

*These notes relate to the Housing (Scotland) Act 2006  
(asp 1) which received Royal Assent on 5 January 2006*

# **HOUSING (SCOTLAND) ACT 2006**

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## **EXPLANATORY NOTES**

### **THE ACT**

3. The Act is in 10 parts.
4. These are:
  - Part 1 – Housing standards
  - Part 2 – Scheme of assistance for housing purposes
  - Part 3 – Provision of information on sale of house
  - Part 4 - Tenancy deposits
  - Part 5 – Licensing of houses in multiple occupation
  - Part 6 – Mobile homes
  - Part 7 – Repayment charges
  - Part 8 – Miscellaneous
  - Part 9 – Rights of entry
  - Part 10 – General and supplementary

### ***Background***

5. The main purpose of the Act is to address problems of condition and quality in private sector housing (although some provisions also relate to the social rented sector). Owner occupation is now the largest tenure and the whole private sector, including private rented housing, amounts to over 70% of Scottish housing.
6. The findings of the 2002 Scottish House Condition Survey showed the extent of these problems. For example, in the owner-occupied sector 27% of houses and 40% of flats had at least one element in a state of urgent disrepair (which means that, if repair is not carried out, the fabric of the building would deteriorate further or health and safety would be placed at risk).
7. The approach taken by this Act is based on the work of the Housing Improvement Task Force, which was set up by Ministers in December 2000. Its remit was to consider issues relating to housing quality in the private sector and the house buying and selling process. The Task Force's first report, *Issues in Improving Quality in Private Housing (2002)*, confirmed that, although most private sector housing is in good condition, a significant proportion is in poor repair. The Task Force published its final report and recommendations, *Stewardship and Responsibility: A Policy Framework for Private Sector Housing in Scotland*, in March 2003. The Act builds on those recommendations.

### **Overview of the Act**

8. **Part 1** of the Act deals with various aspects of housing standards. Chapter 1 gives a local authority power to designate as a Housing Renewal Area an area with a concentration of houses that are sub-standard or with any houses that are damaging the amenity of the area because of their appearance or state of repair. Within a Housing Renewal Area the local authority will be able to implement an action plan to improve the area.
9. **Chapter 2** requires a local authority to include in its local housing strategy details of its policy for identifying areas that should be designated as Housing Renewal Areas, a strategy for dealing with housing that is below the Tolerable Standard, and a strategy for using the scheme of assistance to improve house conditions. Chapter 3 amends the Tolerable Standard, in relation to thermal insulation, waterless closets and the electrical supply.
10. **Chapter 4** defines the statutory repairing standard that has to be met by a private landlord. It also expands the functions of the Rent Assessment Panel (and renames it the Private Rented Housing Panel) to provide private tenants with a new means of enforcing the repairing standard.
11. **Chapter 5** deals with the issue by local authorities of work notices requiring work to be carried out on houses in Housing Renewal Areas and on substandard houses. Local authorities may also require demolition of houses in serious disrepair. The Act gives them powers to carry out required work and demolitions when the owner fails to do so.
12. Local authorities are given powers to issue maintenance orders in Chapter 6. A maintenance order requires the drawing up and implementation of a plan to ensure the maintenance of a house or houses to a reasonable standard. If the owners do not draw up or implement a plan, the local authority may do so.
13. **Chapter 7** gives a new right to a private sector tenant to carry out adaptations to meet the needs of a disabled occupant or to install central heating and other energy efficiency measures under Scottish Executive programmes. The tenant must obtain the consent of the landlord, who may withhold it only on reasonable grounds.
14. **Chapter 8** deals with appeals and other matters, including listed buildings and the service of documents, while Chapter 9 defines some of the terms used in Part 1 of the Act.
15. **Part 2** sets out the details of the scheme of assistance for housing purposes. This allows local authorities to provide assistance to house owners for repairs, improvements and adaptations, as well as the acquisition or sale of a house. The assistance can take the form of grants, loans, subsidised loans, practical assistance, information or advice. In certain circumstances local authorities must provide assistance. This Part replaces the scheme of improvement grants contained in Part 13 of the Housing (Scotland) Act 1987 and section 92(3) of the Housing (Scotland) Act 2001.
16. **Part 3** gives the Scottish Ministers powers to require sellers of houses or their agents to provide specified information to potential buyers. Ministers also have powers to require additional information to be provided to tenants of local authorities and registered social landlords who request a valuation in connection with the right to buy.
17. **Part 4** gives the Scottish Ministers powers to establish conditions for and to approve a scheme or schemes for the protection of tenancy deposits in the private rented sector.
18. In Part 5 the system of licensing of houses in multiple occupation, which is presently founded in secondary legislation under the Civic Government (Scotland) Act 1982, is re-enacted in primary legislation, with some changes to its details.
19. **Part 6** amends legislation relating to occupiers of mobile homes who let stances. This is in relation to the provision of an advance written statement of terms. Condition, but not age, can be taken into account when deciding whether a mobile home is detrimental

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to a site. There is also a provision to improve protection for mobile home occupiers against harassment.

20. [Part 7](#) gives a local authority power to recover amounts due to it for certain activities carried out in relation to living accommodation by placing a repayment charge on the living accommodation concerned (or its site in the case of a demolished house).
21. [Part 8](#) contains miscellaneous provisions. These include developing the landlord registration provisions in the Antisocial Behaviour etc. (Scotland) Act 2004 by giving Ministers powers to issue a Letting Code and providing that the Code, together with the nature of any agency arrangement, should be taken into account by local authorities when deciding whether a landlord is a fit and proper person to be letting houses; by managing the public availability of registered information; and by other adjustments. There are provisions relating to the delegation of functions by, and permissible purposes of, registered social landlords. Ministers are required to publish a strategy for improving energy efficiency in living accommodation. The Housing (Scotland) Act 1988 is amended to allow a landlord to seek possession, on grounds of antisocial behaviour, of a house let under a contractual assured tenancy despite the absence of a reference to such a proceeding in the terms of tenancy.
22. [Part 9](#) deals with rights of local authorities, Private Rented Housing Committees, house owners, landlords and the police to enter houses for specified purposes, such as carrying out work.
23. [Part 10](#) deals with various technical matters.
24. Commentary explaining the provisions in each Part is provided below.