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## SCHEDULE 1

(introduced by section 11)

### TENANCIES WHICH ARE NOT SCOTTISH SECURE TENANCIES

#### Commencement Information

- II** Sch. 1 wholly in force at 30.9.2002, see s. 113(1)(2) and [S.S.I. 2002/321](#), [art. 2](#), Sch. (subject to transitional provisions and savings in [arts. 3-5](#))

#### *Premises occupied under contract of employment*

- 1 (1) A tenancy is not a Scottish secure tenancy if the tenant (or one of joint tenants) is an employee of the landlord or of any local authority and the contract of employment requires the tenant to occupy the house for the better performance of the tenant's duties.
- (2) In sub-paragraph (1), "contract of employment" means a contract of service or of apprenticeship, whether express or implied, and (if express) whether oral or in writing.

#### *Police and fire service accommodation*

- 2 <sup>F1</sup> ...
- <sup>F2</sup>(2) A tenancy is not a Scottish secure tenancy if the landlord is a local authority landlord and—
- (a) the house occupied by the tenant is [<sup>F3</sup>provided] by the landlord for the purposes of [<sup>F4</sup>the Police Service of Scotland] , or
  - (b) the tenant is let the house expressly on a temporary basis pending its being required for the purposes of [<sup>F5</sup>the Police Service of Scotland] .
- (3) Sub-paragraph (2)(a) does not prevent a tenancy from being a Scottish secure tenancy if—
- (a) the tenancy was created before the relevant day,
  - (b) the tenant moved to the 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 13 and 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,
  - (c) the tenant moved to the 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 house was made available to the tenant,

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- (d) the tenant occupied the 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, or
- (e) the tenant—
  - (i) occupied the house (or any other house held by the landlord for the purposes of a police force) under a Scottish secure tenancy immediately before the creation of the tenancy, and
  - (ii) agreed to terminate that Scottish secure tenancy without having been notified by the landlord of the effect of sub-paragraph (2)(a) at least 28 days before so agreeing.

(4) In this paragraph—

“police force” has the same meaning as in the Police (Scotland) Act 1967 (c.77),  
 “relevant day” means the day on which section 154 of the Housing (Scotland) Act 2010 (asp 17) comes into force.]

#### Textual Amendments

- F1** Words in sch. 1 para. 2 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 8 Pt. 2](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F2** Sch. 1 para. 2(2)-(4) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), [ss. 154\(c\)](#), 166(2); [S.S.I. 2011/96](#), art. 2, sch.
- F3** Word in sch. 1 para. 2(2)(a) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, [sch. 1 para. 18\(a\)](#)
- F4** Words in sch. 1 para. 2(2)(a) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, [sch. 1 para. 18\(b\)](#)
- F5** Words in sch. 1 para. 2(2)(b) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, [sch. 1 para. 18\(b\)](#)

#### *Lettings to students*

- 3 (1) A tenancy is not a Scottish secure tenancy if it is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is granted either by that institution or by another specified institution or body.
- (2) In sub-paragraph (1), “specified” means specified, or of a type specified, by regulations made by the Scottish Ministers.

#### *Temporary accommodation during work*

- 4 A tenancy is not a Scottish secure tenancy if—
- (a) the house is occupied by the tenant while work is being carried out on the house which the tenant normally occupies as the tenant’s home, and
  - (b) the tenant is—
    - (i) by agreement, or
    - (ii) by virtue of an order of the sheriff under section 16(6), entitled to return there after the work is completed.

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#### *Accommodation for homeless persons*

- 5 A tenancy is not a Scottish secure tenancy if the house is being let to the tenant expressly on a temporary basis, for a term of less than 6 months, in fulfilment of a duty imposed on a local authority by Part II (homeless persons) of the 1987 Act.

#### *Accommodation for offenders*

- 6 A tenancy is not a Scottish secure tenancy if it is granted, for a term of less than 6 months, to a person—
- (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or
  - (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority's functions under that paragraph.

#### *Shared ownership agreements*

- 7 A tenancy is not a Scottish secure tenancy if it is a tenancy under a shared ownership agreement within the meaning of section 83(3).

#### *Agricultural and business premises*

- 8 A tenancy is not a Scottish secure tenancy if the house—
- (a) is let together with agricultural land exceeding two acres in extent,
  - (b) consists of or includes premises which are used as a shop or office for business, trade or professional purposes,
  - (c) consists of or includes premises licensed for the sale of [<sup>F6</sup>alcohol (within the meaning of section 2 of the Licensing (Scotland) Act 2005)] , or
  - (d) is let in conjunction with any purpose mentioned in sub-paragraph (b) or (c).

#### **Textual Amendments**

- F6** Words in *sch. 1 para. 8* substituted (1.9.2009 at 5.00 a.m.) by *The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248)*, ***sch. 1 para. 9*** (with art. 3)

#### *Houses part of, or within curtilage of, certain other buildings*

- 9 A tenancy is not a Scottish secure tenancy if the house forms part of, or is within the curtilage of, a building which—
- (a) is held by the landlord mainly for purposes other than the provision of housing accommodation, and
  - (b) mainly consists of accommodation other than housing accommodation.

#### *Accommodation in property not owned by landlord*

- 10 A tenancy is not a Scottish secure tenancy if the house is leased by the landlord from another body and the terms of the lease preclude the letting of the house by the landlord under a Scottish secure tenancy.

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### *Accommodation for persons with Temporary Protection*

- [<sup>F7</sup>11. A tenancy is not a Scottish secure tenancy if it is granted in order to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005.]

#### **Textual Amendments**

- F7** Sch. 1 para. 11 inserted (15.6.2005) by [The Displaced Persons \(Temporary Protection\) Regulations 2005 \(S.I. 2005/1379\)](#), reg. 1, [Sch. para. 15](#)

## SCHEDULE 2

*(introduced by sections 14, 16, 19, 21 and 22)*

### SCOTTISH SECURE TENANCY: GROUNDS FOR RECOVERY OF POSSESSION OF HOUSE

#### **Commencement Information**

- I2** Sch. 2 wholly in force at 30.9.2002, see [s. 113\(1\)\(2\)](#) and [S.S.I. 2002/321](#), [art. 2](#), Sch. (subject to transitional provisions and savings in [arts. 3-5](#))

## PART 1

### GROUNDS ON WHICH COURT MAY ORDER RECOVERY OF POSSESSION

- 1 Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.
- 2 The tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of—
  - (a) using the house or allowing it to be used for immoral or illegal purposes, or
  - (b) an offence punishable by imprisonment committed in, or in the locality of, the house.
- 3 (1) The condition of the house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant; and in the case of acts of waste by, or the neglect or default of, a person residing or lodging with, or subtenant of, a tenant, the tenant has not, before the making of the order in question, taken such steps as the tenant ought reasonably to have taken for the removal of that person.
 

(2) In sub-paragraph (1), “the common parts” means any part of a building containing the house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other houses.
- 4 The condition of any furniture provided for use under the tenancy, or for use in any of the common parts (within the meaning given in paragraph 3(2)), has deteriorated owing to ill-treatment by the tenant (or any one of joint tenants) or any person

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residing or lodging with, or any subtenant of, the tenant; and in the case of ill-treatment by a person residing or lodging with, or subtenant of, a tenant, the tenant has not, before the making of the order in question, taken such steps as the tenant ought reasonably to have taken for the removal of that person.

