
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 96 (C. 9)

HOUSING

**The Housing (Scotland) Act 2010 (Commencement No. 2,
Transitional, Transitory and Saving Provisions) Order 2011**

Made - - - - 10th February 2011

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 161(2)(a) and (c) and 166(2) of the Housing (Scotland) Act 2010⁽¹⁾.

Citation and interpretation

1.—(1) This Order may be cited as the Housing (Scotland) Act 2010 (Commencement No. 2, Transitional, Transitory and Saving Provisions) Order 2011.

(2) In this Order—

“the 1987 Act” means the Housing (Scotland) Act 1987⁽²⁾;

“the 2010 Act” means the Housing (Scotland) Act 2010; and

“the Schedule” means the Schedule to this Order.

Appointed days

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the 2010 Act specified in column 1 of the Schedule is specified in column 2 of the Schedule.

(2) Where a purpose is specified in column 3 of the Schedule, a provision specified in column 1 comes into force in accordance with paragraph (1) only for that purpose.

Transitional provision

3.—(1) This article applies where—

(a) missives for the acquisition of a new supply social house are concluded during the period beginning on 1st March 2011 and ending on 14th March 2011; or

(b) a Scottish secure tenancy to which a new supply social house is subject is created during the period beginning on 1st March 2011 and ending on 14th March 2011.

(1) 2010 asp 17.
(2) 1987 c.26.

(2) Where this article applies, section 61F of the 1987 Act (limitation on right to purchase: new supply social housing)(3) has effect as if for section 61F(2)(d) there was substituted—

- “(d) the landlord failed to give the tenant notice that the tenant would not have the right to buy the new supply social house after it was let to the tenant under a Scottish secure tenancy or was acquired from the tenant by the landlord—
- (i) where the landlord acquired the new supply social house from the tenant, at least 7 days before the missives for that acquisition were concluded; or
 - (ii) in any other case, at least 7 days before the creation of the Scottish secure tenancy to which the new supply social house is subject.”.

(3) In this article, “new supply social house” has the meaning given by section 61F(3) of the 1987 Act.

Transitory provision

4.—(1) This article has effect until the day on which section 20 of the 2010 Act (registered social landlords) comes into force.

(2) In section 165 of the 2010 Act (interpretation), “registered social landlord” includes a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001(4).

Saving provisions

5. Notwithstanding the commencement of section 140 of the 2010 Act (re-accommodated persons: protection of right to buy), section 61 of the 1987 Act applies to applications to purchase under section 63 of that Act served prior to 1st March 2011, as it applied immediately before that date.

6. Notwithstanding the commencement of section 144 of the 2010 Act (limitation on right to buy: police housing), section 69A of the 1987 Act has no effect as regards any application to purchase served prior to 1st March 2011.

St Andrew’s House,Edinburgh
10th February 2011

ALEX NEIL
Authorised to sign by the Scottish Ministers

(3) Section 61F was inserted by section 143 of the 2010 Act.

(4) 2001 asp 10.

SCHEDULE

Article 2

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|--|----------------------|---|
| <i>Provisions of the Act</i> | <i>Appointed day</i> | <i>Purpose</i> |
| Sections 138-141, 143 (in so far as not already in force), 144, 148-151, 152(1) and (2), 154 and 156 | 1st March 2011 | |
| Section 162 | 1st March 2011 | Only for the purpose of giving effect to schedule 2, paragraph 2. |
| Section 164 and schedule 2, paragraph 2 | 1st March 2011 | |
| Sections 1, 2 and 3(2) | 1st April 2011 | |
| Section 4 | 1st April 2011 | Only for the purpose of requiring preparation of the Regulator's statement. |
| Sections 5(1)(a), (2) and (3), 6(2), 7-12, 15-17, 18(1) and (2) and 19 | 1st April 2011 | |
| Section 24 | 1st April 2011 | Only for the purpose of enabling the Scottish Ministers to make provision by order. |
| Sections 25, 26 and 28 | 1st April 2011 | Only for the purpose of enabling consultation by the Regulator. |
| Sections 31-33 | 1st April 2011 | |
| Sections 35 and 36 | 1st April 2011 | Only for the purpose of enabling consultation by the Regulator. |
| Sections 39, 46(2), 47(2), | 1st April 2011 | |
| Sections 50, 51, 54, 68, 73(3), 108(3) and 109(4) | 1st April 2011 | Only for the purpose of enabling consultation by the Regulator. |
| Section 162 | 1st April 2011 | Only for the purpose of giving effect to schedule 2, paragraphs 6, 8, 9 and 10. |
| Schedule 2, paragraphs 6, 8, 9 and 10 | 1st April 2011 | |
| Section 152(3) | 4th April 2011 | |
| Section 142 | 30th June 2011 | |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force various provisions of the Housing (Scotland) Act 2010 (“the 2010 Act”).

