



Housing (Scotland) Act 1988

CHAPTER 43

HOUSING (SCOTLAND) ACT 1988

PART I

SCOTTISH HOMES

Establishment and functions

- 1 Scottish Homes.
- 2 General functions of Scottish Homes.
- 2A Sale of Scottish Homes' loans portfolio.
- 3 Dissolution of SSHA and transfer of its property, rights, liabilities and obligations to Scottish Homes.
- 4 Regulation of housing associations in Scotland and transfer to Scottish Homes of certain property, rights, liabilities and obligations of Housing Corporation.

Finance and administration

- 5 Determination of financial duties of Scottish Homes.
- 6 Government grants to Scottish Homes.
- 7 Borrowing by and government loans to Scottish Homes.
- 8 Guarantees.
- 9 Limit on borrowing etc.
- 10 Miscellaneous financial directions.
- 11 Accounts, annual report of Scottish Homes, etc.

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PART II

RENTED ACCOMMODATION

Assured tenancies

- 12 Assured tenancies.
- 13 Letting of a house together with other land.
- 14 Tenant sharing accommodation with persons other than landlord.
- 15 Certain sublettings not to exclude any part of sub-lessor's premises from assured tenancy.

Assured tenancies—security of tenure

- 16 Security of tenure
- 17 Fixing of terms of statutory assured tenancy.
- 18 Orders for possession.
- 19 Notice of proceedings for possession.
- 20 Extended discretion of court in possession claims.
- 21 Special provisions applicable to shared accommodation.
- 22 Payment of removal expenses in certain cases.

Assured tenancies—rents and other terms

- 23 Limited prohibition on assignation etc. without consent.
- 24 Increases of rent under assured tenancies.
- 25 Determination of rent by rent assessment committee.
- 25A Assured tenancies: transitional provisions
- 25B Determination of rent by rent assessment committee where section 25A applies
- 26 Access for repairs.

Assured tenancies—miscellaneous

- 27 Prohibition of premiums etc. on assured tenancies.
- 28 Effect of termination of tenancy on sub-tenancies which are or are under assured tenancies.
- 29 Restriction on diligence.
- 30 Duty of landlord under assured tenancy to provide written tenancy document and weekly rent book.
- 31 Right of succession of spouse.

Short assured tenancies

- 32 Short assured tenancies.
- 33 Recovery of possession on termination of a short assured tenancy.
- 34 Reference of rents under short assured tenancies to rent assessment committee.
- 35 Disapplication of rent assessment committee's functions under section 34.

Protection from eviction

- 36 Damages for unlawful eviction.
- 37 The measure of damages.
- 38 Further offence of harassment.

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- 39 Variation of scope of sections 23 and 24 of Rent (Scotland) Act 1984.
- 40 Cases excluded from sections 23 and 24 of Rent (Scotland) Act 1984.

Power to repeal sections 33 and 58 of Rent (Scotland) Act 1984

- 41 Power of Secretary of State to repeal sections 33 and 58 of Rent (Scotland) Act 1984 and to reduce phasing progressively.

Phasing out of Rent (Scotland) Act 1984 and other transitional provisions

- 42 New protected tenancies restricted to special cases.
- 43 Removal of special regimes for tenancies of housing associations etc.
- 44 New “Part VII” contracts limited to transitional cases.
- 45 Transfer of existing tenancies.
- 46 Statutory tenants: succession.

General provisions

- 47 Rent (Scotland) Act 1984 not to apply to tenancies subject to shared ownership agreements.
- 48 Rent assessment committees: procedure and information powers.
- 48A Amounts attributable to services.
- 49 Information as to determination of rents.
- 50 Powers of local authorities for the purposes of giving information.
- 51 Application to Crown.
- 52 Saving for common law as to effect of notice of termination upon tacit relocation.
- 53 Orders and regulations.
- 54 Notice under Part II.
- 55 Interpretation of Part II.

PART III

CHANGE OF LANDLORD: SECURE TENANTS

- 56 Right conferred by Part III.
- 57 Persons by whom right may be exercised.
- 58 Application to exercise rights conferred by this Part and offer to sell.
- 59 Variation of conditions.
- 60 Notice of acceptance.
- 61 Refusal of applications.
- 62 Reference to Lands Tribunal.
- 63 Consent for subsequent disposals.
- 64 Extension etc. of relevant periods.

