



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Assured tenancies—miscellaneous

31 Right of succession of spouse.

(1) In any case where—

- (a) the sole tenant under an assured tenancy dies; and
- (b) immediately before the death the tenant's spouse [^{F1}or civil partner] was occupying the house as his or her only or principal home; and
- (c) the tenant was not himself a successor as explained in subsection (2) or (3) below,

the tenant's spouse [^{F1}or civil partner] shall, as from the death and for so long as he or she retains possession of the house without being entitled to do so under a contractual tenancy, be entitled to a statutory assured tenancy of the house.

(2) For the purposes of this section, a tenant was a successor in relation to a tenancy—

- (a) if the tenancy had become vested in him either by virtue of this section or under the will or intestacy of a previous tenant; or
- (b) if he was a statutory assured tenant by virtue of section 3A of the ^{M1}Rent (Scotland) Act 1984; or
- (c) if at some time before the tenant's death the tenancy was a joint tenancy held by him and one or more other persons and, prior to his death, he had become the sole tenant by survivorship; or
- (d) in the case of a tenancy (hereinafter referred to as "the new tenancy") which was granted to him (alone or jointly with others) if—
 - (i) at some time before the grant of the new tenancy he was, by virtue of paragraph (a), (b) or (c) above, a successor to an earlier tenancy

Status: Point in time view as at 05/12/2005.

Changes to legislation: Housing (Scotland) Act 1988, Section 31 is up to date with all changes known to be in force on or before 26 September 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)

- of the same or substantially the same house as is let under the new tenancy; and
- (ii) at all times since he became such a successor he has been a tenant (alone or jointly with others) of the house which is let under the new tenancy or of a house which is substantially the same as that house.
- (3) No order for possession under Ground 7 of Schedule 5 to this Act shall be made—
- (a) in relation to a case to which this section relates by virtue of subsection (1) above; or
- (b) where the tenant's spouse [^{F2}or civil partner] succeeds to the tenancy under the will or intestacy of the tenant.
- (4) For the purposes of this section a person who was living with the tenant at the time of the tenant's death .
- [^{F3}(a)] as his or her wife or husband shall be treated as the tenant's spouse
- [^{F4}(b) in a relationship which had the characteristics of the relationship between civil partners shall be treated as the tenant's civil partner]

Textual Amendments

- F1** Words in s. 31(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 56(2)**; S.S.I. 2005/604, arts. 2(c), 4
- F2** Words in s. 31(3)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 56(3)**; S.S.I. 2005/604, arts. 2(c), 4
- F3** Words in s. 31(4) renumbered as s. 31(4)(a) (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 56(4)(a)**; S.S.I. 2005/604, arts. 2(c), 4
- F4** Words in s. 31(4)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 56(4)(b)**; S.S.I. 2005/604, arts. 2(c), 4

Marginal Citations

- M1** 1984 c. 58.

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