The Schedule to the Order (“the Schedule”) appoints 1st March 2011 for the coming into force of sections 138 and 139, which insert provisions in the Land Tenure Reform (Scotland) Act 1974 relating to long leases and heritable securities entered into by social landlords and rural housing bodies. The related consequential amendment in paragraph 2 of schedule 2 of the 2010 Act is also commenced on this date, along with section 164, which defines a body connected to a social landlord.

The Schedule also appoints 1st March 2011 for the coming into force of sections 140, 141, 143 and 144, which amend various provisions relating to the right to buy in Part III of the Housing (Scotland) Act 1987 (“the 1987 Act”). Article 5 provides that the commencement of section 140, which makes provision protecting the right to buy of certain re-accommodated persons, does not affect applications to purchase served prior to 1st March 2011.

Article 3 applies where missives for the acquisition of a new supply social house are concluded, or a Scottish secure tenancy over a new supply social house is created, during the period beginning on 1st March 2011 and ending on 14th March 2011. In those circumstances, section 61F of the 1987 Act, which places limitations on the right to buy new supply social houses, has effect as if for section 61F(2)(d), a modified form of words was substituted. The modification requires notice to be given to tenants, but the notice does not have to be given in the prescribed form.

Article 6 provides that the commencement of section 144, which places certain limitations on the right to buy police housing, does not affect applications to purchase served prior to 1st March 2011.

The Schedule also appoints 1st March 2011 for the coming into force of a number of other provisions of the 2010 Act. These include sections making miscellaneous amendments to the Housing (Scotland) Act 2006 ([asp 1](#)), providing for tenant protection in relation to court orders for possession against landlords, providing for tenancies of police accommodation not to be Scottish secure tenancies, and amending the meaning of “local connection” for the purposes of local authority duties on homelessness in Part II of the 1987 Act.

1st April 2011 is appointed for the coming into force of various provisions of Parts 1 to 7, Part 9 and schedule 2 of the 2010 Act. The provisions commenced establish the Scottish Housing Regulator as a body corporate, make provision for its membership and proceedings, and confer certain powers and duties on the body. In some cases, these powers and duties are commenced for the limited purpose of requiring preparation of a statement or enabling consultation only. The paragraphs of schedule 2 coming into force on 1st April 2011 make amendments consequential on the establishment of the Scottish Housing Regulator. Sections 31 to 33, which confer certain duties on the Scottish Ministers in relation to the Scottish Social Housing Charter, are also commenced on 1st April 2011.

The Schedule appoints 4th April 2011 for the coming into force of section 152(3), which makes further provision for tenant protection in relation to court orders for possession against landlords. It appoints 30th June 2011 for the coming into force of section 142, which amends the provisions in Part III of the 1987 Act relating to pressured area designations and the right to buy.

Article 4 makes a transitory provision so that the term “registered social landlord” in section 165 of the 2010 Act is to be read as including a body registered under section 57 of the Housing (Scotland)

Act 2001, until the definition of “registered social landlord” in the 2010 Act is given full effect by virtue of the commencement of section 20 of that Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|-------------------------|-----------------------------|---------------------------------|
| Section 143 (partially) | 3rd January 2011 | S.S.I. 2010/444 |