

# HOUSING (SCOTLAND) ACT 2014

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## EXPLANATORY NOTES

### THE STRUCTURE AND A SUMMARY OF THE ACT

#### Part Six – Private Housing Conditions

##### Notice of potential liability for costs: notice of discharge

173. [Section 86](#) makes amendments to the Title Conditions (Scotland) Act 2003 (“the 2003 Act”) and the Tenements (Scotland) Act 2004 (“the Tenements Act”). These amendments provide for a discharge procedure in respect of notices of potential liability for costs registered under section 10(2) of the 2003 Act and section 12(3) of the Tenements Act. Currently, section 10A(3) of the 2003 Act and section 13(3) of the Tenements Act provide that a notice of potential liability for costs will expire at the end of three years unless it is renewed. This will continue, but the amendment will allow the notice of potential liability to be discharged during the three-year period or any renewal period.
174. Subsection (1) inserts new subsections (3A) and (3B) into section 10A of the 2003 Act. Subsection (2)(a) inserts new subsections (3A) and (3B) into section 13 of the Tenements Act.
175. Under the new sections 10A(3A) of the 2003 Act and 13(3A) of the Tenements Act, an owner of a burdened property can apply to register a notice of discharge if the notice of potential liability for costs has not expired, the liability for costs in relation to that property has been fully discharged and consent from the person who registered the notice has been obtained. Evidence of such consent would need to be included with the application to register the discharge notice.
176. The new sections 10A(3B)(a) of the 2003 Act and 13(3B)(a) of the Tenements Act provide that the notice of discharge must be submitted in a form prescribed by the Scottish Ministers by order.
177. It is possible to register a notice of potential liability for costs against more than one flat or property. The new sections 10A(3B)(b) of the 2003 Act and 13(3B)(b) of the Tenements Act provide that registration of a notice of discharge in relation to a property discharges the notice of potential liability for costs only to the extent that it applies to that property.
178. Subsection (2)(b) amends the definition of “register” in section 29 of the Tenements Act to include a notice of discharge.