution authorised under the <sup>M12</sup>Banking Act 1987, 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;

“disabled occupant” has the meaning assigned to it by section 236;

“disabled person” has the meaning assigned to it by section 236;

“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;

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“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;

“housing action area” means a housing action area within the meaning of Part IV;

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

“housing support grant” has the meaning assigned to it by section 191;

“improvement” has the meaning assigned to it by section 236(2);

“improvement grant” has the meaning assigned to it by section 236(1);

“insurance company” means an insurance company to which Part II of the <sup>M20</sup>Insurance Companies Act 1982 applies;

“land” includes any estate 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;

“local authority” means an islands council or a district council, and the district of a local authority means the islands area or the district, as the case may be;

“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;

“order for possession” has the meaning assigned to it by section 115(1) of the <sup>M21</sup>Rent (Scotland) Act 1984;

“overspill agreement” has the same meaning as in section 9(1) of the <sup>M22</sup>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;

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

“public undertakers” means any corporation, company, body or person carrying on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . <sup>F2</sup>, water or other public undertaking;

“registered housing association” means a housing association registered under the <sup>M23</sup>Housing Associations Act 1985;

“regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the <sup>M24</sup>Army Act 1955, the regular air force as defined by section 223 of the <sup>M25</sup>Air Force Act 1955, Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

“repairs grant” has the meaning assigned to it by section 248;

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

“secure tenancy” has the meaning assigned to it by section 44;

“sell” and “sale” include feu;

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

“standard amenities” has the meaning assigned to it by section [<sup>F3</sup>244(6)];

“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;

“superior” includes the creditor in a ground annual;

“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>F4</sup>and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988] and “tenant” shall be 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;

“water authority” has the meaning assigned to it by section 148 of the <sup>M26</sup>Local Government (Scotland) Act 1973;

“water development board” has the meaning assigned to it by section 109 of the <sup>M27</sup>Water (Scotland) Act 1980;

“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.

(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

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(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

- F2** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F3** Figure substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), **Sch. 7 para. 27**
- F4** Words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(2), **Sch. 9 para. 20**

#### Marginal Citations

- M2** 1966 c. 49.  
**M3** 1968 c. 31.  
**M4** 1969 c. 34.  
**M5** 1972 c. 46.  
**M6** 1974 c. 45.  
**M7** 1978 c. 14.  
**M8** 1980 c. 52.  
**M9** 1985 c. 68.  
**M10** 1986 c. 65.  
**M11** 1949 c. 75.  
**M12** 1987 c. 22.  
**M13** 1963 c. 16.  
**M14** 1986 c. 53.  
**M15** 1968 c. 16.  
**M16** 1973 c. 65.  
**M17** 1974 c. 46.  
**M18** 1944 c. 36.  
**M19** 1985 c. 69.  
**M20** 1982 c. 50.  
**M21** 1984 c. 58.  
**M22** 1957 c. 38.  
**M23** 1985 c. 69.  
**M24** 1955 c. 18.  
**M25** 1955 c. 19.  
**M26** 1973 c. 65.  
**M27** 1980 c. 45.

### 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.

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- (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:**

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**Changes to legislation:**

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