PART IV

MISCELLANEOUS AND GENERAL

- 65 “Cost floor” limit on discount on price of house purchased by secure tenant.
- 66 Schemes for payments to assist local authority tenants to obtain other accommodation.
- 67 Abolition and capitalisation of certain subsidies and contributions.
- 68 Abolition of local authority’s power to refer Part VII contracts to rent assessment committees.

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- 69 Exclusion of SSHA, development corporations and co-operative housing associations from rent limitation under Part VI of Rent (Scotland) Act 1984.
- 70 Rent officers: additional functions relating to housing benefit etc.
- 71 Power of development corporations to dispose of housing land.
- 72 Amendments to the Housing (Scotland) Act 1987 and other enactments and repeals.
- 73 Finance.
- 74 Short title, commencement and extent.

SCHEDULES

SCHEDULE 1 —

Incorporation

- 1 Scottish Homes shall be a body corporate and shall have...

Status

- 2 Scottish Homes shall be a public body for the purposes...
- 3 It shall not— (a) be regarded as a servant or...

Membership

- 4 (1) The members of Scottish Homes shall be—
- 5 (1) The members of Scottish Homes (other than the chief...

Chairman and Deputy Chairmen

- 6 (1) The Secretary of State shall appoint one of the...

Remuneration, Allowances and Pensions

- 7 (1) The Secretary of State may pay the chairman, a...
- 8 The Secretary of State may . . . determine to...

Staff

- 9 The Secretary of State shall, after consultation with the chairman...
- 10 (1) Subject to paragraph 11 below, Scottish Homes may appoint...
- 11 (1) Scottish Homes shall, not later than such date as...
- 12 (1) Where a person becomes an employee of Scottish Homes...
- 13 (1) Any dispute as to whether an offer under sub-paragraph...

Proceedings

- 14 The quorum of Scottish Homes and the arrangements for its...
- 15 (1) A member who is directly or indirectly interested in...
- 16 The validity of any proceedings of Scottish Homes shall not...

Committees

- 17 (1) For and in connection with the discharge of its...

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Execution of Documents

- 18
- 19

SCHEDULE 2 — Amendments Consequential on Establishing of Scottish Homes and Abolition of SSHA

General

- 1 Subject to the following provisions of this Schedule, for any...

Parliamentary Commissioner Act 1967 c. 13.

- 2 In Schedule 2 (departments and authorities subject to investigation)—

House of Commons Disqualification Act 1975 c. 24.

- 3 In Schedule 1 (offices disqualifying for membership)—

Local Government (Scotland) Act 1975 c. 30.

- 4

Rent (Scotland) Act 1984 c. 58.

- 5 In section 61(1) (interpretation), in the definition of “housing association”,...

Housing Associations Act 1985 c. 69.

- 6 In section 1(1) (meaning of “housing association” etc.) at the...

Housing (Scotland) Act 1987 c. 26.

- 7 In section 21(3) (publication of rules relating to the housing...
- 8 For section 23 (compulsory purchase of land by SSHA) there...
- 9 In section 61 (secure tenant’s right to purchase)—
- 10 In section 194 (grants payable to SSHA and development corporations) —...
- 11 Section 196 (advances to SSHA for provision or improvement of...
- 12 In section 202(7) (power of Secretary of State to reduce...
- 13 In section 216(1) (house loans to tenants exercising right to...
- 14 In section 276 (repurchase by authority other than local authority)...
- 15 In Schedule 12 (termination of exchequer payments) in paragraph 2,...

Local Government Act 1988 c. 9.

- 16 In section 1(1)— (a) after paragraph (j) there shall be...
- 17 In Schedule 2, the words “The Scottish Special Housing Association”...

SCHEDULE 3 —

.....

SCHEDULE 4 — Tenancies which cannot be Assured Tenancies

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Tenancies entered into before commencement

- 1 A tenancy which is entered into before, or pursuant to...

Tenancies at a low rent

- 2 (1) A tenancy under which, at any time after this...

Tenancies of shops

- 3 A tenancy to which the Tenancy of Shops (Scotland) Act...

Licensed premises

- 4 A tenancy under which the house consists of or comprises...

Tenancies of agricultural land

- 5 (1) A tenancy under which agricultural land, exceeding two acres,...

Tenancies of agricultural holdings

- 6 A tenancy under which the house— (a) is comprised in...

Lettings to students

- 7 (1) A tenancy which is granted to a person who...

Holiday lettings

- 8 A tenancy the purpose of which is to confer on...

