

HOUSING (SCOTLAND) ACT 2001

EXPLANATORY NOTES

BACKGROUND AND OVERVIEW

Part 2 – Tenants of Social Landlords

Chapter 1 – Scottish Secure Tenancies

Section 22: Succession to Scottish secure tenancy

41. This section and *schedule 3* make provision for succession to a Scottish secure tenancy on the death of the tenant. The section includes a right to a second round of succession (*subsection (2)*). *Schedule 3* defines who is a person qualified to succeed to a tenancy and the circumstances in which they can do so. A qualified person is, first, the tenant's spouse or cohabitee, or a surviving joint tenant; second, a member of the tenant's family aged 16 or over; or, third, a carer who is providing, or who has provided, care for the tenant or a member of the tenant's family. The carer must be aged 16 or over, and have given up his or her previous only or principal home, to be qualified to succeed. In all three cases the house of the deceased tenant must have been the only or principal home for the qualifying person.
42. Where a house has been designed or substantially adapted for the use of persons with special needs, then *paragraph 5 of schedule 3* specifies that only spouses, cohabitees, joint tenants or persons with special needs can succeed to that tenancy. Other persons who would otherwise be qualified to succeed have a right to alternative suitable accommodation by virtue of *subsections (6) and (7)*.
43. *Subsection (8)* clarifies that tenancies are not terminated on the death of a joint tenant if the remaining tenant or tenants continue to live in the house. *Subsection (9)* makes provision for a person who would have succeeded to the tenancy, but who cannot because the second round of succession has passed, to remain in the house for 6 months but not under a Scottish secure tenancy. *Subsection (10)* makes provision for a Scottish secure tenancy to continue (for the purposes of succession) where a tenant has to move to alternative accommodation.