- 5 The tenant and—
- (a) the tenant's spouse [<sup>F8</sup>or civil partner] , or
  - (b) any person with whom the tenant has, for a period of at least 6 months immediately prior to the commencement of the period referred to below, been living in the house as husband and wife or in a relationship which has the characteristics of the relationship between [<sup>F9</sup>civil partners] ,
- have been absent from the house without reasonable cause for a continuous period exceeding 6 months or have ceased to occupy the house as their principal home.

#### Textual Amendments

- F8** Words in sch. 2 para. 5(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\)](#), [Sch. 28 para. 65\(2\)\(a\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F9** Words in sch. 2 para. 5(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\)](#), [Sch. 28 para. 65\(2\)\(b\)](#); S.S.I. 2005/604, arts. 2(c), 4

- 6 The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by the tenant.
- 7 (1) The tenant (or any one of joint tenants), a person residing or lodging in the house with, or any subtenant of, the tenant, or a person visiting the house has—
- (a) acted in an anti-social manner in relation to a person residing in, visiting or otherwise engaged in lawful activity in the locality, or
  - (b) pursued a course of conduct amounting to harassment of such a person, or a course of conduct which is otherwise anti-social conduct in relation to such a person,
- and it is not reasonable in all the circumstances that the landlord should be required to make other accommodation available to the tenant.
- (2) In sub-paragraph (1)—
- “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
- “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions,
- “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).
- 8 (1) The tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant—
- (a) has been guilty of conduct in or in the vicinity of the house which is a nuisance or annoyance, or
  - (b) has pursued a course of conduct amounting to harassment of a person residing in, visiting or otherwise engaged in lawful activity in the locality,
- and in the opinion of the landlord it is appropriate in the circumstances to require the tenant to move to other accommodation.

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- (2) In sub-paragraph (1), “conduct” and “harassment” have the same meanings as in paragraph 7.
- 9       The house is overcrowded, within the meaning of section 135 of the 1987 Act, in such circumstances as to render the occupier guilty of an offence.
- 10      (1) It is intended within a reasonable period of time to demolish, or carry out substantial work on, the building or a part of the building which comprises or includes the house, and such demolition or work cannot reasonably take place without the landlord obtaining possession of the house.
- (2) For the purposes of sub-paragraph (1), “demolition” is to be construed in accordance with section 338(3) of the 1987 Act.
- 11      The house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the house and—
- (a) there is no longer a person with such special needs occupying the house, and
- (b) the landlord requires it for occupation (whether alone or with other members of the person’s family) by a person who has such special needs.
- 12      The house forms part of a group of houses which has been designed, or which has been provided with or located near facilities, for persons with special needs, and—
- (a) there is no longer a person with such a need occupying the house, and
- (b) the landlord requires it for occupation (whether alone or with other members of the person’s family) by a person who has such a need.
- 13      The interest of the landlord in the house is that of a lessee under a lease and that lease either—
- (a) has terminated, or
- (b) will terminate within a period of 6 months from the date of raising of proceedings for recovery of possession.
- 14      The landlord is Orkney Islands Council, Shetland Islands Council or Western Isles Council 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 cannot reasonably provide a suitable alternative house for the accommodation referred to in sub-paragraph (a)(ii), and
- (c) the tenant (or any one of joint tenants) is, or at any time during the tenancy has been or, where the tenancy passed to the existing tenant under section 22, the previous tenant at any time during the tenancy was, employed by the council for the purposes of its functions as education authority and such employment has terminated or notice of termination has been given.
- 15      The landlord wishes to transfer the tenancy of the house to—
- (a) the tenant’s spouse [<sup>F10</sup>or civil partner (or former spouse or former civil partner)] , or
- (b) a person with whom the tenant has, for a period of at least 6 months immediately prior to the date of the application for transfer, been living in the house as husband and wife or in a relationship which has the characteristics of the relationship between [<sup>F11</sup>civil partners] ,

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who has applied to the landlord for such transfer; and the tenant or (as the case may be) the spouse or other person no longer wishes to live together with the other in the house.

#### Textual Amendments

- F10** Words in sch. 2 para. 15(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\)](#), [Sch. 28 para. 65\(3\)\(a\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F11** Words in sch. 2 para. 15(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\)](#), [Sch. 28 para. 65\(3\)\(b\)](#); S.S.I. 2005/604, arts. 2(c), 4

## PART 2

### SUITABILITY OF ACCOMMODATION

- 16 For the purposes of sections 16(4), 19(5), 21(5) and 22(7), accommodation is suitable if—
- (a) it consists of premises which are to be let as a separate dwelling under a Scottish secure tenancy or under an assured tenancy, and
  - (b) it is reasonably suitable to the needs of the tenant and the tenant's family.
- 17 In determining whether accommodation is reasonably suitable to the needs of the tenant and the tenant's family, regard is to be had to—
- (a) its proximity to the place of work (including attendance at an educational institution) of the tenant and of members of the tenant's family, compared with the tenant's existing house,
  - (b) the extent of the accommodation required by the tenant and the tenant's family,
  - (c) the character of the accommodation offered compared to the tenant's existing house,
  - (d) the terms on which the accommodation is offered to the tenant compared with the terms of the tenant's existing tenancy,
  - (e) if any furniture was provided by the landlord for use under the existing tenancy, whether furniture is to be provided for use under the new tenancy which is of a comparable nature in relation to the needs of the tenant and the tenant's family,
  - (f) any special needs of the tenant or the tenant's family.
- 18 If the landlord has made an offer in writing to the tenant of new accommodation which complies with paragraph 16(a) and which appears to it to be suitable, specifying the date when the accommodation will be available and the date (not being less than 14 days from the date of the offer) by which the offer must be accepted, the accommodation so offered is deemed to be suitable if—
- (a) the landlord shows that the tenant accepted the offer within the time duly specified in the offer, or
  - (b) the landlord shows that the tenant did not so accept the offer, and the tenant does not satisfy the court that the tenant acted reasonably in failing to accept the offer.



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### SCHEDULE 3

*(introduced by section 22)*

#### SUCCESSION TO SCOTTISH SECURE TENANCY: QUALIFIED PERSONS

##### Commencement Information

**I3** Sch. 3 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

##### *Qualified persons*

- 1 For the purposes of section 22, a person falling within any of paragraphs 2 to 4 is a qualified person.
- 2 (1) A person whose only or principal home at the time of the tenant's death was the house and—
- (a) who was at that time—
- (i) the tenant's spouse [<sup>F12</sup>or civil partner] , or
- (ii) living with the tenant as husband and wife or in a relationship which has the characteristics of the relationship between [<sup>F13</sup>civil partners] , or
- (b) who is, where the tenancy was held jointly by two or more individuals, a surviving tenant.
- (2) In the case of a person referred to in sub-paragraph (1)(a)(ii), the house must have been the person's only or principal home throughout the period of 6 months ending with the tenant's death.

