Housing (Scotland) Act 2006

2006 asp 1

PART 1

HOUSING STANDARDS

VALID FROM 01/04/2009

CHAPTER 1

HOUSING RENEWAL AREAS

Designation of housing renewal areas

1 Housing renewal areas: criteria

A local authority may by order designate any locality in its area as a housing renewal area ("HRA") if it considers—

(a) that a significant number of the houses in the locality are sub-standard, or

(b) that the appearance or state of repair of any houses in the locality is adversely affecting the amenity of that locality.

2 Housing renewal areas: procedure

(1) An order designating any locality as an HRA (an "HRA designation order") must—

(a) set out the reasons for the designation by reference to section 1, and

(b) include—

(i) an HRA action plan, and

(ii) a map delineating the HRA.

(2) An HRA designation order may not be made unless the Scottish Ministers have approved a draft of the proposed order.

(3) Schedule 1 makes further provision about the procedure for making HRA designation orders.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

3 HRA action plans

(1) An HRA action plan is a strategy for securing an improvement in the condition and quality of housing in the HRA.

(2) Such a plan must—

(a) identify each house in the HRA which the local authority considers to be sub-standard and, in relation to each, specify whether the local authority considers that the house—

(i) ought to be closed or demolished under Part 6 (houses which fail tolerable standard or constitute obstructive buildings) of the 1987 Act,

(ii) requires to be demolished under section 29 (dangerous buildings) of the Building (Scotland) Act 2003 (asp 8),

(iii) is in a state of serious disrepair and ought to be demolished, or

(iv) ought to have work carried out in or in relation to it for the purposes of bringing it into, and keeping it in, a reasonable state of repair,

(b) identify any house in the HRA which ought to have work carried out in or in relation to it for the purposes of enhancing the amenity of the HRA,

(c) specify—

(i) any standard to which any demolition required by the plan is to be carried out (including any standard to which the site of the demolished house must be cleared),

(ii) the work which the plan requires to be carried out,

(iii) any standard which must be met on completion of that work, and

(iv) any step which the local authority requires to be taken in carrying out that work,

(d) describe the general effect of Part 15 (compensation payments) of the 1987 Act and Part 2 (scheme of assistance) of this Act in so far as they apply in relation to houses identified in the plan, and

(e) specify the period within which the local authority intends to secure the implementation of the plan.

(3) The work specified in an HRA action plan may include work which is intended to—

(a) improve the safety or security of any houses or persons,

(b) reduce the long-term costs of maintaining any houses, or

(c) enhance the amenity of any houses.

(4) An HRA action plan may also specify work which ought to be carried out in or in relation to any house in the HRA which is adjacent to, or otherwise associated with, any house identified in it.

4 Variation of HRA designation order

(1) The local authority may, on the request of the owner of any house identified in an HRA action plan as a house in or in relation to which work ought to be carried out, vary an HRA designation order.

(2) The local authority must consult—

(a) the owner concerned, and

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) any other person whom it considers likely to be affected by the proposed variation,

before deciding whether to vary an HRA designation order under subsection (1).

(3) A variation under subsection (1) may vary the HRA action plan only; and may do so only so far as it affects the house owned by the person who made the request.

(4) The local authority may, at any time, vary an HRA designation order in a way which it considers unlikely to adversely affect any person significantly.

(5) The local authority must give notice of any variation made under subsection (1) or (4) to—

(a) any person whom it considers likely to be affected by the variation, and

(b) such other persons as it thinks fit.

(6) The notice must—

(a) describe the general effect of the variation, and

(b) specify the places where, and the times at which, a copy of the HRA designation order as varied is to be made available under section 7.

5 Revocation of HRA designation order

(1) The local authority must revoke an HRA designation order if it is—

(a) satisfied that the HRA action plan has been implemented, or

(b) directed to do so by the Scottish Ministers.

(2) The local authority may, with the consent of the Scottish Ministers, otherwise revoke an HRA designation order at any time if it is satisfied that there has been a change in circumstances which justifies such a revocation.

(3) Any work notice given for the purpose of implementing an HRA action plan is to cease to have effect on revocation of the HRA designation order which includes that plan.

(4) The local authority must give notice of a revocation under subsection (1)(b) or (2) to any person whom it considers likely to be affected by the revocation.

6 Directions concerning identification of housing renewal areas

(1) A local authority must comply with any directions given by the Scottish Ministers concerning identification of areas suitable to be designated as HRAs.

(2) A direction given for the purpose of subsection (1) may—

(a) be given generally, or

(b) make different provision for different cases and, in particular, for different areas, different localities, different types of local authority or in respect of any particular local authority or authorities.

(3) Such a direction may be varied or revoked at any time.

7 Public access to HRA designation orders

(1) The local authority must make a copy of each HRA designation order in force for its area (including any variations) available for public inspection, free of charge.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) It is for the local authority to determine the form and manner in which, and the places where, a copy HRA designation order is made available; but in so doing the local authority must ensure that the copy order is made reasonably obtainable.

Implementation of HRA action plans

8 Implementation: duties of local authority

(1) A local authority which has designated an HRA must take such steps as are reasonably practicable for the purposes of securing the implementation of the HRA action plan.

(2) Those steps must include—

(a) informing the owners and occupiers of houses identified in the HRA action plan about the way in which it intends to secure implementation of the plan, and

(b) from time to time, giving those owners and occupiers progress reports about the implementation of the plan.

9 Duty to rehouse displaced residents

(1) This section applies where—

(a) a person is to be displaced permanently from any living accommodation as a result of the implementation of an HRA action plan, and

(b) that living accommodation was the only or main residence of that person on the day on which notice of the relevant HRA designation order was first given in accordance with schedule 1.

(2) Where this section applies the local authority must, if so requested by the person to be displaced, ensure—

(a) that the person is provided with suitable alternative living accommodation on reasonable terms, and

(b) in so far as practicable, that the living accommodation which is so provided is in, or within a reasonable distance of, the locality of the living accommodation from which the person is to be displaced.

(3) The reference in subsection (2) to suitable alternative living accommodation is a reference to living accommodation which is suitable for occupation by the person to be displaced and any other person whose only or main residence on the day referred to in subsection (1)(b) would, but for the location of that other person's place of work or of any educational institution which the person attends, have been the living accommodation concerned.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

VALID FROM 01/04/2009

CHAPTER 2

STRATEGIC HOUSING FUNCTIONS

10 Local housing strategies

In section 89 (duty to prepare a local housing strategy) of the Housing (Scotland) Act 2001 (asp 10)—

(a) in subsection (5), before paragraph (a) insert—

"(za) improves the standard of housing in the authority's area,",

(b) after that subsection insert—

"(5A) The local housing strategy must, in particular, set out—

(a) a strategy for ensuring compliance with section 85(1) (duty to close, demolish or improve houses which do not meet the tolerable standard) of the Housing (Scotland) Act 1987 (c. 26),

(b) the authority's policy for identifying parts of its area for designation under section 1 (housing renewal areas) of the Housing (Scotland) Act 2006 (asp 1),

(c) a strategy for improving the condition of houses by providing or arranging for the provision of assistance under Part 2 of the Housing (Scotland) Act 2006 (asp 1).".

VALID FROM 01/04/2009

CHAPTER 3

THE TOLERABLE STANDARD

11 Amendment of the tolerable standard

(1) Section 86 (definition of house meeting the tolerable standard) of the 1987 Act is amended as follows.

(2) In subsection (1)—

(a) after paragraph (c) insert—

"(ca) has satisfactory thermal insulation;",

(b) in paragraph (f), after "closet" insert " or waterless closet ",

(c) after paragraph (g) insert—

"(ga) in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installation for the purposes of that supply;

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

"the electrical installation" is the electrical wiring and associated components and fittings, but excludes equipment and appliances;

"the relevant requirements" are that the electrical installation is adequate and safe to use;".

(3) After subsection (1), insert—

"(1A) In construing any such reference, regard shall be had to any guidance issued by the Scottish Ministers.

(1B) The Scottish Ministers must issue the guidance in such manner as they consider appropriate for bringing it to the notice of local authorities and other persons with an interest.

(1C) The Scottish Ministers may vary or revoke any such guidance.".

(4) After subsection (2), insert—

"(2A) An order under subsection (2) is to be made by statutory instrument, and no such order is to be made unless a draft of the order has been laid before and approved by resolution of the Scottish Parliament.".

CHAPTER 4

THE REPAIRING STANDARD

Landlord's duty to repair and maintain

12 Tenancies to which repairing standard duty applies

(1) This Chapter applies to any tenancy of a house let for human habitation unless it is—

(a) a Scottish secure tenancy or a short Scottish secure tenancy,

(b) a tenancy of a house retained or purchased by a local authority under section 121 of the 1987 Act for use as housing accommodation,

(c) a tenancy of a house which is—

(i) on land comprised in a lease constituting—

(A) a 1991 Act tenancy (within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11)),

(B) a short limited duration tenancy (within the meaning of that Act), or

(C) a limited duration tenancy (within the meaning of that Act), and

(ii) occupied by the tenant of the relevant lease,

(d) a tenancy of a house on a croft (within the meaning of the Crofters (Scotland) Act 1993 (c. 44)), or

(e) a tenancy of a house on a holding situated outwith the crofting counties (within the meaning of that Act of 1993) to which any provision of the Small Landholders (Scotland) Acts 1886 to 1931 applies.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) A reference in this Chapter to a tenancy refers only to a tenancy to which this Chapter applies.

13 The repairing standard

(1) A house meets the repairing standard if—

(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,

(b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,

(c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order,

(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,

(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

(2) In determining whether a house meets the standard of repair mentioned in subsection (1)(a), regard is to be had to the extent (if any) to which the house, by reason of disrepair or sanitary defects, falls short of the provisions of any building regulations.

(3) In determining whether a house meets the standard of repair mentioned in subsection (1)(b), regard is to be had to—

(a) the age, character and prospective life of the house, and

(b) the locality in which the house is situated.

(4) The reference in subsection (1)(c) to installations in a house includes reference to installations outwith the house which, directly or indirectly, serve the house and which the owner is responsible for maintaining (solely or in common with others) by virtue of ownership, any real burden or otherwise.

(5) In determining whether a house meets the standard of repair mentioned in subsection (1)(f), regard is to be had to any building regulations and any guidance issued by the Scottish Ministers on provision for detecting fires and for giving warning in the event of fire or suspected fire.

14 Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

(a) at the start of the tenancy, and

(b) at all times during the tenancy.

(2) The duty imposed by subsection (1) includes a duty to make good any damage caused by carrying out any work for the purposes of complying with the duty in that subsection.

(3) The duty imposed by subsection (1)(b) applies only where—

(a) the tenant notifies the landlord, or

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) the landlord otherwise becomes aware,

that work requires to be carried out for the purposes of complying with it.

(4) The landlord complies with the duty imposed by subsection (1)(b) only if any work which requires to be carried out for the purposes of complying with that duty is completed within a reasonable time of the landlord being notified by the tenant, or otherwise becoming aware, that the work is required.

15 Application of duty in relation to flats etc.

(1) Where a house forms part only of any premises, the reference in section 13(1)(b) to the house includes reference to any part of those premises which the owner of the house is responsible for maintaining (solely or in common with others) by virtue of ownership, any real burden or otherwise.

(2) Nothing in subsection (1) requires the landlord to carry out any work unless any part of the premises, or anything in the premises, which the tenant is entitled to use is adversely affected by the disrepair or failure to keep in proper working order.

16 Exceptions to landlord's repairing duty

(1) The duty imposed by section 14(1) does not require—

(a) any work to be carried out which the tenant is required by the terms of the tenancy to carry out,

(b) any work to be carried out for which the tenant—

(i) is liable by virtue of the tenant's duty to use the house in a proper manner, or

(ii) would be so liable but for any express undertaking on the landlord's part,

(c) the house to be rebuilt or reinstated in the event of destruction or damage by fire or by storm, flood or other inevitable accident, or

(d) the repair or maintenance of anything that the tenant is entitled to remove from the house.

(2) The exception made by subsection (1)(a) applies only if the tenancy concerned is—

(a) for a period of not less than 3 years, and

(b) not determinable at the option of either party within 3 years of the start of the tenancy.

(3) Where the terms of a tenancy are not agreed until after the tenancy starts, the tenancy is, for the purposes of subsection (2), to be treated as starting on the date of agreement.

(4) A landlord is not to be treated as having failed to comply with the duty imposed by section 14(1) where the purported failure occurred only because the landlord lacked necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights.

17 Prohibition on contracting out

(1) The terms of a tenancy and of any other agreement between the landlord and the tenant are of no effect in so far as they purport to—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) require the tenant to carry out, or to pay for or contribute towards the cost of, any work which the landlord requires to ensure be carried out for the purposes of complying with the duty imposed by section 14(1),

(b) exclude or limit that duty, or

(c) provide for termination of the tenancy, or impose on the tenant any penalty, disability or obligation, in the event of the tenant enforcing compliance by the landlord of that duty.

(2) This section is subject to any contrary provision made by order under section 18.

18 Contracting out with consent of sheriff

(1) The sheriff may, on the application of the landlord or the tenant, by order exclude or modify the application to the tenancy of any of the provisions of sections 14, 15 and 17.

(2) An order under subsection (1) may be made only if—

(a) the other party under the tenancy consents, and

(b) the sheriff, having regard to the terms of the tenancy and to all the circumstances, considers that it is reasonable to do so.

19 Pre-tenancy inspection

The landlord must—

(a) inspect the house before the tenancy starts for the purpose of identifying any work necessary to comply with the duty imposed by section 14(1)(a), and

(b) notify the tenant of any such work.

20 Tenant's right to information about landlord's duty

(1) The landlord must, on or before the start of a tenancy, provide the tenant with written information about the effect of this Chapter in relation to the tenancy.

(2) The Scottish Ministers may issue guidance to such persons as they think fit about the form and content of information to be provided under subsection (1) and the manner in which the information should be provided.

(3) Any landlord to whom such guidance is issued must have regard to it.

(4) The Scottish Ministers may vary or revoke any such guidance.

Enforcement of repairing standard

21 Naming of panel and re-naming of committees

(1) The panel constituted under Schedule 4 of the Rent (Scotland) Act 1984 (c. 58) is to be known as the private rented housing panel.

(2) Rent assessment committees constituted in accordance with that Schedule are to be known as private rented housing committees.

(3) The panel, the president of the panel and those committees are—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) to continue to exercise the functions conferred on them by virtue of Part 5 of the Rent (Scotland) Act 1984 (c. 58) and Part 2 of the Housing (Scotland) Act 1988 (c. 43), and

(b) in addition, to exercise the functions conferred on them by this Act.

(4) It is for the president to monitor the exercise by those committees of the functions conferred on them by this Act.

(5) Those committees must comply with any direction, and have regard to any guidance, given by the president in connection with the exercise of those functions.

(6) But the president may not give any such direction in relation to a particular case.

(7) Directions or guidance given under subsection (5) may be varied or revoked at any time.

(8) The president's functions under this Act may, where the president is absent or incapacitated, be exercised by the vice-president of the panel.

(9) Any reference to the panel or to any of those committees in any enactment or instrument is to be construed in accordance with subsection (1) or, as the case may be, (2).

22 Application to private rented housing panel

(1) A tenant may apply to the private rented housing panel for determination of whether the landlord has failed to comply with the duty imposed by section 14(1)(b).

(2) An application under subsection (1) must set out the tenant's reasons for considering that the landlord has failed to comply with that duty.

(3) No such application may be made unless the tenant has notified the landlord that work requires to be carried out for the purpose of complying with that duty.

(4) No such application may be made where the landlord is—

(a) a local authority landlord (within the meaning of the Housing (Scotland) Act 2001 (asp 10)),

(b) a registered social landlord (being a body registered in the register maintained under section 57 of that Act),

(c) Scottish Homes, or

(d) Scottish Water.

(5) Schedule 2 makes further provision about the procedure for making and determining an application under this section.

(6) Paragraph (c) of subsection (4) is to cease to have effect on the date specified in an order made under section 87(1) (power to dissolve Scottish Homes) of the Housing (Scotland) Act 2001 (asp 10).

Commencement Information

I1 S. 22 wholly in force at 3.9.2007; s. 22 not in force at Royal Assent see s. 195(3); s. 22(5) in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**; s. 22 in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

23 Referral to private rented housing committee

(1) The president of the private rented housing panel must decide whether to—

(a) refer an application under section 22(1) to a private rented housing committee, or

(b) reject the application.

(2) The president may reject an application only if the president considers—

(a) that it is vexatious or frivolous,

(b) where the tenant has previously made an identical or substantially similar application in relation to the same house, that there has not been a reasonable period of time between the applications, or

(c) that the dispute to which the application relates has been resolved.

(3) The president must make a decision under subsection (1)—

(a) within 14 days of the panel's receipt of the application concerned, or

(b) where the president considers—

(i) that the decision cannot be made without further information, or

(ii) that there is a reasonable prospect of the dispute being resolved by the parties,

by such later date as the president considers reasonable.

(4) The president must, as soon as practicable after rejecting an application give notice of the rejection—

(a) to the tenant, and

(b) where the president is aware of the name and address of a person who acts for the tenant in relation to the application, to that person.

(5) Such a notice must—

(a) set out the reasons for the rejection, and

(b) explain the procedure for appealing against it.

24 Determination by private rented housing committee

(1) The private rented housing committee to which a tenant's application under section 22(1) is referred must decide whether the landlord has complied with the duty imposed by section 14(1)(b).

(2) Where the committee decide that the landlord has failed to comply with that duty, they must by order (a "repairing standard enforcement order") require the landlord to carry out such work as is necessary for the purposes of ensuring—

(a) that the house concerned meets the repairing standard, and

(b) that any damage caused by the carrying out of any work in pursuance of that duty or the order is made good.

(3) A repairing standard enforcement order must specify the period within which the work required by the order must be completed.

(4) The period so specified must be the period beginning with the date from which the order has effect within which the committee reasonably consider that the work required can be completed (but must not, in any case, be a period of less than 21 days).

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) A repairing standard enforcement order may specify particular steps which the committee require the landlord to take in complying with the order.

(6) Where the committee are prevented by reason only of section 16(4) from deciding that a landlord has failed to comply with the duty imposed by section 14(1)(b), the committee must serve notice on the local authority stating that they consider the landlord to be unable to comply with that duty.

(7) Where the sheriff has made an order under section 18(1) in relation to a tenancy—

(a) the committee must, when determining whether the landlord has failed to comply with the duty imposed by section 14(1)(b), treat sections 14, 15 and 17 as having been modified or excluded in the manner described in the sheriff's order,

(b) a repairing standard enforcement order may not require the carrying out of any work which the duty imposed by section 14(1)(b) does not, because of that modification or exclusion, require to be carried out.

25 Variation and revocation of repairing standard enforcement orders

(1) The private rented housing committee which made a repairing standard enforcement order may, at any time—

(a) vary the order in such manner as they consider reasonable, or

(b) where they consider that the work required by the order is no longer necessary, revoke it.

(2) Where subsection (3) applies, the committee must vary the repairing standard enforcement order in question—

(a) so as to extend, or further extend, the period within which the work required by the order must be completed, and

(b) in such other manner as they think fit.

(3) This subsection applies where—

(a) the committee consider, on the submission of the landlord or otherwise, that the work required by a repairing standard enforcement order has not been, or will not be, completed during the period within which the order requires the work to be completed, and

(b) the committee—

(i) consider that satisfactory progress has been made in carrying out the work required, or

(ii) have received a written undertaking from the landlord stating that the work required will be completed by a later date which the committee consider satisfactory.

(4) References in this Act (including this section) to a repairing standard enforcement order or to work required by such an order are, where the order has been varied under this section, to be treated as references to the order as so varied or, as the case may be, to work required by the order as so varied.

26 Effect of failure to comply with repairing standard enforcement order

(1) It is for the private rented housing committee to decide whether a landlord has complied with a repairing standard enforcement order made by the committee.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) Where the committee decide that a landlord has failed to comply with the repairing standard enforcement order, the committee must—

(a) serve notice of the failure on the local authority, and

(b) decide whether to make a rent relief order.

(3) The committee may not decide that a landlord has failed to comply with a repairing standard enforcement order—

(a) unless the period within which the order requires the work to be completed has ended, or

(b) if the committee are satisfied, on the submission of the landlord or otherwise—

(i) that the landlord is unable to comply with the order because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or

(ii) that the work required by the order is likely to endanger any person.

(4) Where the committee are prevented by reason only of subsection (3)(b) from deciding that a landlord has failed to comply with a repairing standard enforcement order, the committee must serve notice on the local authority stating that they consider the landlord to be unable to comply with the repairing standard enforcement order.

27 Rent relief orders

(1) A rent relief order is an order by a private rented housing committee which reduces any rent payable under the tenancy in question by such amount (not exceeding 90% of the rent which would, but for the order, be payable) as may be specified in the order.

(2) A private rented housing committee may make a rent relief order only where they have decided that a landlord has failed to comply with a repairing standard enforcement order which has effect in relation to the house concerned.

(3) A rent relief order does not affect the terms or validity of the tenancy to which it relates (otherwise than by reducing the rent payable under the tenancy).

(4) The committee may decide to revoke a rent relief order at any time; and the committee must decide to do so if—

(a) the repairing standard enforcement order to which the rent relief order relates is revoked, or

(b) a certificate is granted under section 60 in relation to the work required by that repairing standard enforcement order.

(5) The revocation of a rent relief order does not make a tenant liable to pay any rent which the tenant would, but for the rent relief order, have been liable to pay under the tenancy while the rent relief order had effect.

28 The repairing standard: offences

(1) A landlord who, without reasonable excuse, fails to comply with a repairing standard enforcement order commits an offence.

(2) For the purposes of subsection (1), a landlord has reasonable excuse for failing to comply with a repairing standard enforcement order if—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) the landlord is unable to comply with the order because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or

(b) the work required by the order is likely to endanger any person.

(3) Subsection (2) does not affect the generality of the defence of reasonable excuse.

(4) A landlord cannot be guilty of an offence under subsection (1) unless the private rented housing committee which made the repairing standard enforcement order in question has decided that the landlord has failed to comply with it (but such a decision does not establish a presumption that the landlord has committed an offence under subsection (1)).

(5) A landlord commits an offence if the landlord enters into a tenancy or occupancy arrangement in relation to a house at any time during which a repairing standard enforcement order has effect in relation to the house.

(6) A landlord does not commit an offence under subsection (5) if the private rented housing committee which made the order has consented to the landlord entering into the tenancy or occupancy arrangement.

(7) A landlord who is guilty of an offence under subsection (1) or (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

29 Annual report

(1) The president of the private rented housing panel must, in respect of each reporting year, prepare a written report on the exercise of functions by the president, by the panel and by private rented housing committees during that year.

(2) Each such report must report the frequency with which applications to the panel (whether valid or invalid within the terms of section 22) include complaints about the landlord's management of the tenancy.

(3) The president must submit each such report to the Scottish Ministers as soon as practicable after the end of the reporting year to which it relates.

(4) The Scottish Ministers must lay before the Scottish Parliament a copy of each such report submitted to them.

(5) A reporting year for the purposes of this section is—

(a) the period beginning with the day on which this section comes into force and ending with 31 December next following that date, and

(b) each successive calendar year.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

CHAPTER 5

REPAIR, IMPROVEMENT AND DEMOLITION OF HOUSES

VALID FROM 01/04/2009

Work notices and demolition notices

30 Work notices

(1) The local authority may require the owner of a house to carry out work in it for the purposes of—

(a) implementing an HRA action plan in relation to any house identified in the plan, or

(b) bringing any house which the local authority considers to be sub-standard (whether or not situated in an HRA) into, or keeping it in, a reasonable state of repair.

(2) A requirement under subsection (1) must be made by serving notice (a "work notice") in accordance with section 62.

(3) The work notice must specify—

(a) the reason for the requirement (by reference, if the requirement relates to any house other than the house in which the work is to be carried out, to the condition of that other house),

(b) the work which requires to be carried out,

(c) any standard which that house is to meet on completion of the work, and

(d) the period within which the work must be completed.

(4) The period so specified must be the period beginning with the date from which the notice has effect within which the local authority reasonably considers that the work required can be completed (but must not, in any case, be a period of less than 21 days).

(5) The work notice may also specify particular steps which the local authority requires to be taken in carrying out the work required.

31 Suspension of work notice

(1) The local authority may suspend a work notice if satisfied that carrying out the work required is likely to be detrimental to the health of any resident of the house concerned.