Resident landlords

- 9 (1) A tenancy in respect of which the following conditions...

Crown tenancies

- 10 A tenancy under which the interest of the landlord belongs...

Local authority and other tenancies

- 11 A tenancy under which the interest of the landlord belongs...
11A *Accommodation for offenders*

Accommodation for homeless persons

- 11A A tenancy granted expressly on a temporary basis in the...

Accommodation for asylum-seekers

- 11B A tenancy granted under arrangements for the provision of support...

Shared ownership agreements

- 12 A tenancy under a shared ownership agreement within the meaning...

Transitional cases

- 13 (1) A protected tenancy within the meaning of the Rent...

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SCHEDULE 5 — Grounds for Possession of Houses let on Assured Tenancies
Part I — GROUNDS ON WHICH SHERIFF MUST ORDER POSSESSION

Ground 1

Not later than the beginning of the tenancy the landlord...

Ground 2

The house is subject to a heritable security granted before...

Ground 3

The house is let under a tenancy for a specified...

Ground 4

Where the house is let under a tenancy for a...

Ground 5

The house is held for the purpose of being available...

Ground 6

The landlord who is seeking possession or, where the immediate...

Ground 7

The tenancy has devolved under the will or intestacy of...
For the purposes of this Ground, the acceptance by the...

Ground 8

Both at the date of the service of the notice...

Part II — GROUNDS ON WHICH SHERIFF MAY ORDER POSSESSION

Ground 9

Suitable alternative accommodation is available for the tenant or will...

Ground 10

The following conditions are fulfilled— (a) the tenant has given...

Ground 11

Whether or not any rent is in arrears on the...

Ground 12

Some rent lawfully due from the tenant—

Ground 13

Any obligation of the tenancy (other than one related to...

Ground 14

The condition of the house or of any of the...

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In this Ground, “the common parts” means any part of...

Ground 15

The tenant, a person residing or lodging in the house...

In this Ground “anti-social”, in relation to an...

Ground 16

The condition of any furniture provided for use under the...

Ground 17

The house was let to the tenant in consequence of...

For the purposes of this ground, at a time when...

Part III — SUITABLE ALTERNATIVE ACCOMMODATION

- 1 For the purposes of Ground 9 above, a certificate of...
- 2 Where no such certificate as is mentioned in paragraph 1...
- 3 (1) For the purposes of paragraph 2 above, the relevant...
- 4 Accommodation shall not be deemed to be suitable to the...
- 5 Any document purporting to be a certificate of a local...
- 6 Local authorities, development corporations and Scottish Homes may, for the...
- 7 In this Part of this Schedule “local authority” means an...

Part IV — NOTICES RELATING TO RECOVERY OF POSSESSION

- 8 (1) If, not later than the beginning of a tenancy...
- 9 Where paragraph 8(1) above has effect in relation to a...
- 10 Where paragraph 8(1) above has effect in relation to a...

SCHEDULE 6 — Statutory or Statutory Assured Tenants by Succession

Part I — NEW SCHEDULES 1A AND 1B TO RENT (SCOTLAND) ACT 1984

- 1 After Schedule 1 to the Rent (Scotland) Act 1984 there...

Part II — STATUTORY ASSURED TENANTS BY SUCCESSION—
MODIFICATION OF ENACTMENTS

- 2 In relation to the assured tenancy to which the person...
- 3 (1) In relation to the assured tenancy to which the...

SCHEDULE 7 — Housing (Scotland) Act 1987—Amendments connected with
Consolidation

- 1
- 2
- 3 In section 114 (closing order) in subsection (5) after the...
- 4 In section 129 (appeals) in subsection (1) for “, (3)...
- 5 In section 139 (penalty for causing or permitting overcrowding) in...
- 6 In section 151 (interpretation of Part VII) in subsection (2)...
- 7 In section 173 (warrant to authorise entry) in subsection (5)(a)...
- 8 In section 179 (general effect of control order) in subsection...
- 9 In section 200 (slum clearance subsidy) in subsection (2) for...
- 10 In section 240 (conditions for approval of applications for improvement...
- 11 In section 242 (amount of improvement grant) in subsection (6)...
- 12 In section 243 (payment of improvement grant) in subsection (1)(b)...
- 13 In section 244 (duty of local authorities to make improvement...
- 14 In section 248 (repairs grants)— (a) in subsection (5)—