##### Textual Amendments

- F12** Words in sch. 3 para. 2(1)(a)(i) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 66(a); S.S.I. 2005/604, arts. 2(c), 4
- F13** Words in sch. 3 para. 2(1)(a)(ii) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 66(b); S.S.I. 2005/604, arts. 2(c), 4

- 3 A member of the tenant's family aged at least 16 years where the house was the person's only or principal home at the time of the tenant's death.
- 4 A carer providing, or who has provided, care for the tenant or a member of the tenant's family where—
- (a) the carer is aged at least 16 years,
- (b) the house was the carer's only or principal home at the time of the tenant's death, and
- (c) the carer had a previous only or principal home which was given up.

##### *Special rule: specially adapted house*

- 5 (1) This paragraph applies where the house has been designed or substantially adapted for occupation by a person whose special needs require accommodation of the kind provided by the house.



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- (2) For the purposes of succession to a tenancy under section 22(1), a person is a qualified person only if that person—
- (a) falls within paragraph 2, or
  - (b) falls within paragraph 3 or 4 and has special needs requiring accommodation of the kind provided by the house.
- (3) For the purposes of succession to a tenancy under section 22(2), a person falling within any of paragraphs 2 to 4 is a qualified person only if that person has special needs requiring accommodation of the kind provided by the house.

#### *Order of succession*

- 6 If there is a qualified person falling within paragraph 2, the tenancy passes to that person unless the person declines the tenancy.
- 7 If the tenancy does not pass to a qualified person falling within paragraph 2 and there is a qualified person falling within paragraph 3, the tenancy passes to that person unless the person declines the tenancy.
- 8 If the tenancy does not pass to a qualified person falling within paragraph 2 or 3 and there is a qualified person falling within paragraph 4, the tenancy passes to that person unless the person declines the tenancy.
- 9 Where there is more than one qualified person falling within any of paragraphs 2 to 4, section 22(9) and paragraph 6, 7 or, as the case may be, 8 apply in relation to—
- (a) such qualified person falling within the paragraph in question, or
  - (b) such two or more of those qualified persons as joint tenants,
- as may be decided by agreement between all the qualified persons falling within the paragraph in question or, failing agreement within 4 weeks of the death of the tenant or, where paragraph 10 applies, of the date on which notice under that paragraph was given, as the landlord decides.

#### *Notification of right to succeed to tenancy*

- 10 (1) Where there is a qualified person falling within paragraph 2 and that person (or, if more than one, each of those persons) declines the tenancy, the landlord must, as soon as possible thereafter—
- (a) use its best endeavours to ascertain whether there are any persons who may be entitled to the tenancy by virtue of paragraph 3 or, if not, paragraph 4, and
  - (b) give notice in writing to each such person.
- (2) Where there is a qualified person falling within paragraph 3 and that person (or, if more than one, each of those persons) declines the tenancy, the landlord must, as soon as possible thereafter—
- (a) use its best endeavours to ascertain whether there are any persons who may be entitled to the tenancy by virtue of paragraph 4, and
  - (b) give notice in writing to each such person.

#### *Declining a tenancy*

- 11 (1) A qualified person who is entitled to the benefit of paragraph 6, 7 or 8 may decline the tenancy by giving the landlord notice in writing within 4 weeks of the tenant's

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death or, where the qualified person was given notice under paragraph 10, within 4 weeks of the date on which that notice was given.

- (2) Notice under sub-paragraph (1) has effect as if given at the time of the tenant’s death.
- (3) A qualified person who declines a tenancy—
- (a) must vacate the house within 3 months of the date of the notice under sub-paragraph (1) declining the tenancy,
  - (b) is liable to pay rent which becomes due after the tenant’s death only in respect of any rental period (that is to say, a period in respect of which an instalment of rent falls to be paid) during any part of which the qualified person has occupied the house after the tenant’s death.

*Qualified persons: co-operative housing associations*

- 12 (1) This paragraph applies where the landlord is a registered social landlord which is a co-operative housing association.
- (2) A qualified person who is entitled to the benefit of paragraph 6, 7 or 8 must, within 4 weeks of the tenant’s death or, where the qualified person was given notice under paragraph 10, within 4 weeks of the date on which that notice was given, apply for membership of the co-operative housing association.
- (3) Where a qualified person—
- (a) fails to comply with sub-paragraph (2), or
  - (b) complies with that sub-paragraph but the co-operative housing association refuses the application for membership,
- the person is to be treated as having declined the tenancy at the time of the tenant’s death.

SCHEDULE 4

*(introduced by section 27)*

SCOTTISH SECURE TENANCY: LANDLORD’S REPAIRING OBLIGATIONS

**Commencement Information**

**I4** Sch. 4 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

- 1 The landlord in a Scottish secure tenancy must—
- (a) ensure that the house is, at the commencement of the tenancy, wind and watertight and in all other respects reasonably fit for human habitation, and
  - (b) keep the house in such condition throughout the tenancy.
- 2 The landlord must, before the commencement of the tenancy—
- (a) inspect the house and identify any work necessary to comply with the duty in paragraph 1(a), and
  - (b) notify the tenant of any such work.
- 3 The landlord must—

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- (a) ensure that any work necessary to comply with the duty in paragraph 1(b) is carried out within a reasonable time of the tenant notifying the landlord, or the landlord otherwise becoming aware, that it is required, and
  - (b) make good any damage caused by the carrying out of the work.
- 4 The landlord, or any person authorised by it in writing, may at any reasonable time, on giving 24 hours' notice in writing to the tenant or occupier, enter the house for the purpose of—
- (a) viewing its state and condition,
  - (b) carrying out any work necessary to comply with the duty in paragraph 1(b) or 3.
- 5 (1) In determining for the purposes of paragraph 1 whether a house is fit for human habitation, regard is to be had to the extent, if any, to which by reason of disrepair or sanitary defects the house falls short of the provisions of any building regulations in force in the area.
- (2) For the purposes of sub-paragraph (1), “building regulations” has the same meaning as in section 338(1) of the 1987 Act.
- 6 In paragraph 5, “sanitary defects” includes lack of air space or of ventilation, lack of lighting, dampness, absence of adequate and readily accessible water supply or of sanitary arrangements or of other conveniences, and inadequate paving or drainage of courts, yards or passages.