(2) The local authority may lift a suspension under subsection (1) at any time.

(3) The local authority must give notice of any—

(a) suspension, or

(b) lifting of a suspension,

in accordance with section 62.

(4) A notice under subsection (3)(b) may—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) extend the period within which the work requires to be completed by such period as the local authority considers reasonable,

(b) specify particular steps which the local authority requires to be taken in carrying out the work required (in addition to or in place of any such steps specified in the work notice or in any previous notice under subsection (3)(b)).

32 Revocation of work notice

(1) The local authority may revoke a work notice if—

(a) the house to which it relates is demolished, or

(b) it considers that the work required by the notice is no longer necessary for the purpose for which the notice was served.

(2) The local authority must give notice of any such revocation in accordance with section 62.

33 Demolition notices

(1) Where a house is identified in an HRA action plan as a house which the local authority considers to be in a state of serious disrepair and ought to be demolished, the local authority may require the owner of the house to demolish it.

(2) A requirement under subsection (1) must be made by serving notice (a "demolition notice") in accordance with section 62.

(3) The demolition notice must specify—

(a) the reason for the requirement,

(b) the standard to which the demolition is to be carried out (including any standard to which the site of the demolished house must be cleared), and

(c) the period within which the demolition must be carried out.

(4) The period so specified must be the period beginning with the date from which the notice has effect within which the local authority reasonably considers that the demolition can be completed (but must not, in any case, be a period of less than 21 days).

34 Extension of period for completion of work or demolition

(1) The local authority may, at any time, extend the period within which any—

(a) work required by a work notice, or

(b) demolition required by a demolition notice,

must be completed by such period as it considers reasonable.

(2) But such a period may be extended only where the local authority—

(a) considers that satisfactory progress has been made in carrying out the work or demolition, or

(b) has received a written undertaking from the owner stating that the work or demolition will be completed by a later date which the authority considers satisfactory.

(3) The local authority must give notice of any extension in accordance with section 62.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Enforcement by local authority

VALID FROM 01/04/2009

35 Carrying out of work or demolitions by local authority

(1) If the owner of a house fails to comply with a work notice or a demolition notice, the local authority may carry out—

(a) the work or the demolition required by the notice, and

(b) any other work which, in the course of carrying out work or demolition authorised by paragraph (a), the local authority finds to be required for the purposes of—

(i) implementing an HRA action plan in relation to any house identified in it, or

(ii) bringing any house which the local authority considers to be sub-standard (whether or not situated in an HRA) into, and keeping it in, a reasonable state of repair,

but which it could not reasonably have known to be so required before it served the work notice or demolition notice.

(2) The local authority may not carry out any work authorised by subsection (1)(a) unless—

(a) the period within which the work or demolition requires to be carried out has ended, or

(b) the owner has given notice to the local authority—

(i) of being unable to comply with the work notice or demolition notice because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or

(ii) stating that the owner considers that carrying out the work or demolition required is likely to endanger any person.

(3) Before carrying out any work authorised by subsection (1)(b) the local authority must give 21 days' notice of its intention to do so in accordance with section 62.

(4) The requirement to give notice under subsection (3) does not apply if the local authority considers—

(a) that the situation is urgent, or

(b) that it would otherwise be impractical to carry out work authorised by subsection (1)(a) before carrying out any work authorised by subsection (1)(b).

36 Carrying out of work by local authority: repairing standard

(1) Where a private rented housing committee notifies the local authority that a landlord—

(a) is unable to comply with the duty imposed by section 14(1)(b), or

(b) has failed, or is unable, to comply with a repairing standard enforcement order,

the local authority may carry out the work specified in subsection (2).

(2) That work is—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) the work needed to bring the house concerned up to the repairing standard or, as the case may be, the work required by the repairing standard enforcement order, and

(b) any other work which, in the course of carrying out work required by the order, the local authority finds to be required for the purposes of enabling the work required by the order to be carried out.

(3) Before carrying out any work authorised by subsection (1) the local authority must give 21 days' notice of its intention to do so to the landlord and the tenant under the tenancy to which the order relates.

(4) The requirement to give notice under subsection (3) does not apply if the local authority considers—

(a) that the situation is urgent, or

(b) in the case of work falling within subsection (2)(b), that it would otherwise be impractical to carry out any other work in respect of which notice has been given under subsection (3) before carrying out the work in question.

37 Evacuation

(1) Where the local authority—

(a) is required or authorised by or under this Chapter to carry out work in, or to demolish, a house, and

(b) considers that doing so is likely to endanger the occupant of any land or premises,

it must require that occupant to move from the land or premises.

(2) A requirement under subsection (1) must be made by serving a notice on the occupant specifying—

(a) by reference to the work or demolition which the local authority is required or authorised to carry out, the reason why the occupant is required to move, and

(b) the period, beginning not less than 14 days after the date on which the notice is served, within which the occupant must move.

(3) A requirement under subsection (1) ceases to have effect if—

(a) the sheriff refuses to grant a warrant under section 38(4) in relation to it, or

(b) the work or demolition concerned is completed.

38 Warrants for ejection

(1) Where an occupant has not complied with a requirement under section 37(1), the local authority may, by summary application, apply to the sheriff for a warrant for the ejection of the occupant from the land or premises in question.

(2) No such application may be made before the expiry of the period specified in the notice served under section 37(2).

(3) On such an application, the sheriff may require the service of a further notice on the occupant.

(4) The sheriff may, if satisfied that the occupant is likely to be endangered by the carrying out of the work or demolition concerned, grant a warrant of ejection requiring the

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

occupant to move from the land or premises in question, within such period as the sheriff may determine, until the work or demolition is completed.

(5) Such a warrant—

(a) may be made subject to such other conditions (including conditions with respect to payment of rent) as the sheriff thinks just and equitable, but

(b) where a further notice is served under subsection (3), may not require the occupant to move before the day which is 14 days after service of that notice.

(6) No such warrant may require a person to move from any living accommodation which is that person's only or main residence unless the sheriff is satisfied that suitable alternative living accommodation on reasonable terms will be available to that person.

(7) The reference in subsection (6) to suitable alternative living accommodation is a reference to living accommodation which is suitable for occupation by the resident and any other person whose only or main residence would, but for the location of that other person's place of work or of any educational institution which the person attends, be the living accommodation concerned.

(8) The sheriff's decision on the application is final.

(9) Refusal by the sheriff to grant any warrant sought under this section does not affect the validity of the work notice, demolition notice or repairing standard enforcement order in relation to which the warrant was sought.

(10) Nothing in the Rent (Scotland) Act 1984 (c. 58) or in Part 2 of the Housing (Scotland) Act 1988 (c. 43) restricts the power of a local authority to apply for, or the power of the sheriff to grant, a warrant under subsection (4).

39 Unlawful occupation etc.

(1) A person commits an offence if the person, knowing that a requirement under section 37(1) has effect in relation to any land or premises—

(a) occupies it or them, or

(b) permits such occupation.

(2) A person guilty of an offence under subsection (1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

(3) It is not an offence under subsection (1)—

(a) for a person to continue to occupy any land or premises which that person occupied on the day on which the requirement under section 37(1) is made, or

(b) to permit such a person to continue occupation.

VALID FROM 01/04/2009

40 Acquisition of houses to be demolished

(1) Where a local authority is authorised by section 35 to demolish a house the authority may, before carrying out the demolition, acquire the house and its site—

(a) by agreement, or

(b) with the authorisation of the Scottish Ministers, compulsorily.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) applies in relation to an acquisition under subsection (1)(b) as if that provision were contained in an Act of Parliament in force immediately before the commencement of that Act (with references in that Act to land being read as references to the house and its site).

VALID FROM 01/04/2009

41 Sale of materials from demolished houses

(1) The local authority may sell any material arising from the demolition of a house in pursuance of section 35.

(2) The local authority may set off the proceeds of any such sale against any sum recoverable under section 59 in relation to the demolition (so far as not otherwise recovered).

(3) If those proceeds exceed the total of any such sums, the local authority must account to the owner of the house for the surplus.

VALID FROM 01/04/2009

CHAPTER 6

MAINTENANCE

Maintenance orders

42 Maintenance orders

(1) The local authority may by order (a "maintenance order") require the owner of a house to prepare a plan (a "maintenance plan") for securing the maintenance of the house to a reasonable standard over such period not exceeding 5 years as may be specified in the order.

(2) A maintenance order may be made only if the local authority considers—

(a) that any benefit arising from work carried out in pursuance of a work notice or a repairing standard enforcement order has been reduced or lost because of a lack of maintenance, or

(b) that the house has not been, or is unlikely to be, maintained to a reasonable standard.

(3) A maintenance order must require the owner of the house concerned to submit the maintenance plan, by such date as may be specified in the order, to the local authority for approval.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Maintenance plans

43 Maintenance plans

A maintenance plan must—

(a) specify the maintenance which requires to be carried out over the period during which the plan is to apply,

(b) specify—

(i) any steps to be taken for the purposes of carrying out that maintenance (including any steps to be taken where anything to be maintained under the plan requires to be repaired or replaced), and

(ii) when any such steps are to be taken, and

(c) set out an estimate of the costs likely to be incurred in implementing the plan.

44 Maintenance plans for two or more houses

(1) A maintenance order may, where any premises consist of two or more houses, require the owners of those houses to prepare jointly a maintenance plan in relation to any part of the premises, including any part—

(a) which is owned in common by those owners, or

(b) which those owners are responsible for maintaining by virtue of a real burden or otherwise.

(2) A maintenance plan prepared in pursuance of a maintenance order which relates to two or more houses must, in addition to the provision required by section 43, apportion the liability of each joint owner in respect of the costs of implementing the plan in such manner as the owners of those houses think fit.

(3) Such a maintenance plan may also—

(a) apportion responsibility for maintaining the houses to which the plan relates in such manner as the owners of those houses think fit (or, where the plan is devised by a local authority, in such manner as it thinks fit),

(b) require those owners to appoint a person to manage its implementation,

(c) require those owners to open, and deposit sums into, a maintenance account,

(d) set out the arrangements for operating a maintenance account (including arrangements for authorising withdrawals from it and for winding up and closure).

45 Maintenance plans for two or more houses: further provision

(1) A maintenance order which relates to two or more houses may require the maintenance plan to make provision for securing the maintenance of any part of the premises concerned which some but not all of the owners required to prepare the plan—

(a) own, or

(b) have a responsibility to maintain by virtue of a real burden or otherwise.

(2) But a maintenance plan prepared in pursuance of such a maintenance order may not—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) require the owner of any house to which the plan relates to do anything in relation to any part of the premises concerned which that owner does not own or have a responsibility to maintain by virtue of a real burden or otherwise, or

(b) despite section 44(2) and (3)(a), apportion responsibility for maintaining any part of the premises concerned or liability for the costs of such maintenance in a way which conflicts with—

(i) any real burdens encumbering the houses concerned,

(ii) the development management scheme in so far as it applies to those houses or any decision made under that scheme, or

(iii) the tenement management scheme in so far as it applies to those houses or any decision made under that scheme.

46 Approval of maintenance plans

(1) The local authority may—

(a) approve a maintenance plan submitted to it, with or without modifications,

(b) reject a maintenance plan and—

(i) make another maintenance order requiring the preparation of another maintenance plan, or

(ii) substitute a maintenance plan of its own devising in its place, or

(c) where a maintenance plan is not submitted by the date specified in a maintenance order, devise a maintenance plan for the house concerned.

(2) The local authority may approve a maintenance plan only if it is satisfied—

(a) that the plan complies with section 43 and, if relevant, sections 44(2) and 45(2), and

(b) that implementation of the plan will secure the maintenance of the house concerned to a reasonable standard,

and the local authority must be satisfied that any maintenance plan it devises complies with those provisions and that implementation of it will have that effect.

(3) The local authority may not approve a maintenance plan which relates to three or more houses unless the owners of the majority of those houses have confirmed to the authority that they are content with the plan submitted for approval.

(4) The local authority must serve notice of its decision under subsection (1) in accordance with section 62.

(5) A copy of the plan approved (or, as the case may be, devised under paragraph (b)(ii) or (c) of subsection (1)) must be attached to that notice.

(6) The maintenance order to which a decision under subsection (1) relates ceases to have effect on the date on which notice of the decision is served on the owner of the house concerned.

47 Variation and revocation of maintenance plans

(1) The local authority may vary a maintenance plan in such manner as it thinks fit—

(a) if satisfied at any time that there has been a change in circumstances which justifies such a variation, or

(b) before doing anything under section 49 in relation to the plan.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) The local authority may vary a maintenance plan on the application of an owner of any of the houses concerned or of its own accord.

(3) The local authority may revoke a maintenance plan if it is satisfied at any time—

(a) that implementation of the plan is no longer practicable, and

(b) that the plan cannot be varied so as to make implementation practicable.

(4) The local authority must serve notice of any variation or revocation in accordance with section 62.

(5) Where a maintenance plan is varied, a copy of the revised plan must be attached to that notice.

48 Implementation of maintenance plans

(1) Where a maintenance plan is approved or devised under section 46, it is for the owner for the time being of the house concerned to secure the implementation of the plan during the period for which it has effect.

(2) The local authority may do anything it thinks fit for the purposes of enabling or assisting the owner of the house to implement the maintenance plan.

(3) Subsection (2) does not authorise the local authority to pay any sums—

(a) into a maintenance account otherwise than in accordance with section 50, or

(b) to the owner of the house to which the maintenance plan relates otherwise than by grant paid under section 51.

49 Enforcement of maintenance plans

(1) Where the local authority considers that the owner of a house which is subject to a maintenance plan has failed to—

(a) secure the carrying out of any maintenance required by the maintenance plan, or

(b) do anything else required by the plan,

the local authority may itself do anything which it considers necessary or expedient for the purposes of securing the implementation of the plan.

(2) Subsection (1) does not authorise the local authority to pay any sums—

(a) into a maintenance account otherwise than in accordance with section 50, or

(b) to any owner of a house to which the maintenance plan relates other than by way of a grant paid under section 51.

Recovery of maintenance costs

50 Power of majority to recover maintenance costs

(1) Subsection (3) applies where—

(a) the owners of two or more houses which form part of the same premises are responsible by virtue of a real burden or otherwise for maintaining any part of those premises and—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(i) those owners are required to carry out any such maintenance (whether in implementation of a maintenance plan or otherwise), or

(ii) a majority of those owners agree to carry out any such maintenance,

(b) notice has been served on each owner responsible for that maintenance requiring the owner to deposit a sum into a maintenance account representing the apportioned share of the estimated costs for which that owner will be liable,

(c) an owner on whom such a notice is served has not complied with such a requirement, and

(d) the local authority is satisfied as to the matters set out in subsection (2).

(2) Those matters are—

(a) that the maintenance proposed is, having regard to the state of repair of the premises, reasonable,

(b) that the share of estimated costs apportioned to the owner who has not complied with the requirement does not conflict with any provision about liability for or apportionment of costs contained in—

(i) any real burdens encumbering the houses concerned,

(ii) the development management scheme in so far as it applies to those houses or any decision made under that scheme, or

(iii) the tenement management scheme in so far as it applies to those houses or any decision made under that scheme, and

(c) that—

(i) the owner who has not complied with the requirement is unable to do so,

(ii) it is unreasonable to require that owner to deposit the sum in question, or

(iii) that owner cannot, by reasonable inquiry, be identified or found.

(3) Where this subsection applies the local authority may, on the application of any of the owners concerned, deposit in the maintenance account a sum representing the share of the estimated costs of any owner who has not complied with a requirement to make such a deposit.

(4) Before deciding to make a deposit under subsection (3), the local authority may request the owner who has failed to comply to make representations to the authority, by such date as the authority may specify, about the owner's financial circumstances.

(5) A notice of the type referred to in subsection (1)(b) must set out—

(a) the maintenance which is to be carried out,

(b) the timetable for carrying out the maintenance, including proposed commencement and completion dates,

(c) the date of any requirement or agreement to carry out the maintenance; and, in the case of an agreement, the names of those by whom it was agreed,

(d) the estimated cost of the maintenance,

(e) why the estimate is considered reasonable,

(f) the apportioned share of the estimated costs attributable to each of the owners,

(g) how that apportionment is arrived at,

(h) the location and number of the maintenance account, and

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(i) the date by which the owners are required to deposit the sum representing their respective apportioned shares in the maintenance account.

(7) This section is without prejudice to any other entitlement of the owner of any house to recover sums from an owner who has not complied with a requirement set out in a notice of the type mentioned in subsection (1)(b).

(8) The local authority must have regard to any guidance issued by the Scottish Ministers about the exercise of its functions under this section.

(9) The Scottish Ministers may vary or revoke any such guidance.

Maintenance accounts

51 Maintenance accounts: grants

The local authority may pay grants in respect of any expenses incurred in connection with the opening, winding up or closure of a maintenance account.

CHAPTER 7

RIGHT TO ADAPT RENTED HOUSES

52 Right to adapt rented houses

(1) This section applies to any tenancy of a house let for human habitation (other than a Scottish secure tenancy or a short Scottish secure tenancy).

(2) The tenant in a tenancy to which this section applies may carry out any work in the house—

(a) which the tenant considers necessary for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence, or

(b) in respect of which a grant is payable in accordance with regulations made under section 15(1)(a) (grants for improving energy efficiency of houses) of the Social Security Act 1990 (c. 27).

(3) But a tenant is not entitled to exercise the right set out in subsection (2) without the consent of the landlord, which must not be unreasonably withheld.

(4) An application for consent to carry out work in pursuance of subsection (2) must specify the work which the tenant proposes to carry out.

(5) The landlord may, on receipt of such an application—

(a) consent,

(b) consent subject to such reasonable conditions as the landlord may impose, or

(c) refuse consent, provided that it is not refused unreasonably.

(6) The landlord must, within one month of receipt of such an application, serve notice of the landlord's decision on the applicant.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(7) That notice must—

(a) where the landlord gives consent subject to conditions, set out those conditions and the reasons for imposing them,

(b) where the landlord refuses consent, set out the reason for refusal, and

(c) in either of those cases, explain the procedure for appealing the decision to impose conditions or, as the case may be, refuse consent.

(8) Where a landlord fails to comply with subsection (6)—

(a) the landlord is to be treated as having decided to refuse consent, and

(b) notice of such refusal is to be treated as having been served on the applicant on the last day of the period mentioned in that subsection.

(9) The terms of a tenancy, and of any other agreement between the landlord and the tenant in any tenancy, are of no effect in so far as they purport to negate or modify the effect of this section.

(10) Nothing in this section entitles a tenant to carry out work for which the consent or other approval of any person is required under any other enactment unless that consent or approval has been given.

(11) Where it is for the landlord to obtain any such consent or approval, the landlord must, if requested to do so by the tenant, take reasonable steps for the purposes of doing so (and may recover any expenses incurred in doing so from the tenant).

(12) But the need for any such consent or approval by any person other than the landlord is not, of itself, a reasonable ground on which the landlord may impose any condition under subsection (5)(b) or, as the case may be, refuse consent under subsection (5)(c).

53 Matters relevant to application to carry out work under section 52

(1) The landlord may, in considering whether it is reasonable to consent to an application to carry out work in pursuance of section 52(2)(a) (or whether it is reasonable to impose a condition on such a consent), have regard to—

(a) the disabled person's disability,

(b) whether the work proposed is necessary for the purpose set out in section 52(2)(a),

(c) the safety of the occupiers of the house or of any other premises,

(d) any costs which the landlord is likely to incur, directly or indirectly, as a result of the proposed work,

(e) whether the proposed work is likely—

(i) to reduce the value of the house or of any other part of any premises of which the house forms part, or

(ii) to make the house or any other part of such premises less suitable for letting or for sale,

(f) whether, if the proposed work was to be carried out, the house could be reinstated to the condition it was in before it was carried out,

(g) any code of practice issued by the Disability Rights Commission which relates to this section or section 52.

(2) The landlord may, in considering whether it is reasonable to consent to an application to carry out work in pursuance of section 52(2)(b) (or whether it is reasonable to

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

impose a condition on such a consent), have regard to the matters mentioned in paragraphs (c) to (f) of subsection (1).

(3) A condition imposed under section 52(5)(b) may—

(a) specify the standard to which the work consented to must be carried out,

(b) require the tenant to reinstate the house at the end of the tenancy to the condition it was in before that work was carried out.

(4) The landlord must, in considering whether to impose a condition under section 52(5)(b) as to the standard to which the proposed work must be carried out, have regard to—

(a) the age and condition of the house, and

(b) the likely cost of complying with the condition.

(5) It is reasonable for a landlord to refuse to consent to an application to carry out work in pursuance of section 52(2), or to impose any condition on such a consent, if the carrying out of the proposed work or, as the case may be, failure to comply with that condition, would make the landlord susceptible under any enactment or rule of law to any sanction or other remedy.

(6) Subsection (5) applies only where the landlord has taken reasonable steps for the purposes of acquiring the right to give consent or, as the case may be, not to impose the condition without making the landlord so susceptible.

(7) The landlord may recover from the tenant any expenses incurred by the landlord in taking any such reasonable steps (regardless of the landlord's decision on the tenant's application).

54 Amendment to the Housing (Scotland) Act 2001

In Paragraph 8 of schedule 5 to the Housing (Scotland) Act 2001 (asp 10)—

(a) the word “and” which follows paragraph (c) is repealed,

(b) at the end of paragraph (d) insert “and

(e) any code of practice issued by the Disability Rights Commission which relates to this Part.”.

CHAPTER 8

SUPPLEMENTAL PROVISIONS, INCLUDING APPEALS

Supplemental

55 Power of local authority to carry out or arrange work or demolition

A local authority may carry out, or arrange for the carrying out of, any work or demolition which any other person is required or authorised by or under this Part to carry out (but only by agreement with, and at the expense of, that other person).

56 Effect of tenant moving from house

(1) Where—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) a person moves from any house for the purposes of enabling any person to carry out any work required or authorised by or under this Part (whether in pursuance of a requirement under section 37(1) or a warrant under section 38(4) or otherwise), and

(b) that person resides in the house under a tenancy or an occupancy arrangement,

the tenancy or occupancy arrangement, if that person so chooses, is to be taken not to have terminated, varied or altered by reason of that person moving.

(2) If a person who has so moved resumes lawful occupation, the same terms apply (except so far as otherwise agreed) in respect of that occupation as applied in respect of the previous occupation.

(3) In this section "lawful occupation" means occupation which is not an offence under section 39.

57 Obstructions etc.

(1) This section applies if, after receiving notice of the intended action, any person prevents or obstructs any other person from doing anything which that other person is by or under this Part required, authorised or entitled to do.

(2) Where this section applies, the sheriff may order the person who prevented or obstructed another person to permit that other person to do all things which the other person reasonably requires to do for the purposes of—

(a) complying with any requirement imposed by or under this Part, or

(b) doing anything which that other person is by or under this Part authorised or entitled to do.

(3) Any person who fails to comply with such an order is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) This section does not apply in relation to rights conferred by Part 9 (except the right conferred by section 181(4)(a)).

58 Listed buildings etc.

(1) This section applies to a building which is—

(a) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) ("the 1997 Act"),

(b) subject to a building preservation notice under section 3 of the 1997 Act, or

(c) one to which section 66 of the 1997 Act (control of demolition in conservation areas) applies.

(2) The local authority must, before it carries out any work in, or demolishes, any house which is, or which forms part of, a building to which this section applies in pursuance of section 35 or 36, consult—

(a) the Scottish Ministers,

(b) the planning authority (where the planning authority is not the local authority), and

(c) such other persons as the local authority thinks fit.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(3) Any authorisation or requirement under this Part to demolish or carry out work in or in relation to a building to which this section applies has effect only in so far as it is not inconsistent with any provision of the 1997 Act.

59 Recovery of expenses etc.

(1) The local authority may recover any—

(a) expenses it incurs in carrying out any work authorised by section 35,

(b) expenses it incurs in pursuance of section 49(1), or

(c) payments made under section 50(3),

from the owner of the house concerned.

(2) The local authority may recover any expenses it incurs in carrying out any work authorised by section 36 from the landlord concerned.

(3) Subsections (1) and (2) entitle the local authority to recover—

(a) any administrative expenses incurred by it in connection with the act to which the expenses relate or, as the case may be, with the making of the payment, and

(b) interest, at such reasonable rate as it may determine, from the date when a demand for payment is served until the whole amount is paid.

