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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 19 (C. 3)**

**HOUSING**

**The Housing (Scotland) Act 2010  
(Commencement No. 5) Order 2012**

<i>Made</i>	- - - -	<i>24th January 2012</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>26th January 2012</i>
<i>Coming into force</i>	- -	<i>22nd February 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 166(2) of the Housing (Scotland) Act 2010<sup>(1)</sup>.

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Housing (Scotland) Act 2010 (Commencement No. 5) Order 2012 and comes into force on 22nd February 2012.

(2) In this Order “the 2001 Act” means the Housing (Scotland) Act 2001<sup>(2)</sup>.

**Appointed day**

**2.** 22nd February 2012 is the day appointed for the following provisions of the Housing (Scotland) Act 2010 to come into force—

- (a) section 153(a) (tenant protection: repossession orders), but only for the purposes of enabling the Scottish Ministers to make provision by order in terms of section 16(5A)(c) of the 2001 Act and to issue guidance in terms of section 16(5A)(d) of that Act<sup>(3)</sup>;
- (b) section 153(b);
- (c) section 155(a) and (b) (Scottish secure tenancy: rent arrears pre-action requirements), but only for the purposes of enabling the Scottish Ministers—
  - (i) to make regulations in terms of section 14(2A)(b) of the 2001 Act<sup>(4)</sup>;
  - (ii) to issue guidance in terms of section 14A(8) of that Act<sup>(5)</sup>; and

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(1) [2010 asp 17](#).

(2) [2001 asp 10](#).

(3) Section 16(5A) of the 2001 Act is added by section 153(a) of the Housing (Scotland) Act 2010.

(4) Section 14(2A) of the 2001 Act is added by section 155(a)(i) of the Housing (Scotland) Act 2010.

(5) Section 14A of the 2001 Act is added by section 155(b) of the Housing (Scotland) Act 2010.

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- (iii) to make provision by order in terms of section 14A(9) of that Act; and
- (d) section 155(c).

St Andrew's House,  
Edinburgh  
24th January 2012

*KEITH BROWN*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

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

This Order brings sections 153 and 155 of the Housing (Scotland) Act 2010 into force on 22nd February 2012 for limited purposes.

Section 153 provides landlords with discretion to retain tenants in their existing tenancies where agreement has been reached about rent arrears following a court decree for eviction. It is commenced for the purposes of enabling the Scottish Ministers to make provision by order under section 16(5A)(c) of the Housing (Scotland) Act 2001 about the maximum period for recovery to be specified in court orders and to issue guidance in terms of section 16(5A)(d) of that Act about recovery of possession by landlords.

Section 155 requires landlords to comply with pre-action requirements before commencing court proceedings where a tenant has rent arrears. It is commenced for the purposes of enabling the Scottish Ministers to make regulations under section 14(2A)(b) of the Housing (Scotland) Act 2001 about confirmation to the court that pre-action requirements have been complied with, to issue guidance in terms of section 14A(8) of that Act about how a landlord should comply with those requirements, and to make further provision by order under section 14A(9) of that Act about those requirements.

The Housing (Scotland) Act 2010 received Royal Assent on 9th December 2010. Sections 161, 163 and 165 to 167 came into force on Royal Assent.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 143 (partially)	3rd January 2011	<a href="#">S.S.I. 2010/444</a>
Sections 138 to 141, 143 (in so far as not already in force), 144, 148 to 151, 152(1) and (2), 154, 156 and 164, and schedule 2, paragraph 2	1st March 2011	<a href="#">S.S.I. 2011/96</a>
Section 162 (partially)	1st March 2011	<a href="#">S.S.I. 2011/96</a>
Section 153(a) (partially)	20th March 2011	<a href="#">S.S.I. 2011/181</a>
Sections 1, 2, 3(2), 5(1)(a), (2) and (3), 6(2), 7 to 12, 15 to 17, 18(1) and (2), 19, 31 to 33, 39, 46(2) and 47(2), and schedule 2, paragraphs 6, 8, 9 and 10	1st April 2011	<a href="#">S.S.I. 2011/96</a>
Partially, sections 4, 24 to 26, 28, 35, 36, 50, 51, 54, 68, 73(3), 108(3), 109(4) and 162	1st April 2011	<a href="#">S.S.I. 2011/96</a>
Section 152(3)	4th April 2011	<a href="#">S.S.I. 2011/96</a>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 142	30th June 2011	<a href="#">S.S.I. 2011/96</a>
Section 157 and section 158 (partially)	7th October 2011	<a href="#">S.S.I. 2011/339</a>