## SCHEDULE 5

(introduced by sections 28, 32 and 33)

### SCOTTISH SECURE TENANCY: ALTERATIONS, ASSIGNATION, SUBLETTING, EXCHANGE ETC.

#### Commencement Information

- I5** Sch. 5 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

## PART 1

### ALTERATIONS ETC. TO HOUSE

- 1 A tenant under a Scottish secure tenancy who wishes to carry out work must make a written application to the landlord for the landlord's consent, giving details of the proposed work.
- 2 The landlord may—
- (a) consent,
  - (b) consent subject to such reasonable conditions as the landlord may impose, or
  - (c) refuse consent, provided that it is not refused unreasonably.
- 3 The conditions which may be imposed under paragraph 2(b) include conditions as to the standard to which the work is to be carried out; and in considering whether to impose such a condition the landlord must have regard to—

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- (a) the age and condition of the house,
  - (b) the cost of complying with the condition, and
  - (c) any guidance issued under section 28(4).
- 4 The landlord must intimate its consent or refusal, any conditions imposed and, in the case of refusal, the reasons for the refusal, to the tenant in writing within one month of receipt of the application.
- 5 If the landlord fails to comply with paragraph 4, it is to be taken to have consented to the application.
- 6 A tenant who is aggrieved by a refusal, or by any condition imposed under paragraph 2(b), may raise proceedings by summary application.
- 7 In such proceedings the court must, unless it considers that the refusal or, as the case may be, the condition is reasonable, order the landlord to consent to the application or to withdraw the condition.
- 8 In deciding whether a refusal or a condition is reasonable the court is to have regard in particular to—
- (a) the safety of occupiers of the house or of any other premises,
  - (b) any expenditure which the landlord is likely to incur as a result of the work,
  - (c) whether the work is likely to reduce the value of the house or of any premises of which it forms part, or to make the house or such premises less suitable for letting or for sale,<sup>F14</sup> ...
  - (d) any effect which the work is likely to have on the extent of the accommodation provided by the house, [<sup>F15</sup>and
  - (e) any code of practice issued by the [<sup>F16</sup>Commission for Equality and Human Rights] which relates to this Part.]

#### Textual Amendments

- F14** Word in sch. 5 para. 8 repealed (4.12.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 54(a)**, 195(3) (with s. 193); S.S.I. 2006/395, art. 2
- F15** Sch. 5 para. 8(e) and word inserted (4.12.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 54(b)**, 195(3) (with s. 193); S.S.I. 2006/395, art. 2
- F16** Words in sch. 5 para. 8(e) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), **Sch. 3 para. 62** (with s. 92); S.I. 2007/2603, art. 2(d)

## PART 2

### ASSIGNATION, SUBLETTING, EXCHANGE ETC.

- 9 A tenant under a Scottish secure tenancy who, in pursuance of section 32(1), wishes to assign, sublet or otherwise give up to another person possession of the house or any part of it or take in a lodger must make a written application to the landlord for the landlord's consent, giving details of the proposed transaction, and in particular of any payment which has been or is to be received by the tenant in consideration of the transaction.
- 10 A tenant under a Scottish secure tenancy who, in pursuance of section 33(1), wishes to exchange the house which is the subject of the tenancy for another house which is the subject of a Scottish secure tenancy must make a written application to the

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- landlord and (if different) to the landlord of the other house for consent, giving details of the proposed transaction and, in particular, of the other house.
- 11 On an application under paragraph 9 or 10 the landlord may—
- (a) consent, or
  - (b) refuse consent, provided that it is not refused unreasonably.
- 12 The landlord must intimate its consent or refusal and, in the case of refusal, the reasons for the refusal, to the tenant in writing within one month of receipt of the application.
- 13 If the landlord fails to comply with paragraph 12, it is to be taken to have consented to the application.
- 14 A tenant who is aggrieved by a refusal may raise proceedings by summary application.
- 15 In such proceedings the court must, unless it considers that the refusal is reasonable, order the landlord to consent to the application.

## SCHEDULE 6

*(introduced by section 34)*

### GROUNDS FOR GRANTING SHORT SCOTTISH SECURE TENANCY

#### Commencement Information

- 16** Sch. 6 wholly in force at 30.9.2002, see s. 113(1)(2) and [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

#### *Previous anti-social behaviour*

- 1 An order for recovery of possession has, within the period of 3 years preceding the date of service of the notice, been made against the prospective tenant (or any one of prospective joint tenants) in proceedings—
- (a) under the Housing (Northern Ireland) Order 1983 (S.I.1983/1118) on ground 2 of Schedule 3,
  - (b) under the Housing Act 1985 (c.68), on ground 2 of Schedule 2,
  - (c) under the 1987 Act, on a ground set out in paragraph 2 or 7 of Schedule 3,
  - (d) under the 1988 Act, on ground 15 of Schedule 5,
  - (e) under the Housing Act 1988 (c.50), on ground 14 of Schedule 2,
  - (f) under this Act on a ground set out in paragraph 2 or 7 of schedule 2.

#### *Anti-social behaviour order*

- 2 The prospective tenant (or any one of prospective joint tenants) or a person who it is proposed will reside with the prospective tenant is subject to an [<sup>F17</sup>antisocial behaviour order—
- (a) under section 234AA of the Criminal Procedure (Scotland) Act 1995 (c. 46); or
  - (b) under section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)].

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### Textual Amendments

- F17** Words in sch. 6 para. 2 substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), **sch. 4 para. 6(3)**; S.S.I. 2004/420, art. 3, sch. 1

#### *Temporary letting to person seeking accommodation*

- 3 The house is to be let expressly on a temporary basis to a person moving into the area in order to take up employment there, and for the purpose of enabling that person to seek accommodation in the area.

#### *Temporary letting pending development*

- 4 (1) The house is to be let to a person expressly on a temporary basis, pending development affecting the house.
- (2) In sub-paragraph (1), “development” has the same meaning as in section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).

#### *Accommodation for homeless persons*

- 5 The house is to be let to a person expressly on a temporary basis, for a period of not less than 6 months, in fulfilment of a duty imposed on a local authority by Part II (homeless persons) of the 1987 Act.

#### *Accommodation for person requiring housing support services*

- 6 The house is to be let expressly on a temporary basis to a person requiring or in receipt of housing support services.

#### *Accommodation in property not owned by landlord*

- 7 The house to be let is leased by the landlord from another body and the terms of the lease preclude the letting of the house by the landlord under a Scottish secure tenancy.

**F18** SCHEDULE 7  
*(introduced by section 63)*

### Textual Amendments

- F18** [Sch. 7](#) repealed (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), **sch. 2 para. 7(2)**; 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)

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**F19** SCHEDULE 8  
(introduced by section 64)

**Textual Amendments**

- F19** Sch. 8 repealed (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **sch. 2 para. 7(2)**; 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)

SCHEDULE 9

(introduced by section 76)

CONSULTATION BEFORE CERTAIN DISPOSALS BY LOCAL  
AUTHORITY LANDLORD OR REGISTERED SOCIAL LANDLORD

**Commencement Information**

- I7** Sch. 9 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

*Disposals to which this schedule applies*

- 1 (1) This schedule applies to a disposal by—
- (a) a local authority landlord under section 12 of the 1987 Act, <sup>F20</sup>...
  - <sup>F20</sup>(b) .....  
of an interest in land as a result of which a tenant of the landlord under a Scottish secure tenancy will cease to be a tenant of that landlord.
- (2) Where a disposal of land is in part a disposal to which this section applies, this schedule applies to that part as to a separate disposal.