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- 15 In section 249 (grants for fire escapes) in subsection (6)—...
- 16 In section 250 (repairs grants in housing action areas), in...
- 17 In section 254 (exchequer contributions towards certain grants) in each...
- 18 In section 255 (exchequer contributions in respect of amenities) in...
- 19 In section 268 (notice of determination) in subsection (4) for...
- 20 In section 276 (repurchase by authority other than local authority),...
- 21 In section 281 (effect of repurchase on certain existing tenancies)...
- 22 In section 282 (grant of tenancy to former owner-occupier) in...
- 23 In section 283 (grant of tenancy to former statutory tenant)...
- 24 In section 285 (request for tenancy under sections 282 or...
- 25 In section 296 (contributions by Secretary of State) in subsection...
- 26 In section 299 (jurisdiction of sheriff) in subsection (2)(b) for...
- 27 In section 338 (interpretation) in the definition of “standard amenities”...
- 28 In Schedule 7 (application of enactments) in paragraph 13—
- 29 In Schedule 20 (assistance by way of repurchase) in paragraph...
- 30 In Schedule 24 (repeals) in the entry relating to the...

SCHEDULE 8 — Housing (Scotland) Act 1987— Minor Amendments

- 1 In section 61 (secure tenant’s right to purchase) after subsection...
- 2 In section 62 (price of house being purchased by secure...
- 3 In section 151 (interpretation of Part VII) in the definition...
- 4 In section 191 (housing support grants: fixing of aggregate amount)...
- 5 In section 192 (apportionment of housing support grants) in subsection...
- 6 In section 248 (repairs grants)— (a) in subsection (5) for...
- 7 In section 249 (grants for fire escapes)—
- 8 In section 255 (exchequer contributions in respect of amenities) in...
- 9 In Schedule 10 (landlord’s repairing obligations)— (a) for paragraph 1(1)...
- 10 In Schedule 15 (housing revenue account) in paragraph 9(2) for...

SCHEDULE 9 — Consequential Amendments

Land Compensation (Scotland) Act 1973 c. 56.

- 1 In section 27(4) (right to home loss payment) after paragraph...

Local Government, Planning and Land Act 1980 c. 65.

- 2 In Schedule 28, in paragraph 10 (urban development corporations, displacement...

Matrimonial Homes (Family Protection) (Scotland) Act 1981 c. 59.

- 3 In section 22 (interpretation) in the definition of “tenant” for...

Rent (Scotland) Act 1984 c. 58.

- 4 In section 103 (application to sheriff)— (a) in subsection (1)...
- 5 In Schedule 1 (statutory tenants by succession) in paragraph 2...

Housing Associations Act 1985 c. 69.

- 6 In section 10(2)— (a) in paragraph (b) for the words...

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- 7
- 8 In section 39, in the definition of “secure tenancy” for...
- 9 In section 106(2) for the definition of “shared ownership agreement”...

Housing (Scotland) Act 1987 c. 26.

- 10
- 11 In section 64(7) (circumstances where prohibition of landlord’s option to...
- 12 In section 103 (certain provisions of Rent (Scotland) Act 1984...
- 13 In section 128 (recovery of possession of house to which...
- 14 In section 145 (recovery of possession of overcrowded house that...
- 15 In section 177 (statutory tenant to be regarded as lessee...
- 16 In section 180 (effect of control order), in subsection (4)—...
- 17 In section 207 (local authority’s duty to keep slum clearance...
- 18 In section 311 (interpretation of sections 308 to 310), in...
- 19 In section 328 (duty to inform tenant of assignation of...
- 20 In section 338 (interpretation), in subsection (1) in the definition...
- 21

SCHEDULE 10 — Repeals

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Changes and effects yet to be applied to :