(4) The local authority may declare any sums recoverable under this section to be payable by instalments.

(5) Notice of any such declaration must be served on the person from whom the sums are recoverable.

(6) A local authority is not, despite the generality of subsection (1)(a), entitled to recover any expenses incurred in demolishing a house it has acquired under section 40.

Commencement Information

I2 S. 59 partly in force; s. 59 not in force at Royal Assent see s. 195; s. 59(2)-(5) in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

60 Certification

(1) A person who is required to carry out work by—

(a) a work notice, or

(b) a repairing standard enforcement order,

may apply for certification that the work has been completed.

(2) An application under subsection (1) is to be made—

(a) where it is made in consequence of a work notice, to the local authority, or

(b) where it is made in consequence of a repairing standard enforcement order, to the private rented housing committee which made the order.

(3) Where the work was carried out by the local authority under section 35 or 36, an application under this section is not competent unless the applicant has paid any expenses demanded by the local authority under section 59 in relation to that work.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(4) The local authority or, as the case may be, the committee must grant the certificate applied for if satisfied that the work required by the notice or order has been completed.

(5) A private rented housing committee may, of their own accord—

(a) inspect any house in respect of which they have made a repairing standard enforcement order, and

(b) if they are satisfied that the work required by the order has been completed, certify that the work has been completed,

but the committee may not exercise their power under this subsection unless the period within which the order requires the work to be carried out has ended.

61 Registration

(1) Each—

(a) repairing standard enforcement order,

(b) notice of a decision to vary or revoke a repairing standard enforcement order,

(c) certificate granted by a private rented housing committee under section 60,

(d) maintenance order,

(e) maintenance plan approved, devised or varied under this Part, and

(f) notice of revocation of a maintenance plan,

must be registered in the appropriate land register.

(2) It is for the private rented housing committee which made the repairing standard enforcement order concerned to register documents falling within paragraph (a) to (c) of subsection (1).

(3) It is for the local authority to register documents falling within paragraph (d) to (f) of subsection (1).

(4) The Keeper of the Registers of Scotland is not required to investigate or determine the accuracy of any information contained in any document falling within paragraphs (a) to (f) of subsection (1) which is submitted for registration.

(5) In section 12(3) (exemptions from indemnification by Keeper) of the Land Registration (Scotland) Act 1979 (c. 33), after paragraph (q) insert—

"(r) the loss arises in consequence of an inaccuracy in any information contained in any document registered in pursuance of section 61(1) of the Housing (Scotland) Act 2006 (asp 1).".

VALID FROM 01/04/2009

62 Service of documents

(1) The section applies to the following documents—

(a) work notices,

(b) notices under section 31(3), 32(2) or 34(3),

(c) demolition notices,

(d) notices under section 35(3),

(e) maintenance orders,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(f) notices of decisions under section 46(1), and

(g) notices of variation or revocation of maintenance plans.

(2) A document to which this section applies must be served on—

(a) the owner and occupier of the house concerned,

(b) any creditor holding a standard security over that house,

(c) any person who, directly or indirectly, receives rent in respect of that house, and

(d) any other person appearing to the local authority to have an interest in that house,

and the document is to be treated as being served or, as the case may be, made on the day on which the document is served on the owner of the house.

(3) Failure to comply with any of paragraphs (b) to (d) of subsection (2) does not invalidate the document concerned if the local authority, after exercising its powers under section 186(1), is not aware of the existence of the person on whom the document should have been served.

63 Date of operation of notices, orders etc.

(1) Unless this section provides otherwise, any order, notice, requirement, application, consent or other document served, submitted, given or made, or any other decision made, under this Part has effect from the date on which the document or, as the case may be, notice of the document or decision is served.

(2) Subsection (3) applies where a decision to—

(a) make or vary a repairing standard enforcement order,

(b) serve a work notice or a demolition notice,

(c) make a maintenance order, or

(d) approve, devise, vary or revoke a maintenance plan,

is appealed under section 64.

(3) Where this subsection applies—

(a) the effect of the decision and of the order, notice, plan, variation or revocation made in consequence of it is suspended until the appeal is abandoned or finally determined, and

(b) where the appeal is abandoned or finally determined by confirming the decision, the decision and the order, notice, plan, variation or revocation made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

(4) A—

(a) rent relief order, or

(b) revocation of such an order,

has effect from the date set out in subsection (5).

(5) That date is the date which is 28 days after—

(a) the last date on which the decision to make or, as the case may be, revoke the rent relief order may be appealed under section 64, or

(b) where such an appeal is made, the date on which the appeal is abandoned or finally determined (by confirming the decision).

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(6) A repairing standard enforcement order does not cease to have effect where work required by the order would, but for the order, no longer require to be carried out.

(7) No work may be done or proceedings taken under any order, notice or plan to which subsection (2) or (4) applies, and no requirement to register any such order, notice or plan has effect, until—

(a) the last date on which the decision to make it may be appealed, or

(b) where such an appeal is made, the date on which the appeal is abandoned or finally determined (by confirming the decision).

(8) References in this section to the date on which an appeal is finally determined are to be read as references—

(a) where the sheriff's determination on the appeal is final, to the date on which the sheriff determines the appeal,

(b) where the sheriff's determination may be appealed to the sheriff principal—

(i) to the last date on which such an appeal may be made, or

(ii) where such an appeal is made, to the date on which the appeal is abandoned or determined by the sheriff principal.

(9) A reference in this section to the last date on which a decision may be appealed is, where that date is in any case changed under section 64(7), to be read as referring to the new date only if the change is made before the date on which the right to appeal would otherwise expire.

Commencement Information

I3 S. 63 wholly in force at 3.9.2007; s. 63 not in force at Royal Assent see s. 195(3); s. 63(1) in force at 4.12.2006 by S.S.I. 2006/569, **art. 2**; s. 63(2)-(9) in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

Appeals

64 Part 1 appeals

(1) Any person aggrieved by a decision by a local authority—

(a) to serve a work notice,

(b) to serve a demolition notice,

(c) to carry out work in pursuance of—

(i) section 35(1)(b), or

(ii) section 36(1)(b),

other than, in either case, work for which no notice is required,

(d) to demand recovery of any expenses incurred in carrying out work authorised by—

(i) section 35, or

(ii) section 36,

(e) to serve a maintenance order,

(f) to approve or devise a maintenance plan or to vary or revoke such a plan, or

(g) to refuse to grant a certificate under section 60 in relation to any work required by a work notice,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

may appeal to the sheriff within 21 days of the date specified in subsection (2).

(2) That date is—

(a) in the case of an appeal under paragraph (a), (b), (d) or (e) of subsection (1), the date on which the work notice, demolition notice, demand for recovery of expenses or, as the case may be, maintenance order is served on the appellant,

(b) in the case of an appeal under paragraph (c) or (g) of subsection (1), the date on which notice of proposed work or, as the case may be, of the decision to refuse to grant the certificate is served on the appellant, or

(c) in the case of an appeal under paragraph (f) of subsection (1), the date on which notice of the approval, devising, variation or revocation is served on the appellant.

(3) An appeal under subsection (1) may be made only by a person on whom the relevant work notice, notice of proposed work, demand for recovery of expenses, maintenance order or, as the case may be, notice of the approval, devising, variation or revocation of a maintenance plan is served under this Act.

(4) A landlord or a tenant aggrieved by a decision by a private rented housing committee—

(a) under section 24(1) (decision on a tenant's application),

(b) to vary or revoke a repairing standard enforcement order (see section 25),

(c) that a landlord has failed to comply with a repairing standard enforcement order (see section 26(1)),

(d) to make or not to make a rent relief order (see section 26(2)(b)),

(e) to revoke a rent relief order (see section 27(4)), or

(f) to grant, or to refuse to grant, a certificate under section 60 in relation to any work required by a repairing standard enforcement order,

may appeal to the sheriff within 21 days of being notified of that decision.

(5) A tenant may appeal to the sheriff against a decision by the president of the private rented housing panel under section 23(1) within 21 days of being notified of that decision.

(6) A tenant aggrieved by a decision by a landlord—

(a) to impose any condition on a consent to carry out work in pursuance of section 52(2), or

(b) to refuse to consent to the carrying out of any such work,

may appeal to the sheriff within 6 months of being notified of that decision.

(7) The sheriff may, on cause shown, hear an appeal after the deadline set by subsection (1), (4), (5) or, as the case may be, (6).

Commencement Information

I4 S. 64 wholly in force at 3.9.2007; s. 64 not in force at Royal Assent see s. 195(3); s. 64(6) in force at 4.12.2006 and s. 64(7) in force at 4.12.2006 for certain purposes by S.S.I. 2006/395, **art. 2**; s. 64(1)-(5)(7) in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

65 Part 1 appeals: determination

(1) The sheriff, in determining an appeal under 64(1), may—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) confirm the decision (and any work notice, demolition notice, demand for recovery of expenses or maintenance order served, or maintenance plan approved, devised or varied, in consequence of it),

(b) quash the decision (and any such notice, demand, order or plan), or

(c) make such other order as the sheriff thinks just.

(2) The sheriff may determine an appeal under section 64(4) or (5) by—

(a) confirming the decision (and any order or variation made, or certificate granted, in consequence of it),

(b) remitting the decision (together with the sheriff's reasons for doing so) to the president or, as the case may be, the committee for reconsideration, or

(c) quashing the decision (and any order or variation made, or certificate granted, in consequence of it).

(3) The sheriff must, unless the sheriff considers the condition or, as the case may be, refusal appealed against to be reasonable, determine an appeal under section 64(6) by quashing the decision and directing the landlord to withdraw the condition (or to vary it in such manner as the sheriff may specify) or, as the case may be, to consent to the application (with or without such conditions as the sheriff may specify).

(4) In determining whether a condition or refusal appealed against under section 64(6) is reasonable, the sheriff must, where the appeal relates to an application made for the purposes of section 52(2)(a), have regard to any code of practice issued by the Disability Rights Commission which relates to section 52 or 53.

(5) The sheriff's determination on an appeal under section 64 is final (subject to subsection (6)).

(6) The sheriff's determination on an appeal under paragraph (a), (b), (c)(i), (d)(i) or (g) of section 64(1) may be appealed to the sheriff principal within 21 days of the sheriff's determination; and the sheriff principal's decision on any such appeal is final.

Commencement Information

I5 S. 65 partly in force; s. 65 not in force at Royal Assent see s. 195(3); s. 65(3)(4) in force at 4.12.2006, s. 65(5) in force for certain purposes at 4.12.2006 by S.S.I. 2006/395, **art. 2**; s. 65(1)(2)(5) in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

66 Part 1 appeals: procedure etc.

(1) An appeal under section 64 is to be made by summary application.

(2) No question may be raised on an appeal under section 64(1)(c)(i), (d)(i) or (g) (or on a subsequent appeal to the sheriff principal) which might have been raised on an appeal against the decision to make the work notice or demolition notice to which the appeal relates.

(3) No question may be raised on an appeal under subsection (1)(c)(ii) or (d)(ii), or subsection (4)(d), (e) or (f), of section 64 which might have been raised on an appeal against the decision under section 24(1) in consequence of which the repairing standard enforcement order to which the appeal relates was made.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(4) The sheriff may make such order about the expenses of an appeal under section 64 as the sheriff thinks fit (and the sheriff principal may make such an order in relation to any subsequent appeal).

Commencement Information

I6 S. 66 wholly in force at 3.9.2007; s. 66 not in force at Royal Assent see s. 195(3); s. 66(1)(4) in force for certain purposes at 4.12.2006 by S.S.I. 2006/395, **art. 2**; s. 66 in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

67 Adaptations: power to change method of appeal

(1) The Scottish Ministers may by regulations—

(a) disapply section 64(6), and

(b) provide that appeals against landlord's decisions of the type mentioned in that provision may be made to the private rented housing panel instead of to the sheriff.

(2) Regulations under subsection (1) may in particular—

(a) permit the president of the private rented housing panel to refer an appeal against such a decision to a private rented housing committee for determination,

(b) require the panel or, as the case may be, the committee determining such an appeal to have regard to—

(i) where the appeal relates to an application made for the purposes of section 52(2)(a), any code of practice issued by the Disability Rights Commission which relates to section 52 or 53, and

(ii) such other matters as may be specified in the regulations,

(c) provide that the determination of the panel or, as the case may be, the committee on such an appeal may be appealed to the sheriff,

(d) make provision about the payment of allowances and expenses in respect of such an appeal,

(e) make such further provision about the procedure relating to such an appeal or to an appeal to the sheriff of the type mentioned in paragraph (c) as the Scottish Ministers think fit.

CHAPTER 9

INTERPRETATION

VALID FROM 01/04/2009

68 Sub-standard houses

(1) For the purposes of this Part, a house is sub-standard if it—

(a) does not meet the tolerable standard,

(b) is in a state of serious disrepair, or

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(c) is in need of repair and, if nothing is done to repair it, is likely to—

(i) deteriorate rapidly into a state of serious disrepair, or

(ii) damage any other premises.

(2) The—

(a) age,

(b) character,

(c) location, and

(d) internal decorative repair,

of a house are to be ignored when considering whether it is sub-standard.

(3) A house which does not meet the tolerable standard is, for the purposes of this Part, to be treated as not being in a reasonable state of repair.

VALID FROM 01/04/2009

69 Application to non-residential premises

(1) This Part applies in relation to non-residential premises which form part of any building containing a house as it applies in relation to houses; and references in this Part (except this section) to a house are to be construed as including reference to such non-residential premises.

(2) But nothing in this Part authorises or requires the demolition of, or the carrying out of any work in, any non-residential premises unless the demolition or work is necessary for the purposes of—

(a) implementing an HRA action plan in relation to any house identified in the plan which forms part of the same building,

(b) bringing any house which the local authority considers to be sub-standard (whether or not situated in an HRA) which forms part of the same building into, and keeping it in, a reasonable state of repair, or

(c) securing the maintenance of any house which forms part of the same building.

(3) For the purposes of this section, any part of any premises which do not include a house are "non-residential premises".

70 Interpretation of Part 1

(1) In this Part—

"development management scheme" has the same meaning as in the Title Conditions (Scotland) Act 2003 (asp 9),

"sanitary defects" includes lack of air space or of ventilation, lack of lighting, dampness, absence of adequate and readily accessible water supply or of sanitary arrangements or of other conveniences, and inadequate paving or drainage of courts, yards or passages,

"Scottish secure tenancy" and "short Scottish secure tenancy" have the same meanings as in the Housing (Scotland) Act 2001 (asp 10),

"sub-standard", in relation to a house, has the meaning given in section 68,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

"tenement management scheme" has the same meaning as in the Tenements (Scotland) Act 2004 (asp 11).

(2) References in this Part to the start of a tenancy are references to the date on which the tenant first occupies the house concerned under the tenancy (or, if earlier, the date from which the tenant is entitled to so occupy the house).

VALID FROM 29/09/2008

PART 2

SCHEME OF ASSISTANCE FOR HOUSING PURPOSES

Provision of assistance for housing purposes

VALID FROM 01/04/2009

71 Assistance for housing purposes

(1) A local authority may provide or arrange for the provision of assistance to a person in connection with—

(a) the acquisition or sale (or the proposed acquisition or sale) of a house, or

(b) work on any land or in any premises for any of the purposes mentioned in subsection (2).

(2) Those purposes are—

(a) provision of one or more houses by the conversion of a house or other premises,

(b) construction of a house,

(c) improvement, repair or maintenance of a house,

(d) bringing any house into, or keeping any house in, a reasonable state of repair,

(e) adaptation of a house for a disabled person to make it suitable for the accommodation, welfare or employment of that person,

(f) reinstatement of any house adapted for the purpose set out in paragraph (e),

(g) provision, in relation to a house, of means of escape from fire and other fire precautions.

(3) Such assistance may, in particular, be in the form of—

(a) the provision of advice, training or other services and facilities,

(b) the provision of information relating to housing,

(c) making available the services of staff of the local authority,

(d) guaranteeing or joining in guaranteeing the payment of the principal of, and interest on, money borrowed by the person (including money borrowed by the issue of loan capital) or of interest on share capital issued by the person,

(e) payments in respect of any expenses incurred in connection with the opening of a maintenance account,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(f) acquiring, holding, managing and disposing of land or premises,
(g) grants,
(h) standard loans,
(i) subsidised loans.

(4) Assistance may be provided on such terms as the authority thinks fit (subject to any provision about such terms made by or under this Part).

(5) Sections 74 to 90, 92 and 93 do not apply to assistance provided under subsection (1)(a).

(6) The Scottish Ministers may by regulations make further provision about the provision of assistance under subsection (1).

(7) Those regulations may, in particular, make provision as to—
(a) the procedure to be followed by local authorities in—
(i) considering whether to provide such assistance,
(ii) providing or arranging for the provision of such assistance,
(b) the terms which may be imposed under subsection (4) on providing any such assistance (including provision restricting or requiring the imposition of a term).

(8) In this section, "house for a disabled person" means a house which—
(a) is a disabled person's residence at the time when assistance is first provided, or
(b) is likely in the opinion of the local authority to become a disabled person's residence within a reasonable period after that time.

VALID FROM 01/04/2009

72 Guidance about availability and amount of assistance

(1) A local authority must prepare and make publicly available a statement of—
(a) the criteria by reference to which it determines whether to provide assistance under section 71(1) in particular types of case and the form of the assistance,
(b) the circumstances in which the approved expense relating to assistance provided by way of a grant or loan may be limited in a manner specified in the statement (see section 76(5) and (6)),
(c) the rate of interest or the rate or amount of other charges payable on a standard loan or on the repayment element of a subsidised loan.

(2) Such a statement may make different provision for different cases.

(3) The local authority may revise or replace such a statement.

73 When assistance must be provided

(1) A local authority must provide assistance—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) under section 71(1)(b) to the owner of a house (or any non-residential premises forming part of the same building as a house) in respect of work in the house (or those premises) which the owner is required by a work notice to carry out, and

(b) in connection with work in a house for either of the purposes set out in paragraphs (e) and (f) of section 71(2), where the house is (or is likely to become or, in the case of a reinstatement, was) a disabled person's only or main residence.

(2) Where assistance provided under subsection (1)(b) is in respect of work required for providing a house with one or more of the standard amenities such assistance must be provided by way of a grant if—

(a) the house lacks one or more of the standard amenities and, in the opinion of the authority, the amenity or amenities to be provided will meet the needs of a disabled person, or

(b) the house already has the standard amenity in question but, in the opinion of the authority, the amenity to be provided is essential to the needs of a disabled person.

(3) The Scottish Ministers may by regulations make further provision about the type of assistance which must be provided under subsection (1)(b).

(4) Regulations under subsection (3) may, in particular, specify more circumstances in which such assistance must be provided by way of a grant.

(5) A local authority complies with this section if it invites a person to apply for a grant or loan in pursuance of subsection (1) or, as the case may be, a grant in pursuance of subsection (2) and the grant or loan is not provided because—

(a) no application is made,

(b) the application is not made in accordance with section 74, or

(c) any of the conditions mentioned in section 75(4) (so far as applicable) is not satisfied.

(6) The standard amenities are the amenities mentioned in section 86(1)(e), (f) and (fa) of the 1987 Act.

(7) The Scottish Ministers may by order add or remove references in subsection (6) to paragraphs of section 86(1) of the 1987 Act.

Grants and loans

VALID FROM 01/04/2009

74 Grants and loans: applications

(1) A grant or loan may be made only on an application to the local authority.

(2) The application must contain full particulars of—

(a) the work in question, including plans and specifications of the work,

(b) the land on or premises in which the work is to be, or is being, carried out,

(c) the expenses (including any professional fees) estimated to be incurred in carrying out the work, and

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(d) such other matters, including information on the matters mentioned in section 77, as may be required by regulations under section 188.

(3) Where the application is for an amount of grant or loan representing a proportion of the total expense estimated under subsection (2)(c), the application must specify that proportion.

(4) A local authority may require an applicant to provide, within such reasonable period as it may specify, such information as it considers necessary to satisfy itself that the information in the application form is accurate.

(5) The authority must disregard any application from an applicant who fails to comply with such a requirement.

VALID FROM 01/04/2009

75 Determination of applications

(1) Subject to the provisions of this Part, it is for the local authority to decide whether to approve an application for a grant or loan.

(2) On approving an application, the local authority must then determine—

(a) the approved expense in accordance with section 76, and

(b) where the application is for a grant or subsidised loan, the applicant's contribution under section 77.

(3) A local authority may approve an application for a grant or loan only if, in its opinion, all of the conditions in subsection (4) (so far as applicable) are satisfied.

(4) Those conditions are—

(a) that the owners of any land on or premises in which the work is to be, or is being, carried out (other than land or premises proposed to be sold or leased under section 12(4) of the 1987 Act) have consented in writing to the application and to being bound by the conditions mentioned in section 83 (in so far as those conditions apply),

(b) where that work has begun, that there were good reasons for beginning it before the application was approved,

(c) that the house or houses to which the application relates will provide suitable living accommodation for such period, and conform with such requirements with respect to construction and physical condition and the provision of services and amenities, as the authority considers reasonable,

(d) that, if the house or houses to which the application relates form part of any premises containing more than one house, the work to be carried out will not prevent the improvement of any other house in the premises, and

(e) that, in the case of an application for a standard loan, the applicant is unable to obtain a sufficient loan on fair terms from a commercial lender.

(5) In subsection (4)(e)—

"commercial lender" means a person who—

(a) has permission under Part 4 of or is otherwise authorised under the Financial Services and Markets Act 2000 (c. 8) to pay money under a

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

contract on terms under which it will be repaid or otherwise to provide credit,

(b) is an exempt person within the meaning of that Act in relation to the activity mentioned in paragraph (a), or

(c) holds a licence under Part 3 of the Consumer Credit Act 1974 (c. 39) to carry on a consumer credit business or consumer hire business or who, by virtue of section 21 of that Act, does not require such a licence, and

"fair terms" means terms which, in the opinion of the local authority, are reasonable and affordable having regard to the circumstances of the applicant and the interest rates prevailing at the time the loan was applied for.

(6) Subsection (5)(a) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000,

(b) any relevant order under that section, and

(c) Schedule 2 to that Act.

(7) The authority may, as a condition of paying the grant or loan, impose a requirement that the work to which the grant or loan relates is completed within such period (being a period of not less than 12 months) as the authority may specify or within such further period as the authority may allow.

VALID FROM 01/04/2009

76 The approved expense

(1) The approved expense, in relation to the work referred to in an application for a grant or loan, is the amount of—

(a) the expense of carrying out the work, or

(b) the proportion of that expense (as specified in the application),

which the local authority considers reasonable.

(2) If, after approving an application for a grant or loan, the authority is satisfied that—

(a) the expense of carrying out the work will exceed the expense estimated in the application, and

(b) the increase is due to circumstances beyond the control of the applicant,

the authority may, on receipt of a further estimate, substitute a higher amount as the amount of the approved expense in accordance with subsection (1).

(3) Subsections (1) and (2) are subject to subsections (4) and (5).

(4) The Scottish Ministers may, by order, provide that the approved expense in relation to a grant or loan must not, unless they otherwise consent, exceed such amount as may be specified in the order.

(5) In circumstances mentioned in a statement prepared under section 72(1)(b), a local authority may limit the amount of the approved expense in relation to a particular grant or loan to an amount determined in the manner specified in the statement.

(6) Despite subsection (5), a local authority may not limit the amount of the approved expense in relation to an application falling within subsection (7) unless—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) the Scottish Ministers consent to the limitation, or

(b) the approved expense would otherwise exceed the amount specified in an order under subsection (4).

(7) An application falls within this subsection if it is made in connection with work in a house for either of the purposes set out in paragraphs (e) and (f) of section 71(2), where the house is (or is likely to become or, in the case of reinstatement, was) a disabled person's only or main residence.

77 Assessment of applicant's contribution

(1) The Scottish Ministers may by regulations make provision for the assessment, in relation to such classes of application for a grant or a subsidised loan as the regulations may specify, of an amount to be treated, for the purposes of this Part, as the applicant's contribution towards the approved expense ("the applicant's contribution").

(2) Regulations under subsection (1) may provide for the assessment to be by reference to—

(a) the income and other financial circumstances of any of the following—

(i) the applicant,

(ii) the applicant's spouse or civil partner,

(iii) any person on whom the applicant is dependent or who is dependent on the applicant,

(iv) any person who resides or intends to reside with the applicant,

(b) such other criteria as the Scottish Ministers think fit.

