

# HOUSING (SCOTLAND) ACT 2001

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## EXPLANATORY NOTES

### BACKGROUND AND OVERVIEW

#### Part 4 – Scottish Homes

##### *Section 84: Transfer of functions to the Scottish Ministers*

128. This section transfers to the Scottish Ministers the functions currently exercised by Scottish Homes. Those functions are mainly the functions set out in Part 1 of the 1988 Act, which is modified by *paragraph 14 of schedule 10* to the Act.

##### *Section 85: Property and liabilities*

129. Under this section the Scottish Ministers may make orders to deal with the transfer of Scottish Homes' property and liabilities either to them or to such other person as the order specifies, regardless of any pre-existing provision which would act to inhibit the transfer. Ministers may also under this section issue a certificate in order to provide conclusive evidence that a property or liability has or has not transferred.

##### *Section 86: Transfer of staff*

130. This section provides that the Scottish Ministers may make an order transferring the staff of Scottish Homes to the staff of the Scottish Administration. The terms and conditions of transferring staff will be determined by Ministers but, taken as a whole, must not be less favourable than those enjoyed by an individual employed by Scottish Homes immediately before the transfer. *Subsections (3) and (4)* are designed to provide protection to the staff that a transfer of employment under this section is not construed as a break in the continuity of their employment.

##### *Section 87: Dissolution etc.*

131. This section provides that Scottish Homes as a separate legal entity may be dissolved on a date set by the Scottish Ministers in an order. Ministers may also make an order to deal with any residual matters associated with the transfer of the functions, property, liabilities and staff of Scottish Homes and its dissolution. Provision made under this power may include retaining Scottish Homes in a residuary form to deal with issues arising from its winding up.