



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

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

45 Transfer of existing tenancies.

- (1) The provisions of subsection (3) below apply in relation to a tenancy which was entered into before, or pursuant to a contract made before, the commencement of this section if—
 - (a) at that commencement or, if it is later, at the time it is entered into, the interest of the landlord is held by a public body (within the meaning of subsection (4) below); and
 - (b) at some time after that commencement the interest of the landlord ceases to be so held.
- (2) The provisions of subsection (3) below also apply in relation to a tenancy which was entered into before, or pursuant to a contract made before, the commencement of this section if—
 - (a) at that commencement or, if it is later, at the time it is entered into, it is a housing association tenancy; and
 - (b) at some time after that commencement, it ceases to be such a tenancy.
- (3) On and after the time referred to in subsection (1)(b) or, as the case may be, subsection (2)(b) above—
 - (a) the tenancy shall not be capable of being a protected tenancy or a housing association tenancy;
 - (b) the tenancy shall not be capable of being a secure tenancy unless (and only at a time when) the interest of the landlord under the tenancy is (or is again) held by a public body; and

Changes to legislation: Housing (Scotland) Act 1988, Section 45 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

- (c) paragraph 1 of Schedule 4 to this Act shall not apply in relation to it, and the question whether at any time thereafter it becomes (or remains) an assured tenancy shall be determined accordingly.
- (4) For the purposes of this section, the interest of a landlord under a tenancy is held by a public body at a time when—
- [^{F1}(a) it belongs to 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
 - (aa) it belongs to [^{F2}Scottish Water];
 - (c) it belongs to a development corporation within the meaning of the ^{M1}New Towns (Scotland) Act 1968 (including an urban development corporation within the meaning of Part XVI of the ^{M2}Local Government, Planning and Land Act 1980); or
 - (d) it belongs to the Scottish Special Housing Association; or
 - (e) it belongs to Scottish Homes; ^{F3}...
 - ^{F3}(f)
 - ^{F4}(g)
 - (h) it belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (5) In this section—
- (a) “housing association tenancy” means a tenancy to which Part VI of the ^{M3}Rent (Scotland) Act 1984 applies; and
 - (b) “protected tenancy” has the same meaning as in that Act.

Textual Amendments

- F1** S. 45(4)(a)(aa) substituted (1.4.1996) for s. 45(4)(a)(b) by 1994 c. 39, s. 180(1), **Sch. 13 para. 157(3)** (with s. 128(8)); S.I. 1996/323, **art. 4**
- F2** Words in s. 45(4)(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. 6(2)**
- F3** S. 45(4)(f) 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(3)**
- F4** S. 45(4)(g) 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** 1968 c. 16.
M2 1980 c. 65.
M3 1984 c. 58.

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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\(4\)](#)