



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

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

43 Removal of special regimes for tenancies of housing associations etc.

- (1) In this section—
- (a) “housing association tenancy” means a tenancy to which Part VI of the Rent (Scotland) Act 1984 applies;
 - (b) “secure tenancy” has the same meaning as in Part III of the ^{M1}Housing (Scotland) Act 1987.
- (2) A tenancy which is entered into on or after the commencement of this section cannot be a housing association tenancy unless—
- (a) it is entered into in pursuance of a contract made before the commencement of this section; or
 - (b) it is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was the tenant (or one of the tenants) under a housing association tenancy of the same landlord; or
 - (c) it is granted to a person (alone or jointly with others) in the following circumstances—
 - (i) prior to the grant of the tenancy, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in paragraph (b) or paragraph (c) of subsection (2) of section 48 of the Housing (Scotland) Act 1987; and
 - (ii) the tenancy is of the premises which constitute the suitable accommodation as to which the court was so satisfied; and
 - (iii) in the proceedings for possession the court directed that it would be a housing association tenancy.

Changes to legislation: Housing (Scotland) Act 1988, Section 43 is up to date with all changes known to be in force on or before 18 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) A tenancy which is entered into on or after the commencement of this section cannot be a secure tenancy unless—
- (a) the interest of the landlord belongs to—
- ^{F1}(i) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, or a joint board or joint committee of two or more such councils, or the common good of such a council or any trust under the control of such a council; or
 - (ia) ^{F2}[Scottish Water];
 - (iii) a development corporation within the meaning of the ^{M2}New Towns (Scotland) Act 1968 (including an urban development corporation within the meaning of Part XVI of the ^{M3}Local Government, Planning and Land Act 1980); or
 - (iv) the Scottish Special Housing Association; or
 - (v) Scottish Homes; ^{F3}...
 - ^{F3}(vi)
 - ^{F4}(vii)
- (b) it is entered into in pursuance of a contract made before the commencement of this section; or
- (c) it is granted to a person (alone or jointly with others) who, immediately before it was entered into, was the secure tenant (or any one of the secure tenants) of the same landlord; or
- (d) it is granted to a person (alone or jointly with others) in the following circumstances—
- (i) prior to the grant of the tenancy, an order for possession of a house was made against him (alone or jointly with others) on the court being satisfied as mentioned in paragraph (b) or paragraph (c) of subsection (2) of section 48 of the ^{M4}Housing (Scotland) Act 1987; and
 - (ii) the tenancy is of premises which constitute the suitable accommodation as to which the court was so satisfied; and
 - (iii) in the proceedings for possession referred to in sub-paragraph (i) above the court directed that it would be a secure tenancy.

Textual Amendments

- F1** S. 43(3)(a)(i)(ia) substituted (1.4.1996) for s. 43(3)(a)(i)(ii) by 1994 c. 39, s. 180(1), **Sch. 13 para. 157(2)** (with 128(8)); S.I. 1996/323, **art. 4**
- F2** Words in s. 43(3)(a)(ia) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), **art. 1, Sch. para. 6(2)**
- F3** S. 43(3)(a)(vi) and preceding word omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), **art. 1, sch. 1 para. 11(2)**
- F4** S. 43(3)(a)(vii) and preceding word repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 2**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)

Marginal Citations

- M1** 1987 c. 26.
M2 1968 c. 16.

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M3 1980 c. 65.

M4 1987 c. 26.

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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. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)