(3) Regulations under subsection (1) may make provision—

(a) for a local authority, with the consent of the Scottish Ministers, to reduce the applicant's contribution by an amount determined by the authority in such cases as may be specified in the regulations,

(b) for the delegation of functions conferred by this section.

VALID FROM 01/04/2009

78 Applicant's contribution: review

(1) Where an applicant for a grant or a subsidised loan requests a review of an assessment of the applicant's contribution, the local authority must review the assessment.

(2) A request for a review must be made before the end of the period of 21 days beginning with the day on which the notice under section 81(1) was given or such longer period as the authority may allow.

(3) A review under subsection (1) is to be carried out by a person senior to the person who made the assessment being reviewed and who had no involvement in the making of the assessment.

(4) The authority must notify the applicant of the decision reached on the review.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) There is no right to request a review of a decision reached on review.

79 Amount of grant or loan

(1) The amount of a grant is the greater of—

(a) the approved expense less the applicant's contribution (if any), or

(b) where subsection (6) applies, the amount determined by virtue of that subsection.

(2) The amount of a standard loan is the approved expense (unless section 88(1)(b) applies).

(3) The amount of a subsidised loan is the approved expense which is divided into two elements—

(a) an interest free element, and

(b) a repayment element.

(4) The amount of the interest free element is the greater of—

(a) the approved expense less the applicant's contribution (if any), or

(b) where subsection (6) applies, the amount determined by virtue of that subsection.

(5) The amount of the repayment element is the approved expense less the amount of the interest free element.

(6) In such cases as the Scottish Ministers may specify in regulations, the amount for the purposes of subsection (1)(b) and (4)(b) is such percentage of the approved expense as may be so specified or such other percentage as a local authority may, with the consent of the Scottish Ministers, determine.

(7) Where the amount of a grant or of the interest free element of a subsidised loan is determined by virtue of subsection (6), the grant or subsidised loan is referred to in this Part as a "minimum percentage" grant or loan.

VALID FROM 01/04/2009

80 Terms of loan

(1) A loan may be made on such terms as the local authority thinks fit.

(2) Those terms may include—

(a) terms as to interest, other charges and repayment,

(b) a requirement that the loan, and any such interest and charges, be secured by a standard security over the land on or premises in which the work to which the loan relates is carried out.

(3) But, despite subsection (1)—

(a) no interest or other charge is to be payable in respect of the interest free element of a subsidised loan,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) the local authority may not demand repayment of that element of such a loan (or any part of it) unless the applicant to whom the loan is paid disposes of an interest in the land or premises, and

(c) the repayment element of such a loan is to be repaid in instalments of such amounts and at such times as the authority may determine.

(4) For the purposes of this section, a person is to be treated as disposing of an interest in any land or premises if—

(a) the person disposes of the land or premises (or any part of it or them) by way of sale, exchange or gift, or by way of the creation of any right or privilege over that interest or by any other way except by way of lease, the grant of a standard security or other charge or the creation of a servitude, or

(b) where the person holds an interest as tenant, the person ceases to be entitled to occupy the land or premises as tenant.

VALID FROM 01/04/2009

81 Notification of decisions

(1) On approving an application for a grant or loan the local authority must notify the applicant of—

(a) the approved expense,

(b) the applicant's contribution (where it has been assessed under section 77),

(c) the amount of the grant or loan (and, where the grant or loan is a minimum percentage grant or loan, a statement of that fact), and

(d) the terms (including, in the case of a loan, terms as to interest and repayment) on which the grant or loan is offered.

(2) Where the applicant is not the owner of the land on or premises in which the work to which the application relates is to be, or is being, carried out, the local authority must notify the owner of the matters mentioned in subsection (1)(c) and (d).

(3) In relation to a loan the notice must also advise the applicant to obtain independent advice from a suitably qualified person on the terms on which the loan is offered.

(4) Where an authority—

(a) refuses an application, or

(b) approves an application but fixes as the approved expense in respect of any land or premises an amount less than the amount of the expense estimated in the application or, as the case may be, the proportion of that expense specified in the application in respect of that land or those premises (unless the approved expense is the maximum amount which may be fixed by virtue of an order made under section 76(4)),

it must notify the applicant of the reasons for its decision.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

VALID FROM 01/04/2009

82 Payment of grants and loans

(1) A local authority must, if the conditions mentioned in subsection (2) are satisfied, pay a grant or loan—

(a) within one month of the date on which, in the authority's opinion, the house to which the grant or loan relates becomes fit for occupation on completion of the work to which the grant or loan relates, or

(b) by instalments during the carrying out of the work and a final instalment within one month of that date.

(2) Those conditions are—

(a) that the work has been carried out to the satisfaction of the authority, and

(b) in the case of a loan to be secured by a standard security, that the security has been registered in the appropriate land register.

(3) Where payment of a loan is by instalments, subsection (2)(b) applies to payment of the first instalment.

(4) The payment of an instalment is conditional on the part of the work which the authority considers will entitle the applicant to payment of the instalment having been carried out to the satisfaction of the authority.

(5) The aggregate of instalments of a grant paid before the completion of the work must not at any time exceed the sum calculated using the following formula—

$$\frac{G}{A} \times W$$

where—
G is the amount of the grant,
A is the approved expense, and
W is the amount of the approved expense referable to the work carried out up to that time.

(6) Subsection (7) applies where—

(a) an instalment of a grant or loan is paid before completion of the work, and

(b) the work is not completed within 12 months of the date of payment.

(7) Where this subsection applies, the applicant to whom the instalment is paid must, if the authority so requires, repay to the authority the instalment and any subsequent instalments together with interest from the date on which each instalment was paid at such rate as the authority may determine.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

VALID FROM 01/04/2009

Grants and loans: conditions

83 Conditions applicable on completion of work

(1) Conditions A to D apply for the period mentioned in subsection (3) with respect to any land on or premises in which work to which an approved grant or loan relates is carried out.

(2) But conditions A and B do not apply where the work is carried out on land or in any premises which is not a house (unless that land is or, as the case may be, those premises are converted by the work into a house).

(3) That period is the period—

(a) beginning with the date on which the work is completed (which cannot be before the house to which the grant or loan relates becomes, in the authority's opinion, fit for occupation), and

(b) ending—

(i) in the case of a grant, 10 years after that date,

(ii) in the case of a subsidised loan, 10 years after that date or on the date on which the repayment element of the loan and any interest or other charge on it is repaid in full, whichever is the later,

(iii) in the case of a standard loan, on the date on which the loan and any interest or other charge on it is repaid in full.

(4) Condition A is that the house must be used as a private dwelling; but that does not prevent the use of part of the house as a shop or office or for business, trade or professional purposes.

(5) Condition B is that the house must not be occupied by the owner or a member of the owner's family (within the meaning of section 83 of the 1987 Act) except as that person's only or main residence.

(6) Condition C is that the owner of the land or premises must take all practicable steps to keep it in a good state of repair.

(7) Condition D is that the owner of the land or premises must, if required to do so by the local authority, certify that the conditions A to C are, in so far as they apply, being observed.

84 Registration of conditions

(1) On paying a grant or loan or, in the case of a grant or loan payable by instalments, the final instalment, the local authority must register notice of that fact in the appropriate land register.

(2) Subsection (1) does not apply where the applicant for the grant or loan was a tenant-at-will (within the meaning of section 20(8) of the Land Registration (Scotland) Act 1979 (c. 33)) unless the applicant has, since applying, acquired the landlord's interest in the tenancy.

(3) But in that case the local authority must keep a written record.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(4) A notice under subsection (1) and a written record under subsection (3) must specify—

(a) the conditions mentioned in section 83 which apply with respect to the land or premises,

(b) the period for which they are to be complied with, and

(c) the provisions of section 86 under which, if the conditions are breached, the owner becomes liable to repay the amount repayable by virtue of that section.

(5) The applicant to whom the grant or loan is paid must pay to the local authority the amount of the expenses of registering the notice under subsection (1).

85 Discharge of conditions

(1) At any time when the conditions mentioned in section 83 require to be complied with in relation to any land or premises, the owner or a creditor in a standard security with a right to sell may pay to the local authority the sum which would be payable by virtue of section 86 in the event of a breach of those conditions.

(2) The reference in subsection (1) to a "right to sell" is a reference to the right of the creditor to sell the land or premises under—

(a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), or

(b) a warrant granted under section 24(1) of that Act.

(3) On the making of the payment observance of those conditions ceases to be required.

(4) Where, following a breach of any of those conditions, the local authority demands payment under section 86(1), observance of the conditions mentioned in section 83 ceases to be required.

(5) On the making of a payment referred to in subsection (3) or a demand for payment referred to in subsection (4) the authority must—

(a) if a notice was registered under subsection (1) of section 84, register a further notice in the appropriate land register,

(b) if a written record was kept under subsection (3) of that section, amend that record,

specifying that observance of the conditions is no longer required.

(6) The owner for the time being of the land or premises must pay to the local authority the amount of the expenses of registering the notice under subsection (5).

(7) A sum paid under subsection (1) by a creditor in a standard security forms part of the sum secured by the standard security.

86 Breach of conditions of grant or loan

(1) In the event of a breach of any of the conditions mentioned in section 83 which apply to any land or premises, the local authority must, subject to subsections (2) to (4), demand from the owner for the time being of the land or premises payment of the sums specified in section 87.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) If the authority is satisfied that the breach of any condition can be remedied it may, with the consent of the Scottish Ministers and subject to any conditions imposed by them, suspend the operation of subsection (1) for such period as they consider necessary to enable the breach to be remedied.

(3) If the breach is remedied within that period the authority may direct that the breach is to be disregarded for the purposes of this section.

(4) If the authority—

(a) considers that the breach cannot be remedied, but

(b) is satisfied that it was not due to the act, default or connivance of the owner for the time being of the land or premises,

it may, with the consent of the Scottish Ministers and subject to any conditions approved by them, direct that the breach is to be disregarded for the purposes of this section.

(5) On the application of the authority the sheriff within whose jurisdiction the land is, or premises are, situated may, whether or not any other relief is claimed, grant an interdict restraining a breach or apprehended breach of any of those conditions.

87 Calculation of amount to be paid on breach of conditions

(1) In the case of a grant, the sums mentioned in section 86(1) are—

(a) the whole amount of the grant in relation to the work in question, and

(b) interest on the grant accruing from the date of its payment or, where it was paid by instalments, from the date of payment of the final instalment to the date on which the amount mentioned in paragraph (a) is paid.

(2) In the case of a standard loan, those sums are—

(a) the whole amount of the loan in relation to the work in question, and

(b) any interest or other charge on the loan which has accrued to the date on which the amount mentioned in paragraph (a) is paid and which remains outstanding on that date.

(3) In the case of a subsidised loan, those sums are—

(a) the whole amount of—

(i) the repayment element, and

(ii) the interest free element,

of the loan in relation to the work in question,

(b) any interest or other charge on the repayment element which has accrued to the date on which the amount mentioned in paragraph (a)(i) is paid and which remains outstanding on that date, and

(c) any interest or other charge on the interest free element, for which the applicant would have been liable had that element been treated as forming part of the repayment element and which would have accrued to the date on which the amount mentioned in paragraph (a)(ii) is paid.

(4) The reference to "interest" in subsection (1)(b) is to compound interest at such reasonable rate as the local authority determines and with yearly rests.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

VALID FROM 01/04/2009

Miscellaneous and supplementary

88 Limitation on further grant and loan applications

(1) Where an application for a grant or subsidised loan has been approved in respect of any work—

(a) a local authority must not approve a further grant or, as the case may be, subsidised loan in respect of the same work, but

(b) where an application for a grant has been approved, a local authority may approve an application for a standard loan in respect of the same work for an amount not exceeding the amount of the approved expense less the amount of the grant.

(2) Where an application for a grant or a subsidised loan has been approved in respect of any work, the local authority must not, within the period of 10 years beginning with the date on which the application was approved, approve a further application for a grant or subsidised loan in respect of the land on or premises in which the work is carried out unless it is satisfied that at least one of the conditions set out in subsection (3) applies.

(3) Those conditions are—

(a) that the need for the work to which the further application relates was not reasonably foreseeable when the original application was approved,

(b) that it would not have been reasonably practicable to carry out that work at the same time as the work to which the original application related,

(c) that the work to which the further application relates was not considered by the authority to be eligible for a grant or subsidised loan when the original application was approved,

(d) the application is made in response to an invitation made by the authority to the applicant under section 90(1).

89 Grant and loan applications: offences

(1) A person who—

(a) knowingly or recklessly makes a statement—

(i) in an application for a grant or loan, or

(ii) in response to a requirement made under section 74(4),

which is false in a material particular, or

(b) fails, without reasonable excuse, to notify the local authority, as soon as reasonably practicable, of any change of circumstances which—

(i) occurs prior to notification of the authority's decision on an application for a grant or loan being given to that person, and

(ii) that person could reasonably be expected to regard as material to the application,

is guilty of an offence.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

90 Work to improve energy efficiency and safety

(1) Where—

(a) an application for a grant or loan has been made in respect of work in any premises, and

(b) the local authority considers that those premises will, on completion of that work—

(i) where the premises are a house, meet the tolerable standard, and

(ii) in any case, be in a reasonable state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the premises,

the local authority may invite an application (or, as the case may be, a further application) for a grant or subsidised loan in respect of any work in those premises of the type specified in subsection (2).

(2) The work in respect of which such an invitation may be made is—

(a) in the case of a house—

(i) replacement of unsafe electrical wiring,

(ii) installation of mains-powered smoke detectors,

(iii) provision of adequate thermal insulation, and

(b) in the case of any premises any part of which is owned in common, installation of—

(i) a fire-resistant door at the entry to each place forming part of those premises which is, or which is capable of being, occupied separately,

(ii) a main door entry-phone system.

91 Local authority payments to not for profit lenders

(1) A local authority may make payments to a designated lender for the purposes of enabling or assisting the lender to lend sums to individuals to assist them with—

(a) the acquisition or sale (or the proposed acquisition or sale) of a house, or

(b) work on any land or any premises for any of the purposes mentioned in section 71(2).

(2) A designated lender is an organisation which—

(a) carries on a business providing such assistance, and

(b) does not carry on that business for profit.

(3) Payments made under subsection (1) may be subject to such terms as the authority thinks fit.

(4) Those terms may include—

(a) terms as to repayment,

(b) terms restricting the terms on which the designated lender lends sums to individuals.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) The Scottish Ministers may, by regulations—

(a) amend the definition of "designated lender" in subsection (2),

(b) make provision as to the terms which may be imposed under subsection (3) (including provision restricting or requiring the imposition of a term).

VALID FROM 01/04/2009

Special cases

92 Tenants

A tenant is not eligible for a grant or loan unless the work to which the grant or loan relates—

(a) has, for the period of 2 years preceding the tenant's application, been the tenant's responsibility under the tenancy,

(b) is for either of the purposes set out in paragraphs (e) and (f) of section 71(2), or

(c) is required as a matter of urgency for the health, safety or security of the occupants of a house, including, in particular, work to—

(i) repair a house,

(ii) provide means of escape from fire or other fire precautions.

93 Application to agricultural tenants etc.

(1) For the purposes of this Part, where the condition in subsection (2) is satisfied, a tenant, crofter, landholder or statutory small tenant is deemed to be the owner of any land or premises on the person's farm, croft or holding.

(2) That condition is that, on the termination of the tenancy, the person would be entitled to compensation for the work to which the grant or loan relates under the Agricultural Holdings (Scotland) Act 1991 (c. 55), the Agricultural Holdings (Scotland) Act 2003 (asp 11), the Crofters (Scotland) Act 1993 (c. 44) or the Small Landholders (Scotland) Acts 1886 to 1931 as for an improvement.

(3) Where by virtue of subsection (1) a grant or subsidised loan is made to a crofter, a landholder or a statutory small tenant in respect of work in relation to land or premises on the person's farm, croft or holding, the local authority must intimate to the landlord of the croft or holding that the grant or loan has been made, and the amount.

(4) Subsection (5) applies where—

(a) compensation becomes payable as for an improvement under the Crofters (Scotland) Act 1993 (c. 44) or the Small Landholders (Scotland) Acts 1886 to 1931 in respect of a house, or for work carried out in relation to a house, provided on a farm, croft or holding, and

(b) under section 83, conditions must at that time be observed with respect to the house otherwise than by its landlord.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) The amount specified in subsection (6) is to be deducted from the amount of compensation which would be payable but for this subsection.

(6) That amount is—

(a) where a grant was made in relation to the house, so much of the value of the house or work as is attributable to the grant, or

(b) where a subsidised loan was made in relation to the house, so much of the value of the house or work as is attributable to the interest free element of that loan.

(7) The landlord of a farm, croft or holding on which there is land or premises with respect to which conditions under section 83 must for the time being be complied with is not entitled to receive any sum by way of rent or otherwise in respect of so much of the value of the house or work as is attributable to the grant or subsidised loan.

VALID FROM 01/04/2009

Supplementary

94 Directions and guidance

(1) The Scottish Ministers may give directions to local authorities in relation to the provision of assistance under this Part.

(2) Directions under subsection (1) may, in particular, with a view to preventing the duplication of the making of grants or loans in respect of the same work, make provision as to the circumstances in which local authorities—

(a) may or may not exercise their powers, or

(b) are or are not to perform their duties,

under this Part.

(3) A direction under subsection (1) may be—

(a) given to a particular authority or to authorities generally,

(b) varied or revoked.

(4) A direction under subsection (1) may not relate to the provision of assistance to a particular person or in relation to particular premises.

(5) In exercising its functions under this Part, a local authority must have regard to any guidance issued by the Scottish Ministers.

(6) Before issuing any such guidance the Scottish Ministers must consult—

(a) such bodies representing local authorities, and

(b) such other persons,

as they think fit.

(7) The Scottish Ministers may vary or revoke any such guidance.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

95 Local authority powers for improvement of amenity of an area

(1) For the purpose of improving the amenity of a predominantly residential locality in its area, a local authority may—

(a) carry out any work on any land or in any premises owned by it,

(b) assist (whether by grants or loans or otherwise) in the carrying out of work on any land or in any premises not owned by it,

(c) with the agreement of the owner of any land or premises carry out or arrange for the carrying out of work on that land or in those premises at the expense of the owner, of the authority or of both,

(d) acquire any land or premises—

(i) by agreement, or

(ii) with the authorisation of the Scottish Ministers, compulsorily.

(2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) applies in relation to an acquisition under subsection (1)(d)(ii) as if that provision were contained in an Act of Parliament in force immediately before the commencement of that Act (with references in that Act to land being read, in the case of an acquisition of premises, as references to those premises).

(3) Assistance may be provided under subsection (1)(b) on such terms as the local authority thinks fit.

(4) This section does not apply in relation to—

(a) any house, or

(b) any part of any premises which is a building which is, or which is capable of being, occupied.

96 Application of this Part to the Scottish Ministers

Any power of a local authority to make grants or loans (including the powers to make payments under section 91(1) and to provide assistance under section 95(1)(b)), and any function of a local authority in relation to the making of grants or loans, under this Part is exercisable by the Scottish Ministers as it is by the local authority.

97 Interpretation of Part 2

(1) In this Part—

"applicant's contribution" means an amount assessed under section 77,

"approved expense" has the meaning given in section 76,

"interest free element" means an amount determined under section 79(4),

"minimum percentage grant" and "minimum percentage loan" have the meanings given in section 79(7),

"repayment element" means an amount determined under section 79(5),

"standard loan" means a loan made under this Part which is not a subsidised loan,

"subsidised loan" means a loan made under this Part which is divided into two elements in accordance with section 79(3).

(2) In this Part—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) references to grants or loans (excluding the reference in section 95(1)(b)) are to grants or loans provided under section 71(1), and

(b) references to the applicant for a grant or loan are to be read, in relation to any time after an applicant dies, as references to the applicant's executor.

PART 3

PROVISION OF INFORMATION ON SALE OF HOUSE

VALID FROM 01/12/2008

Duty to have or provide information about houses on the market

98 Duty to have information about a house which is on the market

A person who is responsible for marketing a house which is on the market must possess the prescribed documents in relation to the house.

Commencement Information
I7 S. 98 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

99 Duty to provide information to potential buyer

(1) A person who is responsible for marketing a house which is on the market must comply with any request by a potential buyer for a copy of any or all of the prescribed documents in relation to the house.

(2) Such a request must be complied with within such period as the Scottish Ministers may by regulations specify ("the permitted period").

(3) The duty under subsection (1) does not apply if the person responsible for marketing the house reasonably believes that the person making the request—

(a) is unlikely to have sufficient means to buy the house in question,

(b) is not genuinely interested in buying the house, or

(c) is not a person to whom the seller is likely to be prepared to sell the house.

(4) Nothing in subsection (3) authorises the doing of anything which is an unlawful act of discrimination.

(5) Subsection (3) does not apply if the person responsible for marketing the house knows or suspects that the person making the request is an officer of an enforcement authority.

(6) The person responsible for marketing the house may charge a sum not exceeding the reasonable cost of making and, if requested, sending a paper copy of any prescribed documents requested under subsection (1).

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(7) If the person responsible for marketing the house ceases to be so responsible before the end of the permitted period (whether because the house has been sold, taken off the market or for any other reason), that person ceases to be under any duty to comply with a request made under subsection (1).

(8) A person does not comply with the duty under subsection (1) by providing a copy in electronic form unless the potential buyer consents in writing to receiving it in that form.

Commencement Information

I8 s. 99 not in force at Royal Assent see s. 195(3); s. 99 in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**

I9 S. 99 in force at 1.12.2008 in so far as not already in force by S.S.I. 2008/308, **art. 3** (with art. 4)

100 Imposition of conditions on provision of information

(1) A potential buyer who has made a request to which section 99(1) applies may be required to comply with either or both of the following conditions before a copy is provided.

(2) The potential buyer may be required to pay a charge authorised by section 99(6).

(3) The potential buyer may be required to accept any terms specified in writing which—

(a) are proposed by the seller or in pursuance of the seller's instructions, and

(b) relate to the use or disclosure of the copy (or any information contained in or derived from it).

(4) A condition is effective only if it is notified to the potential buyer before the end of the permitted period.

(5) Where the potential buyer has been so notified of either or both of the conditions authorised by this section, the permitted period for the purposes of section 99(2) is to run afresh beginning with—

(a) where one condition only is involved, the day on which the potential buyer complies with it by making the payment demanded or, as the case may be, accepting the terms proposed (or such other terms as may be agreed between the seller and the potential buyer in substitution for those proposed), or

(b) where both conditions are involved, the day on which the potential buyer complies with them or, where each condition is complied with on a different day, the later of those days.

Commencement Information

I10 S. 100 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

101 Other duties of person acting as agent for seller

(1) This section applies to a person acting as agent for the seller of a house where—

(a) the house is not on the market, or

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) the house is on the market but the person so acting is not responsible for marketing the house.

(2) A person to whom this section applies must possess the prescribed documents in relation to a house when any qualifying action is taken by or on behalf of that person.

(3) In subsection (2) "qualifying action" means action taken with the intention of marketing the house which—

(a) communicates to any person the fact that the house is or may become available for sale, but

(b) does not put the house on the market.

Commencement Information

I11 S. 101 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

102 Acting as agent

(1) A person acts as agent for the seller of a house if the person does anything in the course of a business in pursuance of marketing instructions from the seller.

(2) In subsection (1) "marketing instructions" means instructions to carry out any activities with a view to—

(a) effecting the introduction to the seller of a person wishing to buy the house, or

(b) selling the house by auction.

Commencement Information

I12 S. 102 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

103 Duty to ensure authenticity of documents held under section 98 or 101

(1) This section applies to a person who is subject to the duty in section 98 or 101(2).

(2) Where such a person—

(a) provides a potential buyer with, or

(b) allows a potential buyer to inspect,

a copy of a prescribed document (or a part of such a document), that person must ensure that the copy is authentic.

Commencement Information

I13 S. 103 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Prescribed documents

104 Information to be held or provided to potential buyers

(1) The Scottish Ministers may by regulations—

(a) prescribe documents for the purposes of section 98, 99(1) or 101(2), and

(b) make such further provision about those documents as they think fit.

(2) A document may be prescribed under subsection (1) only if the Scottish Ministers consider that it discloses information about—

(a) the physical condition of a house (including any characteristics or features of the house),

(b) the value of a house, or

(c) any other matter connected with a house, or the sale of a house, that would be of interest to potential buyers.

