



Rent (Scotland) Act 1984

1984 CHAPTER 58

PART I

PRELIMINARY

5 No protected or statutory tenancy where landlord's interest belongs to local authority, etc.

- (1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to any of the bodies or entities specified in subsection (2) below, nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord belongs at that time to any of those bodies or entities.
- (2) The bodies and entities referred to in subsection (1) above are—
 - (a) a [^{F1}local authority], or a joint board or joint committee as respectively defined by the ^{M1}Local Government (Scotland) Act 1973, or the common good of [^{F1}local authority] or any trust under the control of a [^{F1}local authority];
 - [^{F2}(aa) Scottish Water;]
 - (b) a development corporation established by an order made, or having effect as if made, under the ^{M2}New Towns (Scotland) Act 1968;
 - (c) the Housing Corporation;
 - (d) the Scottish Special Housing Association, or any housing trust which was in existence on 13th November 1953 . . . ^{F3}; and
 - (e) an urban development corporation within the meaning of Part XVI of the ^{M3}Local Government, Planning and Land Act 1980.
- (3) In subsection (2)(d) above, “housing trust” means a corporation or body of persons which is required by the terms of its constituent instrument to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of houses and to other purposes incidental thereto.
- (4) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy [^{F4}belongs to a housing association which—
 - (a) is registered under the Housing Associations Act ^{M4}1985, or

Changes to legislation: There are currently no known outstanding effects for the Rent (Scotland) Act 1984, Section 5. (See end of Document for details)

- (b) is a co-operative housing association within the meaning of that Act; nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord belongs at that time to such a housing association.]
- (5) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under the tenancy belongs to a housing co-operative, as defined in section [F522 of the Housing (Scotland) Act 1987] (agreements for exercise by housing co-operatives of local authority housing functions) and the dwelling-house is comprised in an agreement to which that section applies or in a similar agreement between the co-operative and the Scottish Special Housing Association.
- [F6(5A) A tenancy which is a lease under a shared ownership agreement within the meaning of [F7section 83(3) of the Housing (Scotland) Act 2001 (asp 10)] shall not be a protected tenancy.]
- (6) Where—
- (a) a tenancy is not a protected tenancy or a statutory tenancy by virtue only of this section, and
 - (b) a sub-tenancy of the dwelling-house or any part thereof is created,
- then in ascertaining, in relation to the sub-tenancy, what rent is recoverable from the sub-tenant, the provisions of this Act shall apply as if the tenancy were a protected tenancy or a statutory tenancy, as the case may be, and neither the dwelling-house nor any part thereof had ever been let before the beginning of the tenancy.

Textual Amendments

- F1** Words in s. 5(2)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 137(2)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F2** S. 5(2)(aa) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **sch. para. 5(2)**
- F3** Words repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339, **Sch. 24** (as amended *retrospectively* by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72, **Sch. 7 para. 30**)
- F4** Words substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 59(2)**
- F5** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339, **Sch. 23 para. 29(1)**
- F6** S. 5(5A) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), **ss. 47(1), 52**
- F7** Words in s. 5(5A) substituted (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 9(2)**; S.S.I. 2001/336, **art. 2(3), Sch. Pt. II** (subject to transitional provisions in art. 3)

Modifications etc. (not altering text)

- C1** S. 5 excluded by Housing (Scotland) Act 1987 (c. 26, SIF 61), **s. 180(4)**

Marginal Citations

- M1** 1973 c. 65.
M2 1968 c. 16.
M3 1980 c. 65.
M4 1985 c. 69(61).

Changes to legislation:

There are currently no known outstanding effects for the Rent (Scotland) Act 1984, Section 5.