

**2005 No. 439**

**HOUSING**

**The Housing (Scotland) Act 2001 (Transfer of Scottish Homes  
Property and Liabilities) Order 2005**

*Made* - - - - - *8th September 2005*

*Laid before the Scottish Parliament* *9th September 2005*

*Coming into force* - - - *1st October 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 85(1) and 109(2) of the Housing (Scotland) Act 2001(a) and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Housing (Scotland) Act 2001 (Transfer of Scottish Homes Property and Liabilities) Order 2005 and shall come into force on 1st October 2005.

**Interpretation**

2. In this Order—

“the 1988 Act” means the Housing (Scotland) Act 1988(b); and

“Scottish Homes” means the body corporate established by section 1 of the 1988 Act(c).

**Transfer of property and liabilities**

3. All rights and interests of Scottish Homes in, and all liabilities of Scottish Homes in relation to, any of the property and liabilities to which Scottish Homes is entitled or subject and in particular in relation to—

(a) any property and interests in relation to a loan or security by an individual who was formerly a secure tenant, created in consequence of the exercise of a function conferred on Scottish Homes under section 1(3)(b) of the 1988 Act(d); and

(b) the Minutes of Agreement specified in the Schedule to this Order,

are hereby transferred to and vested in the Scottish Ministers.

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(a) 2001 asp 10.

(b) 1988 c.43

(c) Section 1 was repealed in part, and amended, by the Housing (Scotland) Act 2001, Schedule 10, paragraph 14, subject to transitional and savings provisions in terms of S.S.I. 2001/397.

(d) Section 1(3)(b) of the 1988 Act was repealed by the Housing (Scotland) Act 2001, Schedule 10, paragraph 14(2)(b)(ii).

### **Consequential and supplementary provision**

4.—(1) Nothing in this Order shall have the effect of completing the title of the Scottish Ministers to any other right or interest transferred by this Order, title to which requires to be completed by registration.

(2) Any property, in respect of which but for this Order—

- (a) delivery or possession; or
- (b) intimation of its assignation,

would be required in order to complete title to it, shall transfer to and vest in the Scottish Ministers by virtue of this Order as if at the date on which the transfer of the property by this Order takes effect the Scottish Ministers had taken delivery or possession of the property or, as the case may be, had made intimation of its assignation to them.

### **Transitional provision and savings**

5. Without prejudice to article 3 above—

- (a) the transfer by this Order of any property, right, interest or liability of Scottish Homes shall not affect the validity of anything done (or having effect as if done) by or in relation to Scottish Homes before the date on which the transfer takes effect;
- (b) anything (including legal proceedings) which, at the time when the transfer takes effect, is in the process of being done by or in relation to Scottish Homes may, so far as it relates to any property, right, interest or liability transferred by this Order, be continued by or in relation to the Scottish Ministers; and
- (c) anything done (or having effect as if done) by or in relation to Scottish Homes in connection with any property, right, interest or liability transferred to the Scottish Ministers by this Order shall, if in force at the time when the transfer takes effect, have effect as if done by or in relation to the Scottish Ministers in so far as that is required for continuing its effect after that time.

St Andrew's House,  
Edinburgh  
8th September 2005

*MALCOLM CHISHOLM*  
A member of the Scottish Executive

## SCHEDULE

Article 3

1. Minute of Agreement between South Lanarkshire Council and Scottish Homes dated 14th and 20th October both 2004 and registered in the Books of Council and Session on 6th January in the year 2005.
2. Minute of Agreement between Cumbernauld Housing Partnership Limited and Scottish Homes dated 11th and 13th January both 2005 and registered in the Books of Council and Session on 19th January in the year 2005.
3. Minute of Agreement between Govan Housing Association Limited and Scottish Homes dated 29th November 2004 and registered in the Books of Council and Session on 1st December in the year 2004.
4. Minute of Agreement between Clyde Valley Housing Association Limited and Scottish Homes dated 12th and 13th May both 2005 and registered in the Books of Council and Session on 24th May in the year 2005.
5. Minute of Agreement between Shetland Islands Council and Scottish Homes dated 25th and 28th January both 2005 and registered in the Books of Council and Session on 15th April in the year 2005.
6. Minute of Agreement between North View Housing Association Limited and Scottish Homes dated 20th May 2005 and registered in the Books of Council and Session on 26th May in the year 2005.
7. Minute of Agreement between Home in Scotland Limited and Scottish Homes dated 22nd and 24th September both 2004 and registered in the Books of Council and Session on 6th October in the year 2004.
8. Minute of Agreement between Clydesdale Housing Association Limited and Scottish Homes dated 6th November 2003.
9. Minute of Agreement between Clyde Valley Housing Association Limited and Scottish Homes dated 26th September 2003.
10. Minute of Agreement between Sanctuary Scotland Housing Association Limited and Scottish Homes dated 27th June 2005.
11. Minute of Agreement between Comhairle nan Eilean Siar and Scottish Homes dated 29th April and 6th May both 2004.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Housing (Scotland) Act 2001 (Transfer of Scottish Homes Property etc.) Order 2001 (S.S.I. 2001/396) and the Housing (Scotland) Act 2001 (Transfer of Scottish Homes Property and Liabilities) Order 2003 (S.S.I 2003/532) provided for the transfer of certain property and liabilities of Scottish Homes to the Scottish Ministers.

This Order makes provision for the transfer of all remaining property, rights, interests and liabilities from Scottish Homes to the Scottish Ministers.

Article 3 and the Schedule to this Order transfers to the Scottish Ministers all remaining property and liabilities of Scottish Homes.

Article 4 makes consequential and supplementary provision.

Article 5 makes transitional provisions and savings.

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