(3) Regulations under subsection (1) may, in particular, make provision—

(a) about the form of, and the information to be included in, or excluded from, a prescribed document,

(b) requiring that a prescribed document be prepared by a person of a description specified in the regulations,

(c) requiring that the date to which information in a prescribed document relates is no earlier than the beginning of such period as the regulations may specify before the date on which the house was put on the market,

(d) requiring that a prescribed document is to be valid for such period of time, or is to be invalidated in such circumstances, as the regulations may specify.

(4) Regulations under subsection (1) may also make provision for and in connection with the registration of prescribed documents and may, in particular, make provision—

(a) for a register of prescribed documents to be kept by the Scottish Ministers or such other person as the regulations may specify (or for the keeping of 2 or more such registers),

(b) authorising the Scottish Ministers to make payments or to give other assistance in connection with the creation, administration or operation of such a register,

(c) requiring persons of such type as may be so specified to register prescribed documents in such circumstances as may be so specified,

(d) about the circumstances and manner in which, and the purposes for which, information contained in such a register may be inspected, copied or otherwise obtained,

(e) setting the amount, or the maximum amount, of any fee which may be charged in connection with registering documents or with inspecting or obtaining information contained in such a register,

(f) for enforcement by enforcement authorities of any requirement to register prescribed documents.

Commencement Information

I14 s. 104 not in force at Royal Assent see s. 195(3); s. 104 in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Exceptions from duty

105 Exceptions from duty to have or provide information

The Scottish Ministers may by regulations—

(a) exempt persons of such description as the regulations may specify from any of the duties in section 98, 99(1) or 101(2),

(b) specify periods of time during which or circumstances under which—

(i) a person need not possess any prescribed document under section 98 or section 101(2), or

(ii) a person need not comply with a request under section 99(1),

(c) set out such other exceptions to the duties mentioned in paragraph (a) as may be so specified.

Commencement Information

I15 s. 105 not in force at Royal Assent see s. 195(3); s. 105 in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**

VALID FROM 01/12/2008

Responsibility for marketing houses

106 Responsibility for marketing: general

(1) Only the seller or a person acting as agent for the seller may be responsible for marketing the house.

(2) A seller is not so responsible if any person is acting as agent for the seller.

(3) But a seller who—

(a) is not responsible because of subsection (2), and

(b) reasonably believes that the person acting as agent for the seller possesses the prescribed documents,

must take reasonable steps to inform a potential buyer that a request under section 99(1) should be made to the person acting as agent.

(4) A person may be responsible for marketing the house on more than one occasion.

Commencement Information

I16 S. 106 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

107 Responsibility of person acting as agent

(1) A person acting as agent becomes responsible for marketing the house when action taken by or on behalf of that person results in the house being on the market.

(2) That responsibility ceases when—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) the house is sold or taken off the market, or

(b) each of the conditions in subsection (3) is satisfied.

(3) Those conditions are that—

(a) the contract between the person acting as agent and the seller is terminated (whether by withdrawal of marketing instructions or otherwise),

(b) the person acting as agent has ceased to take any action which makes public the fact that the house is on the market, and

(c) any such action being taken on behalf of the person acting as agent has ceased.

Commencement Information

I17 S. 107 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

108 Responsibility of seller

(1) A seller becomes responsible for marketing the house when action taken by or on behalf of the seller results in the house being on the market.

(2) That responsibility ceases when—

(a) the house is sold or taken off the market, or

(b) the conditions in subsection (3) are satisfied.

(3) Those conditions are that—

(a) the seller has ceased to take any action which makes public the fact that the house is on the market, and

(b) any such action being taken on behalf of the seller has ceased.

(4) In this section references to action taken on behalf of the seller exclude action taken by or on behalf of a person acting as the seller's agent.

Commencement Information

I18 S. 108 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

Enforcement

109 Enforcement authorities

(1) Every local weights and measures authority is an enforcement authority for the purposes of this Part.

(2) It is the duty of each enforcement authority to enforce this Part in their area.

Commencement Information

I19 S. 109 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

110 Power to require production of prescribed documents

(1) An authorised officer of an enforcement authority may require a person who appears to the officer to be or to have been subject to the duty under section 98, 99(1) or 101(2) in relation to a house to produce for inspection a copy of any prescribed document in relation to the house.

(2) The power conferred by subsection (1) includes power—

(a) to require the production in a legible documentary form of any document which is held in electronic form, and

(b) to take copies of any document produced for inspection.

(3) A requirement under this section may not be made more than 6 months after the last day on which the person concerned appeared to the officer to be subject to the duty under section 98, 99(1) or 101(2) in relation to the house.

(4) A person subject to a requirement under this section must comply with it within the period of 7 days beginning with the day after that on which it is made.

(5) But a person need not comply with the requirement if the person has a reasonable excuse for not complying with it.

Commencement Information

I20 S. 110 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

111 Penalty charge notices

(1) An authorised officer of an enforcement authority may, if the officer believes that a person has breached any duty under section 98, 99(1), 101(2) or 103(2), give a penalty charge notice to that person.

(2) A penalty charge notice may not be given after the end of the period of 6 months beginning with the day on which it appeared to the officer that the duty was breached.

(3) Schedule 3 (which makes further provision about penalty charge notices) has effect.

(4) The Scottish Ministers may by regulations make further provision about penalty charge notices or any other notice mentioned in schedule 3.

(5) Such regulations may, in particular, include provision prescribing—

(a) the form of penalty charge notices or any other notice mentioned in that schedule,

(b) circumstances in which penalty charge notices may not be given,

(c) the methods by which penalty charge notices or any other notice must be given,

(d) the method or methods by which penalty charges may be paid.

Commencement Information

I21 S. 111 partly in force; s. 111 not in force at Royal Assent see s. 195(3); s. 111(3) in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**

I22 S. 111(1)(2)(4)(5) in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

I23 S. 111(3) in force at 1.12.2008 in so far as not already in force by S.S.I. 2008/308, **art. 3** (with art. 4)

112 Offences relating to enforcement officers

(1) A person who obstructs an authorised officer of an enforcement authority acting in pursuance of section 110 is guilty of an offence.

(2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 110 or 111 is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I24 S. 112 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

VALID FROM 01/12/2008

Duty to provide information to tenant exercising right to purchase

113 Information for tenants exercising right to purchase

(1) The 1987 Act is amended as follows.

(2) In subsection (2) of section 63 (application to purchase and offer to sell)—
(a) the word "and" immediately preceding paragraph (e) is repealed, and
(b) after that paragraph, insert—

"; and
(f) information prescribed under section 63A.".

(3) After section 63 insert—

"**63A Information to be prescribed**

(1) The Scottish Ministers may by regulations made by statutory instrument—
(a) prescribe information for the purpose of paragraph (f) of section 63(2); and
(b) make such further provision about that information as they think fit.

(2) Information prescribed under subsection (1) may include information which—
(a) provides a reasonable estimate of any costs of maintaining the house and any common parts;
(b) states how long—
(i) any common parts;
(ii) any fixtures and fittings; or

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(iii) any items in, forming part of or relating to the house as may be prescribed by the regulations,

are expected to last, including a reasonable estimate of the cost of replacing each of the things to which the information relates; and

(c) relates to any other matters which may be of interest to a tenant who has served an application to purchase.

(3) Regulations made under subsection (1) may, in particular, specify circumstances in which an offer to sell need not contain prescribed information unless the tenant pays, or undertakes to pay, to the landlord such sum as may be specified in the regulations.

(4) In this section "common parts" means any—

(a) part of the house;

(b) part of any building of which the house forms part; or

(c) other property,

which the tenant, as owner of the house, would own in common with others or would have an obligation in common with others to maintain.

(5) Regulations may not be made under subsection (1) unless a draft of the statutory instrument containing the regulations has been laid before and approved by resolution of the Scottish Parliament.".

Commencement Information

I25 S. 113 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

VALID FROM 01/12/2008

Supplementary

114 Grants for development of proposals

(1) The Scottish Ministers may make grants towards expenditure incurred by any person in connection with the development of proposals for any provision to be made by regulations under section 104(1).

(2) A grant under this section may be made on conditions, which may include (among other things)—

(a) conditions as to the purposes for which the grant or any part of it may be used,

(b) conditions requiring the repayment of the grant or any part of it in such circumstances as may be specified in the conditions.

Commencement Information

I26 S. 114 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

115 Disapplication for houses not available with vacant possession

(1) The duties under sections 98, 99, 101 and 103 apply in relation to a house only when it is available for sale with vacant possession.

(2) For the purposes of this Part, a house being marketed is presumed to be available with vacant possession unless the contrary appears from the manner in which the house is being marketed.

Commencement Information
I27 S. 115 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

116 Application of Part to sub-divided buildings

(1) This section applies where—
- (a) two or more houses in a sub-divided building are marketed for sale as a single property, and
- (b) any one or more of those houses—
  - (i) is not available for sale separately from the others, but
  - (ii) is available with vacant possession.

(2) The provisions of this Part (but not section 115) apply to the house mentioned in subsection (1)(a) as if it were a single house.

(3) Subsection (2) does not affect the application of this Part to any of those houses which are available for sale as a separate house.

(4) In this section "sub-divided building" means a building originally constructed or adapted for use as a single dwelling which has been divided (on one or more occasions) into separate houses.

Commencement Information
I28 S. 116 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

117 Notification of breach of duty

(1) An enforcement authority may notify—
- (a) the Office of Fair Trading,
- (b) any other person or body having an interest,

of any breach of duty under this Part appearing to the authority to have been committed by a person acting as agent for the seller of a house.

(2) An enforcement authority must notify the Office of Fair Trading of—
- (a) any penalty charge notice given by an officer of the authority under section 111,
- (b) any notice given by the authority confirming or withdrawing a penalty charge notice, and
- (c) the result of any appeal from the confirmation of a penalty charge notice.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

118 Possession of documents

(1) For the purposes of this Part, "possession" includes civil possession; and "possess" and "possesses" are to be construed accordingly.

(2) A document held in electronic form is to be treated for the purposes of this Part as being in a person's possession if the person is readily able (using equipment available to that person)—

(a) to view the document in a form that is legible, and

(b) to produce copies of it in a legible documentary form.

Commencement Information

I29 S. 118 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

119 Meaning of "on the market", "sale" and related expressions

(1) In this Part references to "the market" are to the market for houses in Scotland.

(2) A house is on the market when the fact that it is or may become available for sale is, with a view to marketing the house, made public in Scotland by or on behalf of the seller.

(3) A house is to be regarded as remaining on the market until it is sold or taken off the market.

(4) A fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or a section of the public.

(5) In this Part—

"long lease" means a probative lease—

(a) granted for a period exceeding 20 years, or

(b) which contains an obligation on the landlord to renew the lease from time to time at fixed periods, upon the termination of a life or lives, or otherwise so that the total duration could (in terms of the lease, as renewed, and without any subsequent agreement, express or implied, between the persons holding the interests of the landlord and the tenant) endure for a period exceeding 20 years,

"potential buyer" means a person who claims to be interested, or that the person may become interested, in buying a house,

"sale", in relation to a house, means a disposal, or agreement to dispose, by way of sale of—

(a) the ownership of the house,

(b) the interest of the tenant under a long lease of a house,

and "seller" means a person contemplating such a disposal (and related expressions are to be construed accordingly).

Commencement Information

I30 S. 119 in force at 1.12.2008 by S.S.I. 2008/308, **art. 3** (with art. 4)

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

VALID FROM 21/12/2010

PART 4

TENANCY DEPOSITS

120 Tenancy deposits: preliminary

(1) A tenancy deposit is a sum of money held as security for—

(a) the performance of any of the occupant's obligations arising under or in connection with a tenancy or an occupancy arrangement, or

(b) the discharge of any of the occupant's liabilities which so arise.

(2) A tenancy deposit scheme is a scheme for safeguarding tenancy deposits paid in connection with the occupation of any living accommodation.

121 Tenancy deposit schemes: regulatory framework

(1) The Scottish Ministers may by regulations ("tenancy deposit regulations")—

(a) set out conditions which a tenancy deposit scheme must meet before they can approve it under section 122,

(b) make such further provision about tenancy deposit schemes as they think fit.

(2) Tenancy deposit regulations may, in particular—

(a) make provision about the manner and circumstances in which tenancy deposits must be paid, held and repaid under an approved scheme,

(b) impose sanctions for failing to participate in, or to comply with, an approved scheme,

(c) set out a mechanism for resolving disputes relating to an approved scheme,

(d) prescribe the type of person who may administer an approved scheme,

(e) authorise the Scottish Ministers to make payments, or to give guarantees or other assistance, in connection with—

(i) the creation, administration or operation of an approved scheme,

(ii) the resolution of disputes relating to an approved scheme,

(f) set the amount, or the maximum amount, of any fee which may be charged in connection with an approved scheme,

(g) prescribe arrangements for publicising approved schemes.

(3) But tenancy deposit regulations may not—

(a) prescribe circumstances in which tenancy deposits must be paid under a tenancy or an occupancy arrangement,

(b) create offences.

122 Approval of tenancy deposit schemes

(1) The Scottish Ministers may approve a tenancy deposit scheme devised by them or by any other person.

(2) Such an approval—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) may not be given unless tenancy deposit regulations are in force, and

(b) must be given in accordance with the tenancy deposit regulations then in force.

(3) Before approving a tenancy deposit scheme, the Scottish Ministers must—

(a) publicise the terms of the proposed scheme in such manner as they think fit, and

(b) consult—

(i) such persons representing landlords or tenants whom they think may be affected by the proposed scheme, and

(ii) such other persons as they think fit,

about the proposed scheme.

(4) The Scottish Ministers must review each approved tenancy deposit scheme from time to time and may, following any such review—

(a) take steps to secure the revision of the reviewed scheme, or

(b) withdraw their approval of the reviewed scheme.

(5) Subsections (1) to (4) apply to revised schemes in the same way as they apply to new schemes (except that that the duty imposed by subsection (3) does not apply if the Scottish Ministers think that a proposed revision is unlikely to adversely affect any person significantly).

(6) The Scottish Ministers may approve—

(a) different tenancy deposit schemes for different types of tenancy or occupancy arrangement,

(b) more than one tenancy deposit scheme for the same type of tenancy or occupancy arrangement.

123 Amendment of Rent (Scotland) Act 1984

In section 90(3) (declaration that deposits are not premiums) of the Rent (Scotland) Act 1984 (c. 58), after "obligations" insert " for rent, ".

VALID FROM 31/08/2011

PART 5

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Introductory

124 Requirement for HMOs to be licensed

(1) Every house in multiple occupation ("HMO") must be licensed under this Part unless it is exempted by or under section 126, 127 or 142.

(2) A licence under this Part (an HMO licence) is a licence granted by a local authority authorising occupation of living accommodation as an HMO.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Meaning of "house in multiple occupation"

125 Meaning of "house in multiple occupation"

(1) **[**[F1]HMO" means any living accommodation**]** occupied by 3 or more persons who are not all members of the same family or of one or other of two families **[**[F2]

(a) which—

(i) falls within subsection (2), and

(ii) is occupied by those 3 or more persons as an only or main residence, or

(b) which is of such type, or which is occupied in such manner, as the Scottish Ministers may by order specify.**]**

[[F3](1A) Before making an order under subsection (1)(b), the Scottish Ministers must consult—

(a) local authorities, and

(b) such tenants (or tenants' representatives) and such landlords (or landlords' representatives) as they think fit.**]**

(2) Living accommodation falls within this subsection if—

(a) it is a house, or

(b) it is, or forms part of, any premises or group of premises owned by the same person and its occupants share one or more of the basic amenities with each other.

(3) The "basic amenities" are—

(a) a toilet,

(b) personal washing facilities, and

(c) facilities for the preparation or provision of cooked food.

(4) For the purposes of this section—

[F4](a) . . . . . .

(b) living accommodation occupied during term time by a person undertaking a full-time course of further or higher education is, at all times during that person's residence, to be treated as being that person's only or main residence,

(c) a patient in a health service hospital (within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29)) is not to be treated as occupying the hospital,

(d) a person is not to be treated as sharing a basic amenity if the living accommodation concerned has more than one of any such amenity and the person has exclusive use of at least one of them.

Textual Amendments

F1 Words in s. 125(1) substituted (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 13(1)(a)(i)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

F2 S. 125(1)(a)(b) and word inserted (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 13(1)(a)(ii)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

F3 S. 125(1A) inserted (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 13(1)(b)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

F4 S. 125(4)(a) repealed (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 13(1)(c)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

Commencement Information

I31 S. 125 in force at 31.8.2011 by S.S.I. 2010/159, **art. 3**

126 HMOs exempt from licensing requirement

(1) An HMO is exempt from the requirement to be licensed under this Part if it is—

(a) occupied only by the owners of the HMO either alone or together with—

(i) any persons in the same family as any of those owners, and

(ii) any number of other persons who are unrelated to any of those owners but who are members of the same family or of one or other of two families,

(b) provided as part of—

(i) a care home service,

(ii) an independent health care service,

(iii) a school care accommodation service, or

(iv) a secure accommodation service,

registered under **[**[F5]Part 5 of the Public Services Reform (Scotland) Act 2010**][**[F6]or, as the case may be, under section 10Q(1) of the National Health Service (Scotland) Act 1978 (c.29)**]**

(c) owned by the Crown and occupied only by members of the armed forces of the Crown (either alone or together with any persons in the same family as any of those members),

(d) a prison, a young offenders institution or a remand centre,

(e) occupied only by—

(i) persons who are members of, and fully maintained by, a religious order the main occupation of which is prayer, contemplation, education or the relief of suffering, or

(ii) a group consisting of such persons and no more than two other persons,

(f) subject to a management control order made under section 74 (order transferring landlord's rights and obligations to local authority) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or

(g) owned by a co-operative housing association (within the meaning of section 300(1)(b) of the 1987 Act) the management of which is undertaken by general meeting.

(2) The Scottish Ministers may by order amend subsection (1) by—

(a) adding or removing the description of any type of HMO to or from those descriptions for the time being listed in that subsection, or

(b) varying any such description which is for the time being so listed.

Textual Amendments

F5 Words in s. 126(1)(b) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 1 para. 17**

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

F6 Words in s. 126(1)(b) inserted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 2 para. 10**

127 Power to designate HMOs capable of being exempted by local authorities

(1) The Scottish Ministers may by order describe types of HMOs which may be exempted by a local authority from the requirement to be licensed under this Part.

(2) A local authority may by order exempt from the requirement to be licensed under this Part any HMO of a type described in an order made under subsection (1) which is situated in—

(a) the authority's area, or

(b) any part of that area as may be specified in the order,

and the local authority may vary or revoke such an order at any time.

(3) The local authority must give notice of any order it makes, or of any variation or revocation, under subsection (2)—

(a) in a newspaper circulating in the authority's area, and

(b) to every person entered in the register maintained by the authority under section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (the "register of landlords").

(4) The local authority must serve a copy of any notice given under subsection (3)(b) on any other person who—

(a) acts for the person to whom the notice is given, and

(b) is specified in the authority's register of landlords as being a person who so acts,

but failure to comply with this subsection does not invalidate the related notice given under subsection (3)(b).

(5) Where—

(a) an order made by the Scottish Ministers under subsection (1) is revoked, or

(b) any description of a type of HMO set out in such an order is amended,

an order made by a local authority under subsection (2) ceases to have effect in so far as it relates to any type of HMO which may no longer be exempted by an order under subsection (2).

128 Relationships

(1) Persons are to be treated as being in the same family as, and as being related to, each other for the purposes of this Part only if—

(a) they are a couple,

(b) one of them is a relative of the other, or

(c) one of them is a relative of one member of a couple and the other is a relative of the other member of that couple.

(2) For the purposes of subsection (1)—

(a) a "couple" means two persons who—

(i) are married or are civil partners, or

(ii) live together as husband and wife or, where they are of the same sex, in an equivalent relationship,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece,

(c) a relationship by the half-blood is to be treated as a relationship of the whole blood,

(d) the stepchild of a person is to be treated as that person's child, and

(e) a person brought up or treated by another person as if the person were that other person's child (including any person placed with that other person, or with that other person's family, under section 26(1)(a) of the Children (Scotland) Act 1995 (c. 36)) is to be treated as that other person's child.

Application for HMO licence

129 Application for HMO licence

(1) An application to a local authority for an HMO licence may be made only by an owner of the living accommodation concerned.

(2) The local authority may determine an application for an HMO licence by—

(a) granting the HMO licence (with or without conditions), or

(b) refusing to grant the HMO licence.

(3) Schedule 4 makes provision about procedural requirements relating to an application for an HMO licence.

130 Suitability of applicants and agents

(1) The local authority must refuse to grant an HMO licence if—

(a) any of the persons mentioned in subsection (2) is disqualified by an order made under section 157(2), or

(b) the authority considers that any of those persons is not a fit and proper person to be authorised to permit persons to occupy any living accommodation as an HMO.

(2) Those persons are—

(a) the applicant,

(b) any agent specified in the application, and

(c) where the applicant or agent is not an individual, any director, partner or other person concerned in the management of the applicant or agent.

(3) Section 85 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) applies to a local authority in deciding whether a person is a fit and proper person for the purposes of subsection (1)(b) as it applies to the authority when it is deciding whether a person is a fit and proper person for the purposes of section 84(3) or (4) of that Act.

131 Suitability of living accommodation

(1) The local authority may grant an HMO licence only if it considers that the living accommodation concerned—

(a) is suitable for occupation as an HMO, or

(b) can be made so suitable by including conditions in the HMO licence.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) In determining whether any living accommodation is, or can be made to be, suitable for occupation as an HMO the local authority must consider—

(a) its location,

(b) its condition,

(c) any amenities it contains,

(d) the type and number of persons likely to occupy it,

(e) the safety and security of persons likely to occupy it, and

(f) the possibility of undue public nuisance.

132 Restriction on applications

(1) Where a local authority refuses to grant an HMO licence the local authority may not consider a further application for an HMO licence by the same applicant—

(a) in relation to the living accommodation concerned, or

(b) where the application was refused because of section 130(1)(b), in relation to any living accommodation,

within one year of the date on which notice of the refusal is given to the applicant under section 158.

(2) This section does not prevent the local authority from considering a further application for an HMO licence where it is satisfied that there has been a material change of circumstances.

Terms of HMO licence

133 Conditions

(1) An HMO licence may include such conditions as the local authority thinks fit.

(2) The Scottish Ministers may by order require local authorities to include in HMO licences of such description as may be specified in the order such conditions as may be so specified.

(3) A condition included in an HMO licence may specify a date from which that condition is to have effect (and section 134(1) or, as the case may be, 138(8) is of no effect in so far as it purports to bring any condition which specifies such a date into effect before that date).

(4) Where an HMO licence includes, or is varied to include, a condition which requires work to be carried out in any living accommodation, the condition must also specify the date by which that work must be completed.

(5) No date may be specified for the purposes of subsection (3) or (4) which would—

(a) cause a condition of an HMO licence to have effect, or

(b) require the work required by such a condition to be completed,

before the date by which the local authority reasonably considers that the licence holder can secure compliance with the condition or, as the case may be, complete the work.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

134 Duration of HMO licence

(1) An HMO licence—

(a) has effect from, and

(b) expires 3 years (or such shorter period of not less than 6 months as may be specified in the licence) after,

the latest of the dates set out in subsection (2).

(2) Those dates are—

(a) the date on which notice of the decision to grant it is served on the licence holder under section 158,

(b) where the local authority was required to consider a valid written representation, or decided to consider a late written representation, about the application for the HMO licence—

(i) the last date on which the decision to grant the HMO licence may be appealed to the sheriff by the respondent, or

(ii) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to grant the licence, and

(c) any later date as may be specified in the HMO licence.

(3) Subsection (1) does not apply to an HMO licence granted in pursuance of paragraph 9(6) of schedule 4.

(4) An HMO licence which is so granted—

(a) has effect from, and

(b) expires one year after,

the date by which the local authority was required by sub-paragraph (1) of that paragraph to determine the application for that licence.

(5) Sections 135 to 137 set out circumstances in which an HMO licence is to continue to have effect until a later date or, as the case may be, to expire early.

135 Application for new HMO licence: effect on existing HMO licence

(1) Where—

(a) an HMO licence has been granted (an "existing HMO licence"), and

(b) an application for a new HMO licence is made in relation to the living accommodation concerned before the existing HMO licence has expired,

the existing HMO licence expires on the date set out in subsection (2).