**Textual Amendments**

- F20** Sch. 9 para. 1(1)(b) and word repealed (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **sch. 2 para. 7(7)(a)**; 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)

*Application for consent of the Scottish Ministers*

- 2 (1) The Scottish Ministers must not entertain an application for consent under section 12(7) of the 1987 Act <sup>F21</sup>... to a disposal to which this schedule applies unless the local authority landlord or, as the case may be, the registered social landlord certifies that—
- (a) the requirements of paragraph 3 as to consultation have been complied with,  
or



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- (b) the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the house in question before the disposal.
- (2) The certificate must be accompanied by a copy of the notices given, and the results of the ballot held, by the landlord in accordance with that paragraph.
- (3) Where the certificate is in the form mentioned in sub-paragraph (1)(b), the Scottish Ministers must not determine the application until the landlord certifies as regards the tenants not originally consulted—
  - (a) that they have vacated the house in question, or
  - (b) that the requirements of paragraph 3 as to consultation have been complied with.
- (4) A certificate under sub-paragraph (3)(b) must be accompanied by a copy of the notices given, and the results of the ballot held, by the landlord in accordance with paragraph 3.

#### **Textual Amendments**

**F21** Words in *sch. 9 para. 2(1)* repealed (1.4.2012) by *Housing (Scotland) Act 2010 (asp 17)*, s. 166(2), *sch. 2 para. 7(7)(b)*; *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)

#### *Requirements as to consultation*

- 3 (1) The requirements as to consultation referred to in paragraph 2 are as follows.
- (2) The landlord must serve on the tenant notice in writing informing the tenant of—
  - (a) such details of the proposal as the landlord considers appropriate, but including the identity of the person to whom the disposal is to be made,
  - (b) the likely consequences of the disposal for the tenant, and
  - (c) the right of the tenant, within such reasonable period as is specified (which must be at least 28 days after the service of the notice), to make representations to the landlord.
- (3) The landlord must consider any representations made to it within that period and must serve on the tenant a further written notice informing the tenant of—
  - (a) any significant changes in the proposal,
  - (b) the right of the tenant, within such reasonable period as is specified (which must be at least 28 days after the service of the notice), to communicate to the Scottish Ministers any objection to the proposal, and
  - (c) the effect of paragraph 5 (consent to be withheld unless majority of tenants expressing a view on a ballot wish disposal to proceed).
- (4) The landlord must—
  - (a) conduct a ballot of the tenants of the houses to which the application relates on the question whether the tenants wish the disposal to proceed, and
  - (b) inform the Scottish Ministers of the results of the ballot.
- (5) The Scottish Ministers may issue guidance as to—
  - (a) the conduct of a ballot under sub-paragraph (4),

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- (b) the form and manner in which the landlord is to inform the Scottish Ministers of the results of the ballot,  
and the landlord must have regard to such guidance.

*Power to require further consultation*

- 4 The Scottish Ministers may require the landlord to carry out such further consultation with its tenants, and to give them such information as to the results of that consultation, as they may direct.

*Consent to be withheld unless majority of tenants in favour*

- 5 (1) The Scottish Ministers must not give their consent unless they are satisfied that a majority of the tenants who voted in the ballot under paragraph 3(4) wish the disposal to proceed; but this does not affect their general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.
- (2) The Scottish Ministers may issue guidance as to the information about the results of the ballot under paragraph 3(4) which they require in considering whether they are satisfied as mentioned in sub-paragraph (1).
- (3) In making their decision the Scottish Ministers may have regard to any information available to them; and the landlord must give the Scottish Ministers such information as to the representations made to it by tenants and others, and other relevant matters, as they may require.

*Protection of purchasers*

- 6 The Scottish Ministers' consent to a disposal is not invalidated by a failure on their part or that of the landlord to comply with the requirements of this schedule.

SCHEDULE 10

*(introduced by section 112)*

MODIFICATION OF ENACTMENTS

*New Towns (Scotland) Act 1968 (c.16)*

- 1 In the New Towns (Scotland) Act 1968, in—
- (a) section 36B (additional power to dispose of property etc.), and
- (b) section 36D (transfer orders),
- the words “Scottish Homes,” in each place where they occur are repealed.

**Commencement Information**

- 18** Sch. 10 para. 1 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6)

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*Friendly and Industrial and Provident Societies Act 1968 (c.55)*

F22<sub>2</sub> .....

**Textual Amendments**

**F22** Sch. 10 para. 2 repealed (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 7](#) (with [Sch. 5](#))

*Land Compensation (Scotland) Act 1973 (c.56)*

- 3 In the Land Compensation (Scotland) Act 1973—
- (a) in section 27(1)(f) (right to home loss payment), for the words from “48(2)” to “3” substitute “ 16(2) of the Housing (Scotland) Act 2001 (asp 10) on the ground set out in paragraph 10 of schedule 2 ”,
  - (b) in section 29(7AA) (supplementary provisions about home loss payments)—
    - (i) for the words from “47” to “3” substitute “ 14 of the Housing (Scotland) Act 2001 (asp 10) on the tenant specifying the ground set out in paragraph 10 of schedule 2 ”,
    - (ii) for “15(2)” substitute “ 16(2) ”.

**Commencement Information**

**I9** Sch. 10 para. 3 wholly in force at 30.9.2002, see [s. 113\(1\)\(2\)](#) and [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

*Land Tenure Reform (Scotland) Act 1974 (c.38)*

- 4 In section 8(7) (savings) of the Land Tenure Reform (Scotland) Act 1974, for “secure tenancy within the meaning of the Housing (Scotland) Act 1987” substitute “ Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10) ”.

**Commencement Information**

**I10** Sch. 10 para. 4 wholly in force at 30.9.2002, see [s. 113\(1\)\(2\)](#) and [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

PROSPECTIVE

*House of Commons Disqualification Act 1975 (c.24)*

- 5 In Part II of Schedule 1 (offices disqualifying for membership) to the House of Commons Disqualification Act 1975, the entry relating to Scottish Homes is repealed.

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PROSPECTIVE

*Local Government (Scotland) Act 1975 (c.30)*

- 6 In section 23(1) (authorities subject to investigation by the Commissioner for Local Administration) of the Local Government (Scotland) Act 1975, paragraph (g) is repealed.

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

- 7 In section 13(11) (assessment of compensation on transfer of secure tenancy) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981—
- (a) for “secure tenancy within the meaning of Part III of the Housing (Scotland) Act 1987” substitute “ Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10) ”,
  - (b) for “Part I of that Act” substitute “ Part III of the Housing (Scotland) Act 1987 (c.26) ”.

**Commencement Information**

- III** Sch. 10 para. 7 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PROSPECTIVE

*Finance Act 1981 (c.35)*

- 8 In section 107(3) (sale of houses at discount by local authorities etc.) of the Finance Act 1981, paragraph (d) is repealed.

*Rent (Scotland) Act 1984 (c.58)*

- 9 (1) The Rent (Scotland) Act 1984 is amended as follows.
- (2) In section 5(5A) (tenancy under a shared ownership agreement not to be a protected tenancy), for “section 106(2) of the Housing Associations Act 1985” substitute “ section 83(3) of the Housing (Scotland) Act 2001 (asp 10) ”.
  - (3) In section 23A (excluded tenancies and occupancy rights)—
    - (a) after subsection (4) insert—

“(4A) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it was granted, for a term of less than 6 months, to a person—

      - (a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or

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- (b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority’s functions under that paragraph.”,
- (b) subsection (5)(e) is repealed.
- (4) In section 55 (tenancies to which sections 55 to 59 apply), for “section 106(2) of the Housing Associations Act 1985” substitute “ section 83(3) of the Housing (Scotland) Act 2001 (asp 10) ”.