- Pt. 2 restricted by 2006 asp 1 s. 38(10)
- Pt. 2 restricted by 2006 asp 1 Sch. 5 para. 3(10)
- s. 1(3)(e) words repealed by 2010 asp 17 Sch. 2 para. 4(2)
- s. 2(2)(o) words substituted by S.I. 2009/1941 Sch. 1 para. 97
- s. 2(8)(9) repealed by 2006 asp 1 Sch. 7
- s. 17(3)-(5) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 17(7)(8) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 18(3) text amended by 2003 asp 10 s. 12(2)
- s. 18(3A) inserted by 2003 asp 10 s. 12(3)
- s. 18(4A) inserted by 2003 asp 10 s. 12(4)
- s. 18(6)(a) text amended by 2004 asp 8 s. 100
- s. 18(6A) inserted by 2006 asp 1 s. 180
- s. 18(8) inserted by 2003 asp 10 s. 12(5)
- s. 20(6) text amended by 2003 asp 10 s. 12(6)
- s. 24(3) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 25 title text amended by 2006 asp 1 Sch. 6 para. 16(b)
- s. 25(1) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 25(4)-(7) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 25A(4) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 25B title text amended by 2006 asp 1 Sch. 6 para. 16(b)
- s. 25B(1) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 25B(3) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 31(1) text amended by 2004 c. 33 Sch. 28 para. 56(1)(2)
- s. 31(3)(b) text amended by 2004 c. 33 Sch. 28 para. 56(1)(3)
- s. 31(4) text amended by 2004 c. 33 Sch. 28 para. 56(1)para. 56(4)(a)
- s. 31(4)(b) text amended by 2004 c. 33 Sch. 28 para. 56(1)para. 56(4)(b)
- s. 33(5) inserted by 2011 asp 14 s. 34
- s. 34 title text amended by 2006 asp 1 Sch. 6 para. 16(b)
- s. 34(1) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 34(3)(4) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 35 title text amended by 2006 asp 1 Sch. 6 para. 16(b)
- s. 43(3)(a)(ia) text amended by S.S.I. 2003/331 Sch. Pt. 1 para. 6(2)
- s. 43(3)(a)(vii) substituted by 2005 asp 5 Sch. 3 para. 14(a)
- s. 44(3) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 45(4)(g) substituted by 2005 asp 5 Sch. 3 para. 14(b)
- s. 45(4)(aa) text amended by S.S.I. 2003/331 Sch. Pt. 1 para. 6(2)
- s. 48 title text amended by 2006 asp 1 Sch. 6 para. 16(b)
- s. 48(1)(2) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 48A text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 49(1)(2) text amended by 2006 asp 1 Sch. 6 para. 16(a)
- s. 55(1) text amended by S.S.I. 2003/331 Sch. Pt. 1 para. 6(3)
- s. 56-64 repealed by 2010 asp 17 Sch. 2 para. 4(3)
- s. 68 text amended by 2006 asp 1 Sch. 6 para. 16(a)
- Sch. 4 para. 11C inserted by S.I. 2005/1379 Sch. para. 5
- Sch. 4 para. 11(ea) substituted by 2010 asp 17 Sch. 2 para. 4(4)
- Sch. 4 para. 11(aa) substituted by S.S.I. 2003/331 Sch. Pt. 1 para. 6(4)
- Sch. 4 para. 6(a) substituted by S.S.I. 2003/583 art. 11(a)
- Sch. 4 para. 6(b) text amended by S.S.I. 2003/583 art. 11(b)
- Sch. 4 para. 11B text amended by 2006 c. 13 s. 43(4)(e)
- Sch. 5 Pt. 1 text amended by 2004 c. 33 Sch. 28 para. 57
- Sch. 7 para. 10-16 repealed by 2006 asp 1 Sch. 7

- Sch. 8 para. 6 repealed by 2006 asp 1 Sch. 7
- Sch. 8 para. 7 repealed by 2006 asp 1 Sch. 7
- Sch. 9 para. 12 repealed by 2006 asp 1 Sch. 7

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 19A inserted by 2003 asp 10 Sch. para. 3
- s. 30A 30B inserted by 2011 asp 14 s. 33

Commencement Orders yet to be applied to the Housing (Scotland) Act 1988:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2006/1497 art. 3 4 Sch. commences (2006 c. 13)
- S.S.I. 2004/288 art. 2 commences (2003 asp 10)
- S.S.I. 2004/420 art. 2-4 commences (2004 asp 8)
- S.S.I. 2005/392 art. 2 commences (2005 asp 5)
- S.S.I. 2005/553 art. 2 amendment to earlier commencing SSI 2004/420
- S.S.I. 2005/604 art. 2-4 commences (2004 c. 33)
- S.S.I. 2006/104 art. 2 amendment to earlier commencing SSI 2004/420 art. 2
- S.S.I. 2006/252 art. 2 commences (2006 asp 1)
- S.S.I. 2007/270 art. 3 commences (2006 asp 1)
- S.S.I. 2009/122 art. 3 commences (2006 asp 1)
- S.S.I. 2010/159 art. 3 commences (2006 asp 1)
- S.S.I. 2011/270 art. 1 2 commences (2011 asp 14)