(2) That date is—

(a) where the new HMO licence is granted, the date from which the new HMO licence has effect, and

(b) where the local authority refuses to grant the new HMO licence, the latest of the following dates—

(i) the last date on which the decision to refuse to grant the new HMO licence may be appealed to the sheriff,

(ii) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to refuse to grant the new HMO licence, and

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(iii) the date on which the existing HMO licence would expire had an application for a new HMO licence not been made.

136 Change of ownership: effect on HMO licence

(1) Subsection (2) applies where—

(a) an HMO licence has effect on the date on which ownership of the living accommodation concerned is transferred by way of sale or otherwise from the licence holder to another person (the "new owner"), and

(b) the new owner is entered in the register maintained by the local authority under section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (the "register of landlords").

(2) Where this subsection applies, the HMO licence—

(a) is to be treated as having been granted to the new owner, but

(b) subject to sections 135 and 137, expires one month after the date on which ownership of the living accommodation is transferred.

(3) Where the condition in subsection (1)(a) is satisfied but the new owner is not entered in the register of landlords, the HMO licence expires on the date on which ownership of the living accommodation is transferred.

137 Death of licence holder: effect on HMO licence

(1) Where a sole licence holder dies, the HMO licence—

(a) is to be treated as having been granted to the licence holder's executor, but

(b) expires 3 months after the date of the death.

(2) The local authority may, on the application of a licence holder's executor, extend the period mentioned in subsection (1)(b) if it is satisfied that it is reasonable to do so for the purposes of winding up the licence holder's estate.

Variation and revocation of HMO licence

138 Variation of HMO licence

(1) The local authority may vary an HMO licence at any time.

(2) The local authority may do so on the application of the licence holder or of its own accord.

(3) But an HMO licence may not be so varied so as to shorten the period for which the licence has effect.

(4) The local authority must serve notice of any proposed variation on—

(a) where the local authority is proposing the variation, the licence holder,

(b) the **[**[F7]enforcing**]** authority, and

(c) the chief constable,

and must invite each of them to make oral representations about the proposed variation.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) Where the local authority is proposing the variation, the notice required by subsection (4) must give the authority's reasons for doing so.

(6) The notice and invitation required by subsection (4) must be served not less than 7 days before the local authority proposes to hear any invited representation.

(7) The local authority must consider any such representations made before it decides whether to vary the HMO licence.

(8) A variation of an HMO licence has effect from the latest of the following dates—

(a) the date on which notice of the decision to vary the HMO licence is served on the licence holder under section 158,

(b) where the licence holder, the **[**F7enforcing**]** authority or the chief constable has objected to the variation—

(i) the last date on which the decision to vary the HMO licence may be appealed to the sheriff, or

(ii) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to vary, and

(c) any later date as may be specified in the notice of the decision to vary the HMO licence served on the licence holder under section 158.

Textual Amendments

F7 Words in s. 138(4)(8)(b) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), **Sch. 1 para. 17(2)(3)(a)**

Commencement Information

I32 S. 138 in force at 31.8.2011 by S.S.I. 2010/159, **art. 3**

139 Revocation of HMO licence

(1) The local authority may revoke an HMO licence at any time if it considers—

(a) that, if an application for that HMO licence were to be made at that time, it would be required by section 130 (suitability of applicants and agents) to refuse to grant it,

(b) that the living accommodation concerned is no longer suitable for occupation as an HMO and cannot be made so suitable by varying the conditions included in the HMO licence, or

(c) that any condition of an HMO licence has been breached (regardless of whether the local authority has taken any other action, or of whether criminal proceedings have been commenced, in respect of that breach).

(2) The local authority must serve notice of a proposed revocation on—

(a) the licence holder,

(b) any person who has made a written representation which the local authority considers relevant to a proposed revocation,

(c) the **[**F8enforcing**]** authority, and

(d) the chief constable,

inviting each of them to make oral representations about the proposal.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(3) A notice under subsection (2) must—

(a) set out the ground on which the local authority proposes to revoke the HMO licence,

(b) be accompanied by a copy of any written representation which the local authority considers relevant to the proposed revocation, and

(c) be given not less than 21 days before the proposed hearing.

(4) The local authority must consider any oral representations made at the hearing before it decides whether to revoke the HMO licence.

(5) A revocation of an HMO licence has effect from—

(a) the last date on which the decision to revoke the HMO licence may be appealed to the sheriff, or

(b) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to revoke.

Textual Amendments

F8 Words in s. 139(2)(c) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), **Sch. 1 para. 17(2)(3)(b)**

Commencement Information

I33 S. 139 in force at 31.8.2011 by S.S.I. 2010/159, **art. 3**

Delivery and cancellation of HMO licence

140 Delivery of HMO licence

(1) A notice under section 158 notifying the licence holder of a decision to grant or vary an HMO licence must be accompanied by the HMO licence or, as the case may be, by the HMO licence as varied.

(2) A notice under section 164(3)(b)(ii) notifying a remaining licence holder of the variation of the HMO licence must be accompanied by the HMO licence as varied.

(3) A licence holder who requests the local authority to provide a certified copy of the HMO licence is, if the request is reasonable, entitled to be given such a certified copy.

(4) Any such copy HMO licence which purports to be certified by a proper officer of the local authority is sufficient evidence of the terms of the HMO licence.

141 Cancellation of HMO licence

The licence holder may cancel the HMO licence at any time by returning it (and any certified copy issued under section 140(3)) to the local authority.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Temporary exemptions

142 Temporary exemption orders

(1) The local authority may, on the application of the owner of any HMO which requires to be licensed under this Part but which is not so licensed, grant an order ("a temporary exemption order") in respect of the HMO.

(2) Such an application must specify the steps which the owner of the HMO intends to take with a view to securing that it stops being an HMO which requires to be licensed under this Part.

(3) The local authority may grant a temporary exemption order only if satisfied that the steps specified in the application will have the intended effect.

(4) An HMO does not require to be licensed under this Part during any period for which a temporary exemption order has effect in relation to it.

(5) A temporary exemption order has effect for—
- (a) 3 months from the date it is granted, or
- (b) where that period is extended under subsection (6), the extended period.

(6) The local authority may, on the application of the owner of any HMO in respect of which a temporary exemption order has effect, extend the period during which the order has effect by such period (not exceeding 3 months) as it thinks fit.

(7) But the local authority may so extend a period only if satisfied that there are exceptional circumstances which justify the extension.

(8) The 3 month period may not be extended more than once.

143 Temporary exemption orders: requirement to improve safety or security

(1) A temporary exemption order may require the owner of the HMO concerned to carry out such work in the HMO as the local authority may specify in the order for the purpose of improving the safety or security of its occupants during the period for which the order has effect.

(2) Any such work must be completed by such date as the local authority may specify in the order.

(3) But a date so specified must be not earlier than the date by which the local authority reasonably considers that the work required can be completed.

(4) The local authority may revoke a temporary exemption order if it is satisfied that the owner of the HMO has failed to comply with any requirement included in it.

(5) A revocation of a temporary exemption order has effect from—
- (a) the last date on which the decision to revoke the order may be appealed to the sheriff, or
- (b) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to revoke.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Enforcement by local authority

144 Suspension of rent etc.

(1) The local authority may, if satisfied—

(a) that an HMO which requires to be licensed under this Part is not so licensed, or

(b) that any condition included in an HMO licence has been breached (regardless of whether the local authority has taken any other action, or of whether criminal proceedings have been commenced, in respect of that breach),

by order provide that no rent or other sums for occupation are to be payable under any tenancy or occupancy arrangement by virtue of which any person occupies the living accommodation concerned.

(2) A notice under section 158 giving notice of the decision to make an order under subsection (1) must specify—

(a) the name of the owner of the living accommodation concerned (where the local authority is aware of it),

(b) the address of the living accommodation concerned,

(c) the effect of the order, and

(d) the date on which it is take effect (which must not be earlier than the date on which the notice is served on the owner).

(3) Where the local authority is aware of the name and address of a person who acts for the owner on whom that notice is served the local authority must serve a copy of the notice (accompanied by a copy of the order) on that person.

(4) The local authority must revoke an order under subsection (1) if—

(a) in the case of an order made in pursuance of paragraph (a) of that subsection, the local authority—

(i) subsequently grants an HMO licence to the owner of the living accommodation concerned, or

(ii) is subsequently satisfied, on the application of any person with an interest or otherwise, that the living accommodation concerned is no longer an HMO, or

(b) in the case of an order made in pursuance of paragraph (b) of that subsection, the local authority is subsequently satisfied, on the application of any person with an interest or otherwise—

(i) that the condition is no longer being breached, or

(ii) that the living accommodation concerned is no longer an HMO.

(5) The local authority must serve notice of any such revocation, as soon as practicable after doing so, on—

(a) the owner of the living accommodation concerned,

(b) the occupiers of the living accommodation concerned, and

(c) where the local authority is aware of the name and address of a person who acts for the owner, that person,

and the revocation is to have effect from the day on which notice is served under paragraph (a).

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(6) An order under subsection (1) does not affect the terms or validity of the tenancy or occupancy arrangement to which it relates (otherwise than by suspending the rent or other sums payable for occupation under that tenancy or occupancy arrangement).

(7) Revocation of an order under subsection (1) does not make any person liable to pay any rent or sums which that person would, but for the order, have been liable to pay under the tenancy or occupancy arrangement concerned while the order had effect.

(8) Failure to comply with—

(a) section 158(6)(b), or

(b) subsection (3) or (5)(b) or (c),

does not invalidate the order or, as the case may be, the revocation concerned.

145 Power to require rectification of breach of HMO licence

(1) This section applies where the local authority considers that any condition included in an HMO licence has been, or is likely to be, breached (regardless of whether the local authority has taken any other action, or of whether criminal proceedings have been commenced, in respect of that breach).

(2) Where this section applies the local authority may require the licence holder to take such action as the local authority considers necessary for the purposes of rectifying or, as the case may be, preventing the breach.

(3) A requirement under subsection (2) has effect from the date on which notice of the decision to make the requirement is served on the licence holder under section 158.

(4) That notice must specify—

(a) the action required, and

(b) the period within which that action must be undertaken.

(5) The period so specified must be the period within which the local authority reasonably considers that that action can be undertaken.

(6) The local authority may revoke a requirement under subsection (2) by serving notice to that effect on the licence holder; and the local authority must do so if satisfied that the licence holder has complied with the requirement.

146 HMO amenity notices

(1) This section applies to any living accommodation—

(a) which is, or which the local authority believes to be, an HMO which requires to be licensed under this Part (whether or not so licensed), and

(b) which the local authority considers is not reasonably fit for occupation by the number of persons whom the authority knows or believes to be occupying it.

(2) The local authority may require the owner of any living accommodation to which this section applies to carry out work in the living accommodation for the purposes of making it reasonably fit for occupation by—

(a) the number of persons whom the authority knows or believes to be occupying it, or

(b) such smaller number of persons which the authority considers could be reasonably accommodated in it if the work is carried out.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(3) A requirement under subsection (2) must be made by serving a notice (an "HMO amenity notice") in accordance with section 158.

(4) The notice must specify, in addition to the matters specified in section 158(12)(a) and (b)—

(a) the work which requires to be carried out, and

(b) the period within which the work must be completed.

(5) The period so specified must be a period of not less than 21 days from the date on which the notice takes effect within which the local authority reasonably considers that the work can be completed.

(6) The HMO amenity notice may also specify particular steps which the local authority requires to be taken in carrying out the work required.

(7) An HMO amenity notice may not require the owner to take any fire safety measures within the meaning of the Fire (Scotland) Act 2005 (asp 5).

147 HMO amenity notices: relevant matters

(1) In reaching a decision for the purposes of section 146(1)(b) in relation to any living accommodation, the local authority must have regard to—

(a) the extent (if any) to which the living accommodation falls short of the provisions of building regulations, and

(b) any defects with respect to any of the matters mentioned in subsection (2).

(2) Those matters are—

(a) natural and artificial lighting,

(b) ventilation,

(c) installations for the supply of water, gas and electricity and for sanitation, space heating and heating water,

(d) personal washing facilities, and

(e) facilities for the storage, preparation and provision of food.

148 HMO amenity notices: revocation

(1) The local authority may revoke an HMO amenity notice if—

(a) the living accommodation to which it relates is demolished, or

(b) it considers that the work required by the notice is no longer necessary for the purpose for which the notice was served.

(2) The local authority must give notice of any such revocation in accordance with section 158.

149 HMO amenity notices: extension of period for completion of work

(1) The local authority may, at any time, extend the period within which any work required by an HMO amenity notice must be completed by such period as it considers reasonable.

(2) But such a period may be extended only where the local authority—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) considers that satisfactory progress has been made in carrying out the work, or

(b) has received a written undertaking from the owner stating that the work will be completed by a later date which the authority considers satisfactory.

(3) The local authority must give notice of any extension in accordance with section 158.

150 HMO amenity notices: further provision

Schedule 5 makes further provision about HMO amenity notices.

151 Power of local authority to carry out or arrange work

A local authority may carry out, or arrange for the carrying out of, any work which any other person is required under section 145(2) or 146(2) to carry out (but only by agreement with, and at the expense of, that other person).

152 Effect of person moving from living accommodation

(1) Where—

(a) a person moves from any living accommodation for the purposes of enabling any person to carry out any work required under section 145(2) or 146(2) (whether in pursuance of a requirement under paragraph 2(1) of schedule 5 or a warrant under paragraph 3(4) of that schedule or otherwise), and

(b) that person resides in the living accommodation under a tenancy or occupancy arrangement,

the tenancy or occupancy arrangement, if that person so chooses, is to be taken not to have terminated, varied or altered by reason of that person moving.

(2) If a person who has so moved resumes lawful occupation, the same terms apply (except so far as otherwise agreed) in respect of that occupation as applied in respect of the previous occupation.

(3) In this section "lawful occupation" means occupation which is not an offence under paragraph 4 of schedule 5.

153 Obstructions etc.

(1) This section applies if, after receiving notice of the intended action, any person prevents or obstructs any other person from doing anything which that other person is by or under section 145(2), 146(2) or 151 or schedule 5 required, authorised or entitled to do.

(2) Where this section applies, the sheriff may order the person who prevented or obstructed another person to permit that other person to do all things which the other person reasonably requires to do for the purposes of—

(a) complying with any requirement imposed under section 145(2) or 146(2) or schedule 5, or

(b) doing anything which that other person is by or under section 145(2), 146(2) or 151 or schedule 5 authorised or entitled to do.

(3) Any person who fails to comply with such an order is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(4) This section does not apply in relation to rights conferred by Part 9.

Offences etc.

154 Offences relating to HMOs

(1) The owner of an HMO which requires to be licensed under this Part commits an offence if the HMO is not so licensed (unless the owner has a reasonable excuse for not holding an HMO licence).

(2) A licence holder commits an offence if—

(a) any condition included in the HMO licence is, without reasonable excuse, breached at any time during which the living accommodation concerned is an HMO which requires to be licensed under this Part,

(b) the licence holder, without reasonable excuse, permits any person to occupy the living accommodation concerned at any time during which a requirement under section 145(2) (power to require rectification of breach) has effect in relation to it, or

(c) the licence holder authorises any person who is not specified as the licence holder's agent in the HMO licence to do anything which directly permits or facilitates the occupation of the living accommodation concerned as an HMO which requires to be licensed under this Part.

(3) The owner of any living accommodation commits an offence by, without reasonable excuse, representing an HMO licence which has ceased to have effect as having effect in relation to the living accommodation.

(4) A person commits an offence if the person, without reasonable excuse, does anything as agent for the owner of any living accommodation which directly permits or facilitates the occupation of the living accommodation—

(a) as an HMO which requires to be licensed under this Part at any time when—

(i) it is not so licensed, or

(ii) an HMO licence does not authorise the person to do so, or

(b) at any time during which a requirement under section 145(2) has effect in relation to it.

(5) An agent specified in an HMO licence commits an offence if the agent, without reasonable excuse, causes any condition included in the HMO licence to be breached at any time during which the living accommodation concerned is an HMO which requires to be licensed under this Part.

(6) A person commits an offence by preventing or obstructing any person from exercising a power conferred by section 181(1)(e) (powers of entry).

155 Defences

(1) The owner of an HMO which requires to be licensed under this Part but which is not so licensed has reasonable excuse for not holding an HMO licence if—

(a) either of the circumstances mentioned in subsection (2) apply, and

(b) the owner—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(i) has taken reasonable steps with a view to securing that the living accommodation concerned stops being an HMO which requires to be licensed under this Part, but

(ii) despite having taking those steps, is unable to stop it from being such an HMO without breaching the terms of any tenancy or occupancy arrangement under which any person occupied it on the day on which the HMO licence was revoked or, as the case may be, on which the exemption ceased to have effect.

(2) The circumstances mentioned in subsection (1)(a) are—

(a) that an HMO licence held by the owner in respect of the HMO has been revoked,

(b) that the HMO requires to be licensed under this Part by virtue only of the fact that an exemption provided by an order by the local authority under section 127(2) has ceased to have effect.

(3) A licence holder has reasonable excuse for breaching a condition of an HMO licence if the licence holder—

(a) has taken reasonable steps with a view to securing that the condition is not breached, but

(b) despite having taken those steps, cannot secure compliance with the condition without breaching the terms of any tenancy or occupancy arrangement under which any person occupied the living accommodation concerned on the day on which the HMO licence was granted or, as the case may be, varied so as to include that condition.

(4) Subsections (1) and (3) do not affect the generality of the defence of reasonable excuse.

(5) It is not an offence under section 154(2)(b) or (4)(b) to permit or, as the case may be, to do anything which permits or facilitates the occupation by any person of the living accommodation concerned if that person occupied it on the day from which the requirement in question has effect.

(6) Where—

(a) the owner of living accommodation has applied for an HMO licence in respect of it, and

(b) the local authority has not determined the application,

it is not an offence to do anything as agent for that owner which would otherwise be an offence under section 154(4)(a) if that act does not entitle a person to occupy the living accommodation before an HMO licence is granted in respect of it.

156 Penalties etc.

(1) A person guilty of an offence under section 154 is liable, on summary conviction, to a fine not exceeding—

(a) in the case of an offence under subsection (1) or (4)(a) of that section, £20,000,

(b) in the case of an offence under subsection (2), (4)(b) or (5) of that section, £10,000,

(c) in the case of an offence under subsection (3) or (6) of that section, level 3 on the standard scale.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) Within 6 days of the court convicting a person of an offence under section 154, the clerk of court must provide to the local authority which granted the HMO licence—

(a) an extract of the conviction and sentence (if any), and

(b) a note of any order made under section 157(2).

157 Disqualification orders etc.

(1) This section applies where a court convicts a person of an offence under section 154 (other than an offence under subsection (6) of that section committed by a person who is not the owner of the living accommodation concerned nor an agent acting for that owner).

(2) Where this section applies, the court may, in addition to imposing a penalty under section 156, by order—

(a) revoke any HMO licence which has effect in relation to the living accommodation concerned,

(b) where the convicted person is the owner of the living accommodation concerned, disqualify the owner (and, where the owner is not an individual, any director, partner or other person concerned in the management of the owner) from holding an HMO licence for such period not exceeding 5 years as may be specified in the order,

(c) where the convicted person acted as agent for the owner of the living accommodation concerned, disqualify the convicted person (and, where the convicted person is not an individual, any director, partner or other person concerned in the management of the convicted person) from being able to act as agent for any licence holder for such period not exceeding 5 years as may be specified in the order.

(3) A person may appeal against an order under subsection (2) in the same manner as the convicted person may appeal against sentence.

(4) The court which made an order under subsection (2) may suspend its effect pending such an appeal.

(5) The court may, on summary application by a person disqualified by an order under subsection (2)(b), revoke the order with effect from such date as the court may specify.

(6) But no such revocation may be made unless the court is satisfied that there has been a change in circumstances which justifies the revocation of the order.

(7) No application may be made for the purposes of subsection (5) during the first year of a disqualification.

(8) The court may order the applicant to pay the whole or part of the expenses arising from an application made for the purposes of subsection (5).

Local authority decisions: notice and appeals

158 Notice of decisions

(1) This section applies to any decision by the local authority—

(a) to grant an HMO licence (with or without conditions) or to refuse to do so,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) to vary an HMO licence or not to make a proposed variation,
(c) to revoke an HMO licence or not to make a proposed revocation,
(d) to grant a temporary exemption order (with or without a requirement such as mentioned in section 143) or to refuse to do so,
(e) to extend the period for which a temporary exemption order has effect or to refuse to do so,
(f) to revoke a temporary exemption order,
(g) to make an order under section 144(1) or to refuse, on the application of any person with an interest, to revoke the order,
(h) to make a requirement under section 145(2),
(i) to revoke a requirement under section 145(2),
(j) to serve an HMO amenity notice,
(k) to revoke an HMO amenity notice,
(l) to extend the period within which the work required by an HMO amenity notice must be completed,
(m) to demand recovery of expenses under paragraph 6 of schedule 5, or
(n) to refuse to grant a certificate under paragraph 7 of schedule 5.

(2) The local authority must serve notice of a decision falling within paragraphs (a) to (c) of subsection (1) on—
(a) the applicant or, as the case may be, the licence holder,
(b) the **[**[F9]enforcing**]** authority, and
(c) the chief constable.

(3) The local authority must also either—
(a) serve notice of a decision falling within paragraph (a) of that subsection on each person who made a valid written representation, or a late written representation considered by the authority, in relation to the application, or
(b) give notice of that decision in a newspaper circulating in its area.

(4) The local authority must also serve notice of a decision falling with paragraph (c) of that subsection to any person from whom it heard evidence in pursuance of section 139(2)(b) (notice inviting respondent to be heard).

(5) The local authority must serve notice of a decision falling within paragraphs (d) to (f) of that subsection on the owner and the occupiers of the living accommodation concerned.

(6) The local authority must serve notice of a decision falling within paragraph (g) of that subsection on—
(a) the owner of the living accommodation concerned,
(b) the occupiers of the living accommodation concerned, and
(c) in the case of a refusal on the application of any other person, that person.

(7) The local authority must serve notice of a decision falling within paragraph (h) or (i) of that subsection on—
(a) the licence holder,
(b) the occupiers of the living accommodation concerned,
(c) the **[**[F10]enforcing**]** authority, and
(d) the chief constable.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(8) The local authority must serve notice of a decision falling within paragraph (j), (k) or (l) of that subsection on—

(a) the owner and occupiers of the living accommodation concerned,

(b) the chief constable,

(c) the **[**[F11]enforcing authority**]** ,

(d) any creditor holding a standard security over the living accommodation,

(e) any person who, directly or indirectly, receives rent in respect of the living accommodation, and

(f) any other person appearing to the local authority to have an interest in the living accommodation.

(9) Failure to comply with any of paragraphs (d) to (f) of subsection (8) does not invalidate a notice if the local authority, after exercising its powers under section 186(1), is not aware of the existence of the person on whom the notice should have been served.

(10) The local authority must serve notice of a decision falling within paragraph (m) or (n) of subsection (1) on the owner of the living accommodation concerned.

(11) A notice of a decision to which this section applies must be served within 7 days of the decision.

(12) The notice must—

(a) **[**[F12]subject to subsection (17), advise of the right to request**]** the local authority's reasons for the decision,

(b) advise of the right to appeal against the decision and of the period within which such an appeal must be made,

(c) if an HMO licence is granted, narrate the effect of section 134 (which sets the date from which the HMO licence has effect and the date on which it expires),

(d) if an HMO licence is varied or revoked, narrate the effect of section 138 or, as the case may be, 139 (which sets the date from which the variation or, as the case may be, revocation has effect),

(e) if a temporary exemption order is granted, be accompanied by a copy of the order,

(f) if an order under section 144(1) is made, be accompanied by a copy of the order.

[[F13](13) A person on whom a notice of a decision to which this section applies has been served may request the local authority to give its reasons for the decision.

(14) A request under subsection (13) must be made within 14 days of the person receiving notice of the decision.

(15) Where a local authority receives such a request it must notify the person of its reasons for the decision within 14 days of receiving the request.

(16) A local authority must, at the same time as notifying the person under subsection (15), so notify any other person on whom a notice of the decision has been served.