#### Commencement Information

**I12** Sch. 10 para. 9 wholly in force at 30.9.2002; para. 9 not in force at Royal Assent see s. 113(1)(2); para. 9 in force for the purposes of para. 9(2)(4) at 1.11.2001 by S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b)); para. 9 in force for the purposes of para. 9(3) at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

#### *Bankruptcy (Scotland) Act 1985 (c.66)*

- 10 In section 31(9) (tenancies excluded from the whole estate of the debtor) of the Bankruptcy (Scotland) Act 1985, for paragraph (c) substitute—
- “(c) a Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10).”

#### Commencement Information

**I13** Sch. 10 para. 10 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

#### *Housing Associations Act 1985 (c.69)*

- 11 (1) The Housing Associations Act 1985 is amended as follows.
- (2) In section 1(1) (definition of “housing association”), the words “but does not include Scottish Homes” are repealed.
- (3) In section 2B (definition of “registered housing association” etc.)—
- (a) in the definition of “registered housing association”, for the words “maintained by Scottish Homes under section 3” substitute “ of social landlords maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10) ”,
  - (b) the definition of “registered social landlord” is repealed,
  - (c) in the definition of “unregistered”, for the words from “maintained by Scottish Homes” to the end substitute “ of social landlords maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10) ”.
- (4) The following provisions are repealed—
- sections 3 to 33,
  - sections 36A to 40,
  - sections 59 to 61,

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in section 106(2), the definition of “shared ownership agreement”,  
section 106(3).

**Commencement Information**

**I14** Sch. 10 para. 11 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

*Housing (Scotland) Act 1986 (c.65)*

12 Section 13(2) (amendment of section 106(2) of the Housing Associations Act 1985) of the Housing (Scotland) Act 1986 is repealed.

**Commencement Information**

**I15** Sch. 10 para. 12 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

*Housing (Scotland) Act 1987 (c.26)*

13 (1) The Housing (Scotland) Act 1987 is amended as follows.

(2) Sections 1, 12A and 17C are repealed.

(3) In section 21 (publication of rules relating to the housing list and to transfer of tenants)—

- (a) in subsection (1), paragraphs (a)(i) and (b) are repealed,
- (b) in subsection (2), for the words from “housing” to the end of paragraph (a) substitute “social landlord—
  - (a) to make rules governing the matters mentioned in subsection (1)(a)(ii) to (iv);”,
- (c) in subsection (3)—
  - (i) paragraph (i) is repealed,
  - <sup>F23</sup>(ii) .....
  - (iii) in paragraph (ii), for “the association under a” substitute “ a registered social landlord under a Scottish ”.

(4) Sections 22 and 22A are repealed.

(5) Sections 44 to 60 are repealed.

<sup>F24</sup>(6) .....

<sup>F24</sup>(7) .....

<sup>F24</sup>(8) .....

<sup>F24</sup>(9) .....

<sup>F24</sup>(10) .....

<sup>F24</sup>(11) .....

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- F24(12) .....
- F24(13) .....
- F24(14) .....
- F24(15) .....
- F24(16) .....
- F24(17) .....
- F24(18) .....
- F24(19) .....
- F24(20) .....
- (21) In section 212(5) (rent increase notice provisions not to apply to secure tenancies), after “a” insert “ Scottish ”.
- (22) Section 214(9) (advances for purpose of rent to loan scheme) is repealed.
- F25(23) .....
- F25(24) .....
- F25(25) .....
- F25(26) .....
- F25(27) .....
- F25(28) .....
- F25(29) .....
- F25(30) .....
- F25(31) .....
- F25(32) .....
- F25(33) .....
- F25(34) .....
- F25(35) .....
- (36) In section 276 (repurchase by authority other than local authority, in the Table—
- (a) in entry 1 (registered housing associations etc.), in column 1, for the words from “housing” in the first place where it occurs to the end substitute “ social landlord or a predecessor of that landlord ”,
  - (b) entry 2 (Scottish Homes and the Scottish Special Housing Association) is repealed.
- (37) In subsection (1) of section 281 (effect of repurchase on certain tenancies)—



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- (a) for the words from “44” to “tenancy)” substitute “ 11(1)(b) (Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) ”,
  - (b) after “a” in the fifth place where it occurs insert “ Scottish ”.
- (38) In section 282 (grant of tenancy to former owner-occupier)—
- (a) in subsection (2)—
    - (i) for the words from “44(2)” to “tenancies)” substitute “ 11(1)(b) (Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) ”,
    - (ii) after “a” insert “ Scottish ”,
  - (b) in subsection (3)(a), after “a” insert “ Scottish ”.
- (39) In section 283 (grant of tenancy to former statutory tenant)—
- (a) in subsection (1)—
    - (i) for the words from “44(2)” to “tenancies)” substitute “ 11(1)(b) (Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) ”,
    - (ii) for “secure tenancy” substitute “ Scottish secure tenancy ”,
  - (b) in subsection (3), after “a” in the third place where it occurs insert “ Scottish ”.
- (40) In section 286 (interpretation of sections 281 to 285)—
- (a) in paragraph (a), for “Part III (secure tenancies)” substitute “ the Housing (Scotland) Act 2001 (asp 10) ”,
  - (b) in paragraph (c), after “a” in the first and third places where it occurs insert “ Scottish ”.
- (41) In section 338(1) (interpretation)—
- (a) after the definition of “registered housing association” insert—

““registered social landlord” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10);”
  - (b) after the definition of “road” insert—

““Scottish secure tenancy” and “short Scottish secure tenancy” have the same meanings as in the Housing (Scotland) Act 2001 (asp 10);”
  - <sup>F26</sup>(c) .....
- (42) Schedules 2 to 5, 6A and 18 are repealed.

#### Textual Amendments

- F23** Sch. 10 para. 13(3)(c)(ii) repealed (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), [sch. 2 para. 10\(5\)\(a\)](#); S.S.I. 2014/264, art. 2, [sch.](#)
- F24** Sch. 10 para. 13(6)-(20) repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), [sch. 2 para. 10\(5\)\(b\)](#); S.S.I. 2014/264, art. 2, [sch.](#) (with art. 4)
- F25** Sch. 10 para. 13(23)-(35) 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
- F26** Sch. 10 para. 13(41)(c) 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

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### Commencement Information

- I16** Sch. 10 para. 13 partly in force; Sch. 10 para. 13 not in force at Royal Assent, see s. 113(1)(2); para. 13(24)(35) in force at 1.11.2001 by S.S.I. 2001/336, art. 2(3), Sch. Pt. I (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b)); para. 13(2)(17)(42) in force for specified purposes at 19.12.2001 by S.S.I. 2001/467, art. 2(2), Sch. (subject to transitional provisions in art. 3); para. 13(3) in force at 1.4.2002 by S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3); para. 13(5)-(22) and para. 13(36)-(41)(b) wholly in force and para. 13(42) in force for specified purposes at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5); para. 13(4) in force at 30.9.2002 by S.S.I. 2002/433, art. 2, Sch.
- I17** Sch. 10 para. 13(23) (25)-(34) (41)(c) in force at 1.10.2003 by S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)
- I18** Sch. 10 para. 13(42) in force at 1.10.2003 in so far as not already in force by S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

