

*These notes relate to the Housing (Scotland) Act 2010
(asp 17) which received Royal Assent on 9 December 2010*

HOUSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

STRUCTURE OF THE ACT

Part 13 - Social Landlords: Long Leases and Heritable Securities

154. Sections 138 and 139 amend the “20 year rules” - sections 8 and 11 of the Land Tenure Reform (Scotland) Act 1974 - as they apply to social landlords and their “connected bodies” (all as defined in sections 164 and 165 of this Act) and rural housing bodies (as defined in the Title Conditions (Scotland) Act 2003).
155. Section 138 amends the “lease rule”. It exempts social landlords, their connected bodies and rural housing bodies from the 20 year limit on residential leases. This means that residential property leases to these bodies can be for more than 20 years. Residential leases by social landlords, their connected bodies and rural housing bodies to other non-exempt bodies will remain subject to the 20 year limit.
156. Section 11 of the Land Tenure Reform (Scotland) Act 1974, the “security rule”, allows for the redemption, by the debtor, of a heritable security over residential property after 20 years have elapsed, regardless of any longer contractual term having been entered into. The amendment by section 139 gives social landlords, their connected bodies and rural housing bodies the option to waive their right to redeem the security early, should they wish to do so. For example, a social landlord might wish to participate in a long-term fixed interest bond issue, which relies on the bond holder retaining security over the underlying housing assets for more than 20 years. In order to participate in this sort of bond issue, the social landlord can waive their right of redemption under section 11.