(17) The requirement for the notice to advise of the right to request the local authority's reasons does not apply where the reasons are included in the notice (or accompany it in writing).**]**

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Textual Amendments

F9 Words in s. 158(2)(b) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), **Sch. 1 para. 17(2)(3)(c)**

F10 Words in s. 158(7)(c) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), **Sch. 1 para. 17(2)(3)(c)**

F11 Words in s. 158(8)(c) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), **Sch. 1 para. 17(4)**

F12 Words in s. 158(12)(a) substituted (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 15(1)(a)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

F13 S. 158(13)-(17) inserted (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 15(1)(b)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

Commencement Information

I34 S. 158 in force at 31.8.2011 by S.S.I. 2010/159, **art. 3**

159 Part 5 appeals

(1) Any decision of a local authority to which section 158 applies may be appealed by summary application to the sheriff.

(2) An appeal may be made only by a person on whom notice of the decision requires to be served under that section.

(3) An appeal is not competent unless the person making it has followed every procedure made available under this Part for stating a case to the local authority in relation to the decision being appealed that it would be reasonable to have expected the person to follow.

(4) An appeal must be made within 28 days of the person receiving notice of the decision.

(5) But the sheriff may on cause shown hear an appeal made after the deadline set by subsection (4).

(6) The sheriff may determine the appeal by—

(a) confirming the decision (and any HMO licence or order granted or varied, or requirement made, in consequence of it) with or without variations,

(b) remitting the decision, together with the sheriff's reasons for doing so, to the local authority for reconsideration, or

(c) quashing the decision (and any HMO licence or order granted, or variation or requirement made, in consequence of it).

(7) The sheriff may not determine the appeal in a manner described in subsection (6)(b) where the decision appealed against is a decision to serve an HMO amenity notice.

(8) On remitting a decision the sheriff may—

(a) set a date by which the local authority must, after reconsidering the decision, confirm, vary, reverse or revoke it,

(b) modify any procedural steps which would otherwise be required by or under any enactment (including this Act) in relation to the reconsideration.

(9) A determination by the sheriff may be appealed to the sheriff principal within 28 days of the sheriff's determination.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(10) The sheriff principal's decision on any such appeal is final.

(11) The sheriff may make such order about the expenses of an appeal under subsection (1) as the sheriff thinks fit (and the sheriff principal may make such an order in relation to any subsequent appeal).

(12) References in the other provisions of this Part to the date on which an appeal to the sheriff is finally determined are to be read as references—

(a) where the appeal is determined by the sheriff under subsection (6)(a) or (c)—

(i) to the last date on which the determination may be appealed to the sheriff principal under subsection (9), or

(ii) where such an appeal is made, to the date on which that appeal is abandoned or determined by the sheriff principal, or

(b) where the appeal is determined by the sheriff under subsection (6)(b), to the date of the determination.

(13) Subsection (12)(b) does not affect any entitlement to appeal to the sheriff principal under subsection (9) against a determination by the sheriff under subsection (6)(b).

(14) A reference in this Part to the last date on which a decision may be appealed under this section to the sheriff is, where that date is in any case changed under subsection (5), to be read as referring to the new date only if the change is made before the date on which the right to appeal would otherwise expire.

General and supplementary

160 HMO register

(1) A local authority must keep a register containing information about HMO licences for living accommodation situated in its area (and applications for them).

(2) A local authority must enter in its HMO register—

(a) details of each application for an HMO licence including—

(i) the name of the applicant,

(ii) the address of the living accommodation concerned,

(iii) the name of any agent specified in the application,

(iv) a note of the date on which the application is made,

(b) a note of its decision on each such application,

(c) details of any HMO licence granted in pursuance of that decision including—

(i) a note of any conditions included in the HMO licence,

(ii) a note of any variation, revocation or cancellation of the HMO licence, and

(d) such other information as it thinks fit.

(3) A local authority must exclude from its HMO register any information it would otherwise be required by subsection (2) to enter in the register if the authority considers that entering the information is likely to jeopardise—

(a) the safety or welfare of any person, or

(b) the security of any premises.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(4) A local authority must make its HMO register available for public inspection at all reasonable times.

(5) A person who requests a local authority to provide a certified copy of any entry in its HMO register is, if the request is reasonable, entitled to be given that certified copy.

(6) Any such copy entry which purports to be certified by a proper officer of the local authority is sufficient evidence of the terms of the entry.

161 Fees

(1) The local authority is entitled to charge a fee in relation to—
- (a) an application for an HMO licence,
- (b) the issue of a certified copy of an HMO licence under section 140(3),
- (c) the issue of a certified copy of an entry in the authority's HMO register.

(2) The Scottish Ministers may by order make provision about the charging of fees under subsection (1).

(3) Such an order may, in particular—
- (a) set the amount, or maximum amount, of any such fee,
- (b) set out how such fees are to be arrived at,
- (c) specify circumstances in which no fee is payable,
- (d) specify circumstances in which fees are to be refunded.

162 Grants: exercise of functions in relation to HMOs

The Scottish Ministers may pay to a local authority such sums as they think fit for the purpose of enabling or assisting the authority to exercise its functions under this Part.

163 Guidance

(1) A local authority must have regard to any guidance issued by the Scottish Ministers about the exercise of its functions under this Part **[**[F14]and section 186 (so far as that section relates to this Part)**]**.

(2) Such guidance may make different provision for different cases and, in particular, for different areas, different types of living accommodation, different types of person or different types of local authority.

(3) Before issuing any such guidance the Scottish Ministers must consult—
- (a) local authorities, and
- (b) such other persons as they think fit.

(4) The Scottish Ministers must issue any such guidance in such manner as they consider appropriate for the purpose of bringing it to the notice of local authorities generally or, as the case may be, the local authority concerned.

(5) The Scottish Ministers may vary or revoke any guidance issued for the purposes of this section.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

Textual Amendments

F14 Words in s. 163(1) inserted (31.8.2011) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 16**, 41(3); S.S.I. 2011/270, art. 2, Sch.

Commencement Information

I35 S. 163 in force at 31.8.2011 by S.S.I. 2010/159, **art. 3**

164 Joint licence holders

(1) Where living accommodation is owned jointly by two or more persons, an application for an HMO licence for the living accommodation may be made by—

(a) any one of those owners, or

(b) any two or more of those owners jointly,

and references in this Part to an "applicant" or a "licence holder" are to be construed accordingly.

(2) Where one or more (but not all) of the joint licence holders ceases to be an owner of the living accommodation concerned, the HMO licence is to be treated as having been granted to any licence holder who remains an owner.

(3) Where one or more (but not all) of the joint licence holders applies to the local authority to be removed as licence holders, the local authority must—

(a) vary the HMO licence accordingly, and

(b) serve notice of that variation on—

(i) the persons removed as licence holders,

(ii) the remaining licence holder,

(iii) the **[**F15enforcing**]** authority, and

(iv) the chief constable,

within 7 days of the variation.

(4) A variation under subsection (3) has effect from the day on which notice of the variation is served on the remaining licence holder.

Textual Amendments

F15 Words in s. 164(3)(b)(iii) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), **Sch. 1 para. 17(2)(3)(d)**

Commencement Information

I36 S. 164 in force at 31.8.2011 by S.S.I. 2010/159, **art. 3**

165 Agents

(1) Where the local authority serves a notice on an applicant or licence holder under this Part (except section 144), the local authority must serve a copy of the notice (and any documents accompanying it) on any agent specified in the application or, as the case may be, the HMO licence.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) But service under subsection (1) does not entitle the agent to make representations or appeal any decision under this Part except on behalf of the applicant or licence holder.

166 Interpretation of Part 5

In this Part—

"applicant" means a person who applies for an HMO licence,

"chief constable", when referred to in relation to any living accommodation, means the chief constable of the police force maintained for the area in which the living accommodation is situated,

[F16"enforcing authority" has the meaning given by section 61(9) of the Fire (Scotland) Act 2005 (asp 5),**]**

F16"finally determined", in relation to an appeal to the sheriff, has the meaning given in section 159(12),

"HMO register", in relation to a local authority, means the register kept by it under section 160,

"licence holder" means a person who holds an HMO licence,

"proper officer", in relation to a local authority, is to be construed in accordance with section 235(3) of the Local Government (Scotland) Act 1973 (c. 65).

Textual Amendments

F16 S. 166: definition inserted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(2), **Sch. 1 para. 17(5)**

PART 6

MOBILE HOMES

167 Particulars of site agreements to be given in advance

For section 1 (particulars of agreements between site owners and occupiers of mobile homes) of the Mobile Homes Act 1983 (c. 34) ("the 1983 Act") substitute—

"**1 Particulars of agreements: Scotland**

(1) This Act applies to any agreement under which a person ("the occupier") is entitled—

(a) to station a mobile home on land forming part of a protected site; and

(b) to occupy the mobile home as the person's only or main residence.

(2) Before making an agreement to which this Act applies, the owner of the protected site ("the owner") must give to the proposed occupier under the agreement a written statement which—

(a) specifies the names and addresses of the parties;

(b) includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(c) sets out the express terms to be contained in the agreement;

(d) sets out the terms to be implied by section 2(1) below; and

(e) complies with such other requirements as may be prescribed by regulations made by the Scottish Ministers.

(3) Where the owner is selling the mobile home to the proposed occupier, the written statement required by subsection (2) above must be given not later than 28 days before the earlier of—

(a) the date on which the agreement to which this Act applies is made; and

(b) the date on which any agreement for the sale of the mobile home to the proposed occupier is made.

(4) In any other case, the written statement required by subsection (2) above must be given not later than 28 days before the date on which the agreement to which this Act applies is made.

(5) But if the proposed occupier consents in writing to the written statement required by subsection (2) above being given by a date which is later than the date by which subsection (3) or (4) above would otherwise require it to be given, the statement must be given not later than that later date.

(6) If any express term—

(a) is contained in an agreement to which this Act applies; but

(b) was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (5) above,

the term is unenforceable by the owner or any person within section 3(1) below.

This subsection is subject to any order made by the court under section 2(3) below.

(7) If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (5) above, the occupier may, at any time after the making of the agreement, apply to the court for an order requiring the owner—

(a) to give the occupier a written statement which complies with paragraphs (a) to (e) of subsection (2) above (read with any modifications necessary to reflect the fact that the agreement has been made); and

(b) to do so not later than such date as is specified in the order.

(8) A statement required to be given to a person under this section may be either delivered to the person personally or sent to the person by post.

(9) Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.

(10) Regulations under this section—

(a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament; and

(b) may make different provision with respect to different cases or descriptions of case.".

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

168 Variation of site agreements

Section 2 of the 1983 Act (terms of agreements) is amended as follows—

(a) in subsection (2), for "six months of the giving of the statement under section 1(2) above" substitute " the relevant period ", and

(b) for subsection (3) substitute—

"(3) The court may, on the application of either party made within the relevant period, make an order—

(a) varying or deleting any express term of the agreement;

(b) in the case of any express term to which section 1(6) above applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.

(3A) In subsections (2) and (3) above "the relevant period" means the period beginning with the date on which the agreement is made and ending—

(a) six months after that date; or

(b) where a written statement relating to the agreement is given to the occupier after that date (whether or not in compliance with an order under section 1(7) above), six months after the date on which the statement is given;

and section 1(9) above applies for the purposes of this subsection as it applies for the purposes of section 1.".

169 Implied terms relating to termination of agreements or disposal of mobile homes

(1) Part 1 of Schedule 1 (terms implied in site agreements) to the 1983 Act is amended as follows.

(2) In paragraph 6 (termination by owner on ground of detrimental effect resulting from age and condition of mobile home)—

(a) the words "age and" are repealed,

(b) after sub-paragraph (2) insert—

"(3) Sub-paragraphs (4) and (5) below apply if, on an application under sub-paragraph (1) above—

(a) the court considers that—

(i) having regard to the present condition of the mobile home, paragraph (a) or (b) of that sub-paragraph applies to it; but

(ii) it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in neither of those paragraphs applying to it; and

(b) the occupier indicates an intention to carry out those repairs.

(4) In such a case the court may make an order setting out the repairs and adjourning proceedings on the application for such period specified in the order as the court considers reasonable to allow the repairs to be carried out.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) If the court makes such an order, the application is not to be further proceeded with unless the court is satisfied that the specified period has expired without the repairs having been carried out.".

(3) In paragraph 8 (sale of mobile home to person approved by owner)—

(a) after sub-paragraph (1) insert—

"(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.

(1B) The owner must, within 28 days of receipt of the request—

(a) approve the person, unless it is reasonable for the owner not to do so; and

(b) serve on the occupier notice of the decision whether or not to approve the person.

(1C) An approval may be made subject to conditions.

(1D) But any such conditions must be—

(a) reasonable, and

(b) capable of being satisfied without varying or deleting any express term of the agreement.

(1E) A notice under sub-paragraph (1B) above must specify—

(a) if the approval is given subject to conditions, the conditions;

(b) if the approval is withheld, the reasons for withholding it.

(1F) The occupier may appeal to the court if—

(a) the owner fails to notify the occupier as required by sub-paragraphs (1B) and (1E) above;

(b) the owner decides not to approve the person; or

(c) the occupier is aggrieved by any condition imposed in an approval.

(1G) The court may determine such an appeal by—

(a) making an order declaring that the person is approved (subject to such conditions, if any, as may be specified in the order), or

(b) making such other order as it thinks fit.

(1H) It is for the owner—

(a) if the owner served a notice under sub-paragraph (1B) above and the question arises whether the notice was served within the required period of 28 days, to show that it was;

(b) if the owner gave approval subject to any condition and the question arises whether the condition falls within sub-paragraph (1D) above, to show that it does;

(c) if the owner withheld approval and the question arises whether it was reasonable for the owner to do so, to show that it was.

(1I) A request or notice under this paragraph—

(a) must be in writing; and

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(b) may be either delivered personally or sent by post.",

(b) in sub-paragraph (2) for "Secretary of State" substitute " Scottish Ministers ".

(4) After the existing provisions of paragraph 9 (gift of mobile home to person approved by owner), which become sub-paragraph (1), insert—

"(2) Sub-paragraphs (1A) to (1I) of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph.".

(5) The amendments made by this section apply in relation to an agreement to which the 1983 Act applies that was made before the day on which this section comes into force as well as in relation to one made on or after that day.

(6) However—

(a) the amendments made by subsection (2) do not apply in relation to any application for the purposes of paragraph 6 of schedule 1 to the 1983 Act which is made before the date on which this section comes into force, and

(b) the amendments made by subsections (3)(a) or (4) do not apply in relation to any request for approval for the purposes of paragraph 8 or, as the case may be, 9 of that schedule which is made before that date.

170 Power to amend terms implied in site agreements

(1) After section 2A of the 1983 Act insert—

"**2B Power to amend implied terms: Scotland**

(1) The Scottish Ministers may by order make such amendments of Part 1 or 2 of Schedule 1 to this Act as they consider appropriate.

(2) An order under this section—

(a) shall be made by statutory instrument;

(b) may make different provision with respect to different cases or descriptions of case;

(c) may contain such incidental, supplementary, consequential, transitional or saving provisions as the Scottish Ministers consider appropriate.

(3) Without prejudice to the generality of subsections (1) and (2), an order under this section may—

(a) make provision for or in connection with the determination by the court of such questions, or the making by the court of such orders, as are specified in the order;

(b) make such amendments of any provision of this Act as the Scottish Ministers consider appropriate in consequence of any amendment made by the order in Part 1 or 2 of Schedule 1.

(4) The first order made under this section may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day).

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) No order may be made under this section unless the Scottish Ministers have consulted—

(a) such organisations as appear to them to be representative of interests substantially affected by the order; and

(b) such other persons as they consider appropriate.

(6) No order may be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Scottish Parliament.".

(2) For the purposes of subsection (5) of the section 2B inserted by this section, consultation undertaken before the date on which this section comes into force (including any undertaken before the Bill for this Act received Royal Assent) constitutes as effective compliance with that subsection as if it had been undertaken on or after that date.

171 Amendments: harassment and eviction of occupiers of mobile homes

(1) The Caravan Sites Act 1968 (c. 52) is amended as follows—

(a) in section 1(2) (meaning of "protected site"), for "or 11A of Schedule 1 to that Act (exemption of gypsy and other" substitute " of Schedule 1 to that Act (exemption of ",

(b) in section 3 (protection of occupiers against eviction and harassment)—

(i) for paragraph (c) of subsection (1) substitute—

"(c) if, whether during the subsistence or after the expiration or determination of a residential contract, the person—

(i) does anything likely to interfere with the peace or comfort of the occupier or persons residing with the occupier; or

(ii) persistently withdraws or withholds services or facilities reasonably required for the occupation of the caravan as a residence on the site,

and (in either case) knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to abandon the occupation of the caravan or remove it from the site or to refrain from exercising any right or pursuing any remedy in relation to the caravan.",

(ii) subsections (1A) and (1B) are repealed,

(iii) in subsection (3) (penalties for offences), for the words from "liable" to the end substitute "liable on summary conviction—

(a) in the case of a first offence, to a fine not exceeding the statutory maximum;

(b) in the case of a second or subsequent offence, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months, or to both.",

(iv) for subsection (4A), substitute—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

"(4A) In proceedings for an offence under subsection (1)(c) of this section it shall be a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question.",

(c) in section 4(6) (restriction on suspension of eviction orders), for the words from "if" to the end of paragraph (b) substitute "if—

(a) no site licence under Part 1 of the Caravan Sites and Control of Development Act 1960 (c. 62) is in force in respect of the site; and

(b) paragraph 11 of Schedule 1 to that Act does not apply;".

(2) The amendments made by subsections (1)(a) and (b) do not apply in relation to conduct occurring before the day on which those provisions comes into force.

(3) The amendment made by subsection (1)(c) does not apply in relation to proceedings begun before the day on which that provision comes into force.

PART 7

REPAYMENT CHARGES

172 Repayment charges

(1) A local authority entitled to recover a sum under section 59(1) or (2) or paragraph 6(1) of schedule 5 may make in favour of itself a charge (a "repayment charge")—

(a) specifying the repayable amount and the living accommodation concerned, and

(b) providing that the living accommodation concerned is charged with the repayable amount.

(2) The repayable amount is the lowest of—

(a) the amount recoverable under section 59(1) or (2) or paragraph 6(1) of schedule 5,

(b) any lower amount determined by the local authority, and

(c) any amount which the Scottish Ministers by order prescribe as the maximum repayable amount.

(3) The repayable amount is recoverable in 30 equal annual instalments payable on the same date (specified in the charge) in each calendar year.

(4) The local authority must register a repayment charge in the appropriate land register.

(5) The owner of, or any other person interested in, any living accommodation subject to a repayment charge may at any time redeem the repayable amount early by paying to the local authority—

(a) such sum as the owner or other person may agree with the local authority, or

(b) failing such agreement, such sum as the Scottish Ministers may determine.

(6) The local authority must, on receiving—

(a) payment of the repayable amount in accordance with the repayment charge, or

(b) a sum redeeming the repayable amount under subsection (5),

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

register a discharge of the repayment charge in the appropriate land register.

(7) Where a repayment charge is made in respect of expenses incurred by a local authority in demolishing a house, references in this section and in section 173 to living accommodation are to be read as references to the site of the demolished house.

(8) This section does not apply in relation to—

(a) the recovery of sums under section 59(2) from a landlord who is not the owner of the living accommodation concerned,

(b) living accommodation which is not a building.

173 Effect of registering repayment charges etc.

(1) A registered repayment charge is conclusive evidence that the charge specified in it has been created in respect of the living accommodation specified in it.

(2) A registered repayment charge constitutes a charge on the living accommodation specified in it and has priority over—

(a) all future burdens and incumbrances on the same living accommodation, and

(b) all existing burdens and incumbrances on the same living accommodation except any charges created or arising under—

(i) any provision of the Public Health (Scotland) Act 1897 (c. 38) or any Act amending that Act,

(ii) any local Act authorising a charge for recovery of expenses incurred by a local authority,

(iii) Schedule 9 of the 1987 Act,

(iv) section 172, or

(v) any Act authorising advances of public money.

(3) A registered repayment charge is enforceable at the instance of the local authority against any person deriving title to the charged living accommodation.

(4) But it is not enforceable against—

(a) a third party who acquires right to the charged living accommodation (whether title has been completed or not) in good faith and for value before the repayment charge is registered, or

(b) any person deriving title from such third party.

(5) A registered discharge of a repayment charge is conclusive evidence that the charge concerned has been discharged.

174 Repayment charges: further provision

The Scottish Ministers may by order—

(a) specify the form which a repayment charge, or a discharge of a repayment charge, must be in,

(b) make such further provision as they think fit about the repayment or early redemption of amounts repayable under a repayment charge.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

PART 8

MISCELLANEOUS

175 Matters relevant to deciding whether person is fit and proper to act as a landlord

(1) The Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) is amended as follows.

(2) In section 85 (matters to be considered by local authority in deciding whether a person is a fit and proper person to act as landlord to an unconnected person)—

(a) in subsection (2)(c), before sub-paragraph (i) insert—

"(zi) any Letting Code issued under section 92A;",

(b) after subsection (3) insert—

"(3A) Material falls within this subsection if it relates to any agreement between the relevant person and any person in terms of which that person acts for the relevant person in relation to a lease or occupancy arrangement such as is mentioned in section 84(3)(c).",

(c) after subsection (4) insert—

"(4A) A local authority need not, despite subsection (1), have regard to any material falling within subsection (3A) in deciding for the purposes of section 84(4) whether a person specified in an application by virtue of section 83(1)(c) is a fit and proper person to act for a landlord.".

(3) After section 92 insert—

"**92A The Letting Code**

(1) The Scottish Ministers may prepare and issue a code of practice, to be known as the Letting Code, making provision about the standards of management of—

(a) any relevant person who enters into, or who seeks to enter into, a lease or occupancy arrangement by virtue of which an unconnected person may use a house as a dwelling, and

(b) any other person who acts for such a relevant person in relation to such a lease or occupancy arrangement.

(2) The Scottish Ministers must, from time to time, review any Letting Code issued under subsection (1) and may, following such a review—

(a) vary it, or

(b) revoke and replace it.

(3) The Scottish Ministers must, before preparing, varying or replacing any Letting Code—

(a) publish, in such manner as they think fit, an assessment of the effectiveness of any existing obligations and voluntary arrangements which relate to any standards of management which a Letting Code may make provision about, and

(b) consult—

(i) such bodies representing local authorities,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(ii) such bodies representing private sector landlords, and

(iii) such other persons,

as they think fit about the need for, and the terms of, the Letting Code or variation proposed.

(4) An assessment under subsection 3(a) above must, in particular, assess the effectiveness of—

(a) the Rent (Scotland) Act 1984 (c. 58), and

(b) registration under this Part,

in dealing with harassment, unlawful eviction or unlawful management practices.".

176 Other amendments of Antisocial Behaviour etc. (Scotland) Act 2004

(1) The Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) is amended as follows.

(2) In section 82 (registers of certain landlords), subsection (2) is repealed.

(3) In section 83(1) (information to be specified in an application for registration)—

(a) the word "and" which follows paragraph (c) is repealed,

(b) after paragraph (c) insert—

"(ca) the address to which correspondence with the relevant person should be directed; and".

(4) In section 84(5) (information to be stated in an entry in register), for "(c)" substitute " (ca) ".

(5) In section 85(2)(b) (material relating to unlawful discrimination), the words from first "on" to "disability" are repealed.

(6) After section 87, insert—

"**87A Duty of local authority to note decisions of private rented housing committee**

(1) This section applies where a local authority receives notice under paragraph 6 of schedule 2 to the Housing (Scotland) Act 2006 (asp 1) that a private rented housing committee has, in pursuance of a decision of the committee—

(a) made or varied a repairing standard enforcement order;

(b) revoked a repairing standard enforcement order;

(c) consented under section 28(6) of that Act to the landlord entering into a tenancy or occupancy arrangement; or

(d) granted a certificate under section 60 of that Act;

and the landlord to whom the notice relates is a person registered by the local authority.

(2) Where paragraph (a) or (c) of subsection (1) applies, the local authority must note the decision of the committee in the person's entry in the register.

(3) Where paragraph (b) or (d) of subsection (1) applies, the local authority must remove any information noted in the register by virtue of subsection (2) which relates to the order revoked or to the order in relation to which the certificate was granted, as the case may be.".