### *Housing (Scotland) Act 1988 (c.43)*

- 14 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) In section 1 (Scottish Homes)—
- (a) subsections (1) and (2) are repealed,
  - (b) in subsection (3)—
    - (i) for “Scottish Homes”, in the first place where those words occur, substitute “ the Scottish Ministers ”,
    - (ii) paragraph (b) is repealed,
    - (iii) in paragraph (e), for “housing associations”, in each place where those words occur, substitute “ social landlords ”,
    - (iv) paragraph (g) is repealed.
- (3) In section 2 (general functions of Scottish Homes)—
- (a) subsection (1) is repealed,
  - (b) in subsection (2)—
    - (i) for the words from the beginning to “Scottish Homes” substitute “ For the purposes of the exercise of their general functions under section 1(3), the Scottish Ministers, so far as they do not otherwise have power to do so, ”,
    - (ii) in paragraph (h), for “it” substitute “ them ”,
    - (iii) in each of paragraphs (m) and (t), for “its” substitute “ their ”,
    - (iv) in each of paragraphs (s), (u) and (v), for “its general functions and powers” substitute “ their general functions under section 1(3) ”,
    - (v) in paragraph (t), for “it thinks” substitute “ they think ”,
    - (vi) in paragraph (u), for “it”, in the first place where it occurs, substitute “ them ”,
    - (vii) in paragraph (v), for “its”, in the first place where it occurs, substitute “ their ”,
  - (c) subsections (3) to (5), (7), (10) and (11) are repealed.
- (4) Sections 2A to 8, 10 and 11 are repealed.
- (5) In section 56 (right to acquire)—

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- (a) in subsection (1), the words “or Scottish Homes” are repealed,
  - (b) in subsection (3), paragraph (e) is repealed,
  - (c) in subsection (4), for the words “secure tenant” substitute “tenant under a Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10)”.
- (6) In section 57 (persons by whom right may be exercised)—
- (a) in subsection (1)—
    - (i) for “Scottish Homes” in the first place where those words occur substitute “the Scottish Ministers”,
    - (ii) the words “or by Scottish Homes” and “(other than Scottish Homes)” are repealed,
  - (b) in subsection (3), for “Scottish Homes” substitute “the Scottish Ministers”.
- (7) In section 58 (application to exercise right and offer to sell)—
- (a) in subsection (1), the words “or, as the case may be, Scottish Homes” are repealed,
  - (b) in subsection (2), at the end insert “and a person living with the tenant or joint tenant in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex”,
  - (c) in subsection (3), for the words from “on Scottish Homes” to the end substitute “the Scottish Ministers”,
  - (d) in subsection (7)(c), the words “Scottish Homes or” are repealed,
  - (e) in subsection (8)(a), the words “Scottish Homes or” in both places where they occur are repealed.
- (8) In section 63 (consent for subsequent disposal)—
- (a) in subsection (1)—
    - (i) the words “other than Scottish Homes” are repealed,
    - (ii) for “Scottish Homes” in the second place where those words occur substitute “the Scottish Ministers”,
  - (b) in subsection (2A)—
    - (i) for “Scottish Homes” substitute “the Scottish Ministers”,
    - (ii) for “itself” substitute “themselves”,
  - (c) in subsection (3), for the words from “Scottish Homes” to “dispositions)” substitute “the Scottish Ministers under section 66 of the Housing (Scotland) Act 2001 (asp 10) (consent for disposal by registered social landlord)”.
- (9) In section 65 (cost floor limit on discount on price of house purchased by secure tenant), subsection (5) is repealed.
- (10) Schedule 1 is repealed.
- (11) In Schedule 2 (consequential amendments), paragraphs 2, 3(a), 4, 6 and 14 are repealed.
- (12) In Schedule 4 (tenancies which cannot be assured tenancies)—
- (a) in paragraph 11—
    - (i) sub-paragraphs (b) to (d) are repealed,
    - (ii) after sub-paragraph (e) insert—

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“(ea) a registered social landlord within the meaning of the Housing (Scotland) Act 2001 (asp 10);”;

(iii) sub-paragraph (f) is repealed,

(b) after paragraph 11 insert—

**“Accommodation for offenders**

11A A tenancy granted, for a term of less than 6 months, to a person—

(a) who is under supervision in pursuance of the functions of a local authority under paragraph (b)(i), (ii) or (vi) of subsection (1) of section 27 (supervision and care of persons on probation, released from prison etc.) of the Social Work (Scotland) Act 1968 (c.49), or

(b) who has requested, in accordance with paragraph (c) of that subsection, the provision of advice, guidance or assistance by a local authority in pursuance of the authority’s functions under that paragraph.”;

(c) in paragraph 12, for “the Housing Associations Act 1985” substitute “section 83(3) of the Housing (Scotland) Act 2001 (asp 10)”.

(13) In Part III (suitable alternative accommodation) of Schedule 5 (grounds for possession of houses let on assured tenancies)—

(a) in paragraph 1—

(i) the words “or, in any case, of Scottish Homes” are repealed,

(ii) for “, the Corporation or, as the case may be, Scottish Homes,” substitute “ or the Corporation, ”,

(b) in paragraph 3—

(i) in sub-paragraph (1)(a), the words “or by Scottish Homes” are repealed,

(ii) in sub-paragraph (2), the words “or of Scottish Homes” are repealed,

(c) in paragraph 5, the words “or of Scottish Homes” are repealed,

(d) in paragraph 6, for “, development corporations and Scottish Homes” substitute “ and development corporations ”.

(14) In Schedule 7 (amendments of Housing (Scotland) Act 1987 connected with consolidation), paragraphs 1 and 2 are repealed.

(15) In Schedule 9 (consequential amendments), paragraphs 6, 8 to 10 and 21 are repealed.

**Commencement Information**

**I19** Sch. 10 para. 14 partly in force; Sch. 10 para. 14 not in force at Royal Assent see s. 113; para. 14(5)(a)(6)-(8)(12)(c) wholly in force and para. 14(11)(15) in force for specified purposes at 1.11.2001 by S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(a)(b)); para. 14(2)-(4)(10) in force at 1.11.2001 by S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6); para. 14 (5)(c)(9)(12)(14)(15) in force at 30.9.2002 by S.S.I. 2002/321, {art. 2,} Sch. (subject to transitional provisions and savings in arts.3-5) (as amended by S.S.I. 2002/433, art. 3(2))

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*Housing Act 1988 (c.50)*

- 15 (1) The Housing Act 1988 is amended as follows.
- (2) Sections 48 and 49 are repealed.
- (3) In section 52 (recovery etc. of grants)—
- (a) in subsection (1), for “housing association” substitute “social landlord”,
  - (b) in subsection (2)(c), for “association” in both places where it occurs substitute “landlord”,
  - (c) in subsection (3)—
    - (i) for “an association” substitute “a registered social landlord”,
    - (ii) for “association” in the second place where it occurs insert “landlord”,
  - (d) in subsection (4), for “an association” substitute “a registered social landlord”,
  - (e) in subsection (5)—
    - (i) for “an association” substitute “a registered social landlord”,
    - (ii) for “housing association” substitute “social landlord”,
    - (iii) for “association” in the third and fourth places where it occurs substitute “landlord”,
  - (f) after subsection (9) insert—