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(7) After section 88 insert—

"**88A Access to register**

(1) Each local authority shall, on the application of any person ("the applicant"), in relation to—

(a) a particular house, provide the applicant with—

(i) the name of the owner included in its register by virtue of section 83(1)(a) or 87(2);

(ii) the name of any person who acts for the owner in relation to a lease or occupancy arrangement to which the house is subject included in its register by virtue of section 83(1)(c), 87(2) or 88(2);

(iii) the address to which correspondence with the relevant person should be directed included in its register by virtue of section 83(1)(ca) or 87(2); and

(iv) any information included in its register by virtue of section 87A(2).

(b) a particular person, confirm to the applicant whether that other person is registered in its register.

(2) A local authority may, on the application of any person, provide that person with such other information from its register as it thinks appropriate.

(3) Information provided under subsection (2) may be provided subject to such conditions as the local authority thinks appropriate.

(4) Despite subsection (1), a local authority may withhold information where it considers that providing the information would be likely to jeopardise—

(a) the safety or welfare of any person; or

(b) the security of any premises.".

(8) In section 93(5) (circumstances in which offence is not committed)—

(a) the word "but" which follows paragraph (a) is repealed,

(b) after paragraph (a), insert—

"(aa) the local authority has not, during the year which immediately preceded the making of the application, refused to enter the relevant person in pursuance of an earlier application under section 83;

(ab) the application is accompanied by the fee determined under section 83(2); and".

(9) In section 97(6) (restriction on court's power to require tenant to pay rent etc.), for "order" substitute " decision ".

(10) In section 97(7) (circumstances in which tenant is not required to pay sums)—

(a) for "sheriff principal" substitute " court hearing the appeal ";

(b) for "order" substitute " decision ".

(11) In section 101 (interpretation of Part 8), after subsection (1) insert—

"(1A) This subsection applies where—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) a person other than the owner of a house is the landlord in relation to a lease or occupancy arrangement by virtue of which another person uses the house as a dwelling; and

(b) that other person is not a member of the family of the owner or of the person who is the landlord.

(1B) Where subsection (1A) applies, both—

(a) the person who is the landlord; and

(b) any other person who acts for that person in relation to the lease or occupancy arrangement,

shall, for the purposes of this Part, be treated as having been appointed by the owner to act for, and as acting for, the owner in relation to a lease or occupancy arrangement by virtue of which a person who is not a member of the family of the owner may use the house as a dwelling.".

177 Registered social landlords: delegation of functions

After section 68 of the Housing (Scotland) Act 2001 (asp 10), insert—

"Delegation of functions

68A Power to direct certain registered social landlords to delegate functions

(1) This subsection applies where—

(a) a local authority has disposed of an interest in land to a registered social landlord ("RSL 1") under section 12 of the 1987 Act before the date on which this section came into force,

(b) sections 191 to 193 and section 203(1) of the 1987 Act no longer apply to that local authority by virtue of an order made under section 94 of this Act,

(c) the Scottish Ministers are satisfied that it is appropriate for RSL 1 to authorise another registered social landlord to exercise any of RSL 1's housing management functions if RSL 1 is to manage its houses in a manner which is consistent with the spirit of any notice served on tenants for the purposes of paragraph 3(2) or (3) of schedule 9 in relation to the disposal, and

(d) less than 5 years have passed since this section came into force.

(2) Where subsection (1) applies, the Scottish Ministers may direct RSL 1 to authorise another registered social landlord ("RSL 2") to exercise such of RSL 1's housing management functions as may be specified in the direction in place of RSL 1 on such terms, if any, as may be so specified; and both RSL 1 and RSL 2 must comply with the direction.

(3) RSL 1 may not, while a direction under subsection (2) remains in force, authorise any person other than RSL 2 to exercise any functions specified in the direction.

(4) A direction made under subsection (2) must be published in such manner as the Scottish Ministers think fit.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(5) Any authorisation given in pursuance of a direction made under subsection (2) continues to have effect for so long as the direction has effect.

(6) A direction made under subsection (2) continues to have effect notwithstanding the fact that the power to make that direction has expired by virtue of subsection (1)(d).

(7) In this section "housing management functions" means functions relating to the management of houses.".

178 Registered social landlords: permissible purposes

In section 58(3) (permissible purposes of registered social landlords) of the Housing (Scotland) Act 2001 (asp 10)—

(a) in paragraph (a), for the words ", either exclusively or together with other persons" substitute " (or for its residents and other persons together) ",

(b) after paragraph (f) insert—

"(g) promoting or improving the economic, social or environmental well-being of—

(i) its residents (or its residents and other persons together), or

(ii) the area in which the houses or hostels it provides are situated.".

179 Strategy for improving home energy efficiency

(1) The Scottish Ministers must prepare a strategy for improving the energy efficiency of living accommodation.

(2) The strategy may—

(a) set out measures which the Scottish Ministers consider would improve the energy efficiency of living accommodation,

(b) include an assessment of the extent to which the Scottish Ministers consider that carbon dioxide emissions into the atmosphere would be decreased as a result of taking those measures.

(3) The Scottish Ministers must review the strategy from time to time and may, following such a review, revise it.

(4) The Scottish Ministers must, within 5 years of the date on which—

(a) the strategy is first published, or

(b) a report was last laid under this subsection,

lay a report before the Scottish Parliament regarding the implementation of the strategy.

(5) The Scottish Ministers must publish the strategy and any revisions to it in such manner as they think fit.

(6) The strategy may be published separately or as part of a strategy for improving energy efficiency generally.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

180 Amendment of Housing (Scotland) Act 1988

After subsection (6) of section 18 (orders for possession of a house let on an assured tenancy) of the Housing (Scotland) Act 1988 (c. 43), insert—

"(6A) Nothing in subsection (6) above affects the sheriff's power to make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, where the ground for possession is Ground 15 in Part II of Schedule 5 to this Act.".

PART 9

RIGHTS OF ENTRY

181 Rights of entry: general

(1) Any person authorised by a local authority is entitled to enter—

(a) any land or premises for the purposes of enabling or assisting the local authority to decide whether any part of its area should be designated as an HRA,

(b) any premises for the purposes of enabling or assisting the local authority to decide whether—

(i) to serve a work notice or demolition notice,

(ii) any such notice has been complied with, or

(iii) to grant a certificate under section 60 in relation to work required by a work notice,

(c) any premises which the local authority is required or authorised by Part 1 to carry out work in or to demolish, for the purposes of doing so,

(d) any premises for the purposes of enabling the local authority to—

(i) decide whether to make a maintenance order,

(ii) consider or devise a maintenance plan,

(iii) decide whether a maintenance plan has been implemented, or

(iv) do anything which the local authority is authorised by section 48(2) or 49(1) to do,

(e) any living accommodation for the purposes of enabling or assisting the local authority to decide whether—

(i) the living accommodation is an HMO which requires to be licensed under Part 5,

(ii) to grant, vary or revoke an HMO licence in relation to the living accommodation,

(iii) a condition included in an HMO licence has been breached,

(iv) any person has failed to comply with a requirement made by a temporary exemption order,

(v) any person has failed to comply with a requirement made under section 145(2),

(vi) to serve an HMO amenity notice,

(vii) an HMO amenity notice has been complied with,

(viii) to grant a certificate under paragraph 7 of schedule 5 in relation to work required by an HMO amenity notice.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) A member of a private rented housing committee, and any person authorised by any such member, is entitled to enter any house in respect of which a tenant's application under section 22(1) has been referred to the committee for the purposes of enabling or assisting the committee to—

(a) determine the application under section 24(1),

(b) decide whether the landlord has complied with, or is likely to comply with, any repairing standard enforcement order made by the committee in pursuance of that application, or

(c) decide whether to grant a certificate under section 60 in relation to the work required by any such order.

(3) The owner of any premises, or any person authorised by the owner, is entitled to enter the premises for the purposes of—

(a) carrying out work required by a work notice or an HMO amenity notice,

(b) carrying out a demolition required by a demolition notice, or

(c) implementing a maintenance plan.

(4) A landlord in a tenancy to which Chapter 4 of Part 1 applies, or any person authorised by the landlord, is entitled to enter the house concerned for the purpose of—

(a) viewing its state and condition for the purpose of determining whether the house meets the repairing standard, or

(b) carrying out any work necessary to comply with the duty in section 14(1)(b) or a repairing standard enforcement order.

(5) An authorisation under subsection (1) to (4) must state the particular purpose or purposes for which the entry is authorised.

(6) Any person who inspects a house in exercise of a right conferred by subsection (2) must provide the committee with a report of that inspection.

Commencement Information

I37 S. 181 partly in force; s. 181 not in force at Royal Assent see s. 195(3); s. 181(1)(c)(5) in force at 4.12.2006 see S.S.I. 2006/569, **art. 2**; s. 181(2)(4)(6) in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

182 Warrants authorising entry

(1) A sheriff or a justice of the peace may by warrant authorise any person entitled to exercise a right conferred by subsection (1) or (2) of section 181 to do so, if necessary using reasonable force, in accordance with the warrant.

(2) A warrant may be granted under subsection (1) only if the sheriff or justice is satisfied, by evidence on oath—

(a) that there are reasonable grounds for the exercise of the right in relation to the land or premises concerned, and

(b) that—

(i) the exercise of the right in relation to the land or premises has been refused,

(ii) such a refusal is reasonably expected,

(iii) the land is, or premises are, unoccupied,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(iv) the occupier is temporarily absent,

(v) the case is one of urgency, or

(vi) that an application for admission would defeat the object of the proposed entry.

(3) A sheriff or justice may not be satisfied that a condition specified in any of heads (ii) to (iv) of subsection (2)(b) is met unless the sheriff or justice is also satisfied that notice of intention to apply for a warrant has been given to the occupier of the land or premises concerned.

183 Rights of entry: constables

(1) A constable who suspects with reasonable cause that any person is committing or has committed an offence under section 28, 39 or 154 may, at any reasonable time, enter any land or premises for the purpose of obtaining evidence of the offence.

(2) A sheriff or a justice of the peace may by warrant authorise a constable authorised to exercise the power conferred by subsection (1) to do so, if necessary using reasonable force, in accordance with the warrant.

(3) A warrant may be granted under subsection (2) only if the sheriff or justice is satisfied, by evidence on oath, that there are reasonable grounds for suspecting that an offence under section 28, 39 or, as the case may be, 154 is being or has been committed in relation to the land or premises concerned.

184 Rights of entry: supplemental

(1) A right to enter any land or premises conferred by or under this Part includes a right to enter for the same purpose—

(a) in the case of land, any land adjacent to it, and

(b) in the case of any part of any premises, any land adjacent to that part and any other part of those premises.

(2) Any person who enters any land or premises in exercise of a right conferred by or under this Part is entitled to—

(a) survey and examine the land or premises, and

(b) do anything else which is reasonably required in order to fulfil the purpose for which entry is taken.

(3) A right to enter any land or premises conferred by or under this Part may be exercised only at a reasonable time.

(4) The occupants of the land or premises concerned must be given at least 24 hours' notice before any person exercises any such right in relation to it unless—

(a) the situation is urgent, or

(b) the person entitled to exercise the power considers that giving such notice would defeat the object of the proposed entry.

(5) A person authorised to exercise any right conferred by or under this Part must, if required to do so, produce written evidence of that authorisation.

(6) Subsection (5) does not apply to a constable in uniform seeking to exercise a right without warrant.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(7) A right conferred by this section applies despite any term to the contrary in any tenancy, occupancy arrangement or other agreement.

(8) Any person who enters any land or premises in exercise of a right conferred by or under this Part—

(a) is entitled, subject in the case of a right exercisable under a warrant to the terms of the warrant, to take on to the land or into the premises—

(i) such other persons, and

(ii) such equipment,

as may be reasonably required for the purposes of assisting that person,

(b) must leave the land or premises as effectually secured against unauthorised entry as that person found it, and

(c) must compensate any other person who has sustained damage as a result of—

(i) the exercise of the right or power, or

(ii) any failure to comply with paragraph (b),

unless the damage is attributable to the fault of the person who sustained it.

(9) Any question of disputed compensation under subsection (8)(c) is to be determined by arbitration; and, where there is no agreement as to who is to be appointed as arbiter, as to the procedure to be followed at the arbitration or as to the defraying of related expenses, the Scottish Ministers must appoint an arbiter, specify the procedure or, as the case may be, determine liability for expenses.

(10) A warrant granted under section 182 or 183 continues in force until the purpose for which the warrant was issued has been fulfilled or, if earlier, the expiry of such period as the warrant may specify.

(11) Any person who, without reasonable excuse, prevents or obstructs any other person from doing anything which is authorised by a warrant granted under section 182 or 183 is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 10

GENERAL AND SUPPLEMENTARY

185 Equal opportunities

(1) The Scottish Ministers and local authorities must perform the functions given to them by this Act in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements.

(2) "Equal opportunities" and "equal opportunity requirements" have the same meanings in this section as they have in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998 (c. 46).

186 Power to obtain information etc.

(1) A local authority may, for the purpose of enabling or assisting it to exercise any function conferred on it by this Act in relation to any land or premises, serve notice

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

on any person who appears to it to be a person falling within subsection (3) requiring the person to—

(a) state in writing to the local authority—

(i) the nature of that person's interest in the land or premises, and

(ii) the name and address of any other person known to that person as having an interest in the land or premises, and

(b) provide the local authority with any other information about the land or premises that it may reasonably request.

(2) Where a notice under subsection (1) is served on a person who appears to the local authority to be occupying land or premises for the purpose of enabling or assisting the local authority to decide whether there is any living accommodation on the land or premises which is an HMO which requires to be licensed under Part 5, the notice may also require the person to disclose the relationship (if any) between that person and any other occupants.

(3) A person falls within this subsection if the person—

(a) owns or occupies the land or premises concerned, or

(b) receives rent, directly or indirectly, in respect of that land or those premises.

(4) Any person who, having been required by a notice under subsection (1) to give information to a local authority—

(a) without reasonable excuse, refuses or fails to give that information, or

(b) knowingly or recklessly makes any statement in respect of that information which is false or misleading in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Nothing in this section authorises a local authority to require the disclosure of any information if such disclosure would make the person holding it susceptible under any enactment or rule of law to any sanction or other remedy.

187 Formal communications

(1) A "formal communication" means any—

(a) notice,

(b) notification,

(c) direction,

(d) consent,

(e) confirmation,

(f) requirement,

(g) request,

(h) order,

(i) application (other than an application to a court),

(j) licence,

(k) acknowledgment, or

(l) decision,

used under or for the purposes of this Act.

(2) A formal communication must be in writing.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(3) A formal communication is served on or, as the case may be, submitted, given, made or issued to, a person if it is—

(a) delivered to the person at the place mentioned in subsection (4),

(b) sent, by post in a prepaid registered letter or by the recorded delivery service, to the person at that place, or

(c) sent to the person in some other manner (including by electronic means) which the sender reasonably considers likely to cause it to be delivered to the person on the same or next day.

(4) The place referred to in subsection (3) is—

(a) where the person is an individual, to the person at that person's place of business or usual or last known place of abode,

(b) where the person is an incorporated company or body, to the secretary, chief clerk or chief executive of the company or body at its registered or principal office, or

(c) where the person is a public office-holder, to the office-holder at the office-holder's principal office.

(5) Where the person to which a formal communication is to be delivered or sent is an incorporated company or body, the sender complies with subsection (3) by delivering or sending it to the secretary, chief clerk or chief executive of the company or body.

(6) A formal communication which is sent by electronic means is to be treated as being in writing if it is received in a form which is legible and capable of being used for subsequent reference.

(7) A formal communication sent under subsection (3)(c) is, unless the contrary is proved, to be treated as having been delivered on the next working day after the day on which it was sent.

(8) In subsection (7), "working day" means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971 (c. 80), is a bank holiday in Scotland.

(9) Subsection (10) applies where a person is unable to deliver or send a formal communication to the owner or occupier of any house or other premises or other living accommodation because that person is not (having made reasonable inquiries) aware of the name or address of that owner or occupier.

(10) Where this subsection applies, the formal communication may be served on or, as the case may be, submitted, given, made or issued to the owner or occupier concerned by addressing a copy of it to "The Owner" or, as the case may be, "The Occupier" of the house or other premises or other living accommodation (describing it or them) and causing a copy of it to be displayed on or near the house or other premises or other living accommodation.

188 Forms

(1) The Scottish Ministers may by regulations make provision as to the form and content of any formal communication authorised or required to be used under or for the purposes of this Act.

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(2) Any formal communication in respect of which provision is made by such regulations must be used in the form provided for, or in a form as close to it as circumstances permit.

189 Offences by bodies corporate etc.

(1) Where an offence under this Act committed—

(a) by a body corporate, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—

(i) is a director, manager or secretary of the body corporate, or

(ii) purports to act in any such capacity,

(b) by a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—

(i) is a partner, or

(ii) purports to act in that capacity,

(c) by an unincorporated association other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—

(i) is concerned in the management or control of the association, or

(ii) purports to act in the capacity of a person so concerned,

the individual (as well as the body corporate, Scottish partnership or, as the case may be, unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

190 Ancillary provision

(1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act.

(2) An order under subsection (1) may modify any enactment, instrument or document.

191 Orders and regulations

(1) Any power of the Scottish Ministers under this Act to make orders or regulations is exercisable by statutory instrument.

(2) Any such power includes power to make—

(a) such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,

(b) different provision for different purposes.

(3) Unless contrary provision is made in subsections (4) to (6), a statutory instrument containing an order or regulations under this Act is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(4) No order—

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

(a) under section 126(2) or 127(1), or

(b) under section 190(1) containing provisions which add to, replace or omit any part of the text of an Act,

is to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.

(5) Regulations under section 73(3), 77(1), 79(6), 91(5), 99(2), 104(1), 105, 111(4) or 121(1) are not to be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(6) Subsection (3) does not apply to any statutory instrument containing an order under section 195(3) (commencement orders).

Subordinate Legislation Made

P1 S. 191(2) power partly exercised: different dates appointed for specified provisions by {S.S.I. 2007/270}, art. 3 Table

192 Modification, revocation and repeal of enactments

(1) Schedule 6 contains modifications and revocations of enactments in consequence of the provisions of this Act.

(2) The repeals of the enactments specified in column 1 of schedule 7 have effect to the extent specified in column 2.

Commencement Information

I38 S. 192 not in force at Royal Assent see s. 195; s. 192 in force for certain purposes at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

193 Crown application

(1) This Act binds the Crown.

(2) But subordinate legislation made under this Act need not bind the Crown.

(3) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable; but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(4) Despite subsection (3), the provisions made by and under this Act apply to persons in the public service of the Crown as they apply to other persons.

(5) In the application of this Act to the Crown, "owner"—

(a) in the case of land or premises belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners,

(b) in the case of any other land or premises belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration or, as

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

the case may be, the government department having the management of the land or premises,

(c) in the case of land belonging to an office-holder in the Scottish Administration or to a government department or held in trust for Her Majesty for the purposes of the Scottish Administration or a government department, means that office-holder or government department.

(6) It is for the Scottish Ministers to determine any question which arises as to who is, for the purposes of this Act, the owner of land or premises falling within paragraphs (a) to (c) of subsection (5); and their decision is final.

194 Interpretation

(1) In this Act, unless the context indicates otherwise—

"the 1987 Act" means the Housing (Scotland) Act 1987 (c. 26),

"building regulations" means any enactments, byelaws, rules or regulations or other provisions under whatever authority made, relating to the construction of new buildings or the laying out of and construction of new roads which are for the time being in force in relation to the land or premises concerned,

"chief officer of the fire and rescue authority", when referred to in relation to any living accommodation, means the chief officer of the relevant authority (as defined by section 6 of the Fire (Scotland) Act 2005 (asp 5)) for the area in which the living accommodation is situated,

"demolition notice" means a notice served under section 33(2),

"disabled person" has the same meaning as in the Disability Discrimination Act 1995 (c. 50),

"formal communication" has the meaning given in section 187,

"HMO", which is an acronym for "house in multiple occupation", has the meaning given in section 125(1),

"HMO amenity notice" has the meaning given in section 146(2),

"HMO licence" has the meaning given in section 124(2),

"HRA" is used as an acronym for "housing renewal area",

"HRA action plan" has the meaning given in section 3,

"HRA designation order" means an order made under section 1,

"house"—

(a) means any living accommodation which is, or which is capable of being, occupied as a separate dwelling (other than a mobile home or any other living accommodation which is not a building), and

(b) includes—

(i) any part of the living accommodation (including its structure and exterior) which is, and any common facilities relating to it which are, owned in common with others, and

(ii) any yard, garden, garage, out-house or other area or structure which is, or which is capable of being, occupied or enjoyed together with the living accommodation (solely or in common with others),

"land" means any land (including any structure or erection on the land) other than land which consists of or on which there are any premises,

"landlord" means any person who lets a house under a tenancy, and includes the landlord's successors in title,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

"living accommodation" means any place which is, or which is capable of being, occupied for the purposes of human habitation,

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39); and references to a local authority in relation to any land or premises are to the authority for the area in which the land is or, as the case may be, the premises are situated,

"maintenance" includes repairs and replacement, cleaning, painting and other routine work, gardening, and the reinstatement of part (but not most) of premises (but does not include demolition, alteration or improvement, or any internal decoration of any part of premises which are not owned in common, unless reasonably incidental to any such repairs etc.); and "maintain", "maintaining" and other cognate words are to be construed accordingly,

"maintenance account" means a bank or building society account opened for the purpose of holding money to be used to pay costs incurred in connection with any work carried out for the purpose of maintaining premises consisting of two or more houses,

"maintenance order" has the meaning given in section 42,

"maintenance plan" has the meaning given in section 43,

"occupancy arrangement" means an arrangement other than a lease under which a person is entitled, by way of contract or otherwise, to occupy any land or premises,

"occupier" includes any person entitled to occupy any land or premises under a tenancy or an occupancy arrangement (and "occupy", "occupied" and "occupant" are to be construed accordingly),

"premises"—

(a) means any building which is, or which is capable of being, occupied (separately or otherwise) for any purpose, and

(b) includes—

(i) any part of the building (including its structure and exterior) which is, and any common facilities relating to it which are, owned in common with others, and

(ii) any yard, garden, garage, out-house or other area or structure which is, or which is capable of being, occupied or enjoyed together with the building or any part of it,

"private rented housing committee" and "private rented housing panel" are to be construed in accordance with section 21,

"rent relief order" has the meaning given in section 27(1),

"repairing standard" has the meaning given in section 13,

"repairing standard enforcement order" means an order made under section 24(2),

"temporary exemption order" has the meaning given in section 142(1),

"tenancy" includes—

(a) a sub-tenancy,

(b) any occupation of living accommodation by a person under that person's terms of employment,

but does not otherwise include any occupation under an occupancy arrangement,

"tenant" means a tenant under a tenancy,

"tolerable standard" has the meaning given in section 86 of the 1987 Act,

Status: *Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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)*

"work" includes maintenance, repair and improvement but does not include demolition,

"work notice" means a notice served under section 30(2).

(2) References in this Act to land or premises may, where the context permits, be construed as including reference to any part of that land or those premises which is, or which is capable of being, occupied separately.

(3) References in this Act to work in any premises include references to work—

(a) on any part of them which is a building, and

(b) in or on any part of them which is not a building.

(4) References in this Act to the demolition of any premises include references to such reconstruction of them as the local authority may approve.

(5) References in this Act to a private rented housing committee which is determining a tenant's application or which has made a repairing standard enforcement order include references to any successor private rented housing committee constituted under Schedule 4 of the Rent (Scotland) Act 1984 (c. 58).

(6) References in this Act to the registering of a document in the appropriate land register are to be treated as references to the recording of the document in the General Register of Sasines or the registering of the information contained in the document in the Land Register of Scotland as appropriate.

(7) This Act does not apply in relation to houses or other living accommodation outwith Scotland.

195 Short title and commencement

(1) This Act may be cited as the Housing (Scotland) Act 2006.

(2) Sections 190 and 191 and this section come into force on Royal Assent.

(3) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

Subordinate Legislation Made

P2 S. 195(3) power partly exercised: 29.1.2006 appointed for specified provisions by {S.S.I. 2006/14}, art. 2; 17.5.2006 appointed for specified provisions by {S.S.I. 2006/252}, art. 2; different dates appointed for specified provisions by {S.S.I. 2006/395}, art. 2; 4.12.2006 appointed for specified provisions by {S.S.I. 2006/569}, art. 2; different dates appointed for specified provisions by {S.S.I. 2007/270}, art. 3 Table (with arts. 4-6)

Status:
Point in time view as at 03/09/2007. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 17 April 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.