“(10) In this section and section 53, “registered social landlord” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10).”
- (4) In section 53 (determinations)—
- (a) in subsection (1)(b), for “housing associations” substitute “registered social landlords”,
  - (b) in subsection (3)—
    - (i) for “housing associations” substitute “registered social landlords”,
    - (ii) for “associations” in the second place where it occurs substitute “landlords”.
- (5) Sections 54 and 55 are repealed.
- (6) In section 59 (interpretation of Part II and amendments of the Housing Associations Act 1985)—
- (a) in subsection (1)(b), for “Scottish Homes” substitute “the Scottish Ministers”,
  - (b) subsection (2)(b) is repealed.
- (7) Sections 128, 134 and 135 are repealed.
- (8) In Schedule 6 (amendments of Housing Associations Act 1985), paragraphs 3 to 22, 25 and 26 are repealed.
- (9) Schedule 16 is repealed.

**Commencement Information**

**I20** Sch. 10 para. 15 partly in force; para. 15 not in force at Royal Assent see s. 113(1)(2);

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para. 15(2)(8) in force at 1.11.2001 by S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, **art. 7(b)**);  
 para. 15(3)(4)(6) in force at 1.11.2001 by S.S.I. 2001/397, art. 2(2), **Sch.** (subject to transitional provisions in arts. 3-6);  
 para. 15(7)(9) wholly in force and para.15(5) in force for specified purposes at 30.9.2002 by S.S.I. 2002/321, **art. 2, Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Local Government and Housing Act 1989 (c.42)*

- 16 In the Local Government and Housing Act 1989, sections 177, 178(1), 179 and 181 are repealed.

**Commencement Information**

- I21** Sch. 10 para. 16 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, **art. 2, Sch.** (subject to transitional provisions and savings in arts. 3-5)

*Social Security Administration Act 1992 (c.5)*

- 17 In section 191 (interpretation) of the Social Security Administration Act 1992, in the definition of “housing authority”, for “, a new town corporation or Scottish Homes” substitute “ or a new town corporation ”.

**Commencement Information**

- I22** Sch. 10 para. 17 wholly in force at 1.4.2002, see s. 113(1)(2) and S.S.I. 2002/168, **art. 2, Sch.** (subject to transitional provisions and savings in art. 3)

PROSPECTIVE

*Taxation of Chargeable Gains Act 1992 (c.12)*

- 18 (1) Section 218(4) (disposals of land between Scottish Homes and housing associations) of the Taxation of Chargeable Gains Act 1992 is repealed.
- (2) In section 219(2) (disposals by Scottish Homes) of that Act, for “the Secretary of State or Scottish Homes” substitute “ or the Secretary of State ”.

*Local Government Finance Act 1992 (c.14)*

- 19 (1) In section 75 (persons liable to pay council tax) of the Local Government Finance Act 1992—
- (a) in subsection (2)(c), after “resident” in the third place where it occurs insert “ Scottish ”,
- (b) in subsection (5), for the definition of “secure tenant” substitute—

““Scottish secure tenant” means a tenant under a Scottish secure tenancy within the meaning of the Housing (Scotland) Act 2001 (asp 10);”.

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(2) In section 99(1) (interpretation of Part II) of that Act, in the definition of “housing body”, paragraph (c) and the preceding “or” are repealed.

**Commencement Information**

**I23** Sch. 10 para. 19 partly in force; Sch. 10 para. 19 not in force at Royal Assent, see s. 113(1)(2); Sch. 10 para. 19(1) in force at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

*Leasehold Reform, Housing and Urban Development Act 1993 (c.28)*

20 The following provisions of the Leasehold Reform, Housing and Urban Development Act 1993 are repealed—

**Commencement Information**

**I24** Sch. 10 para. 20 wholly in force; Sch. 10 para. 20 not in force at Royal Assent, see s. 113(1)(2); para. 20 in force for specified purposes at 1.4.2002 by S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3); para. 20 in force insofar as not already in force at 30.9.2002 by S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

*Local Government etc. (Scotland) Act 1994 (c.39)*

21 In Schedule 13 (minor and consequential amendments) to the Local Government etc. (Scotland) Act 1994, paragraph 152(8) is repealed.

**Commencement Information**

**I25** Sch. 10 para. 21 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

*Requirements of Writing (Scotland) Act 1995 (c.7)*

22 In Schedule 4 (minor and consequential amendments) to the Requirements of Writing (Scotland) Act 1995, paragraphs 59 and 60 are repealed.

**Commencement Information**

**I26** Sch. 10 para. 22 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

*Children (Scotland) Act 1995 (c.36)*

23 In Schedule 4 (minor and consequential amendments) to the Children (Scotland) Act 1995, paragraph 42 is repealed.



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**Commencement Information**

**I27** Sch. 10 para. 23 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

*Housing Act 1996 (c.52)*

24 Paragraph 9 of Schedule 3 (social rented sector: minor amendments) to the Housing Act 1996 is repealed.

**Commencement Information**

**I28** Sch. 10 para. 24 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6)

*Planning (Consequential Provisions) (Scotland) Act 1997 (c.11)*

25 In Schedule 2 (consequential amendments) to the Planning (Consequential Provisions) (Scotland) Act 1997, paragraph 40(3) is repealed.

**Commencement Information**

**I29** Sch. 10 para. 25 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

PROSPECTIVE

*Data Protection Act 1998 (c.29)*

26 In Schedule 12 (accessible public records) of the Data Protection Act 1998—  
 (a) in the Table in paragraph 4, the entry “Scottish Homes” is repealed,  
 (b) in paragraph 5(3), the words “or Scottish Homes” and “or, as the case may be, Scottish Homes” are repealed.

*Crime and Disorder Act 1998 (c.37)*

27 In section 23 (anti-social behaviour as ground of eviction) of the Crime and Disorder Act 1998, subsections (1) to (3) are repealed.

**Commencement Information**

**I30** Sch. 10 para. 27 wholly in force at 30.9.2002, see s. 113(1)(2) and S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

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*Public Finance and Accountability (Scotland) Act 2000 (asp 1)*

- 28 (1) Paragraph 3 of schedule 1 (capital expenditure of, and borrowing by, certain statutory bodies) to the Public Finance and Accountability (Scotland) Act 2000 is repealed.
- (2) Paragraph 7 of schedule 4 (modification of enactments) to that Act is repealed.

**Commencement Information**

**I31** Sch. 10 para. 28 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/397, art. 2(2), Sch. (subject to transitional provisions in arts. 3-6)

PROSPECTIVE

*Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

- 29 In schedule 3 (devolved public bodies) to the Ethical Standards in Public Life etc. (Scotland) Act 2000, the entry relating to Scottish Homes is repealed.

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