

*Status: Point in time view as at 01/04/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2010. (See end of Document for details)*

## SCHEDULE 1

*(introduced by section 14(3))*

### TRANSITIONAL PROVISIONS

#### *Transfer of staff*

- 1 (1) All staff, other than excepted staff, employed immediately before the coming into force of this paragraph in the Executive Agency of Ministers known as the Scottish Housing Regulator are transferred to, and become members of staff of, the Regulator. Accordingly—
- (a) the contract of employment of a transferred person—
    - (i) is not terminated by the transfer, and
    - (ii) has effect from the date of transfer as if originally made between the person and the Regulator,
  - (b) all the rights, powers, duties and liabilities of Ministers under or in connection with a transferred person's contract of employment are transferred to the Regulator, and
  - (c) anything done before that date by or in relation to Ministers in respect of that contract of employment or a transferred person is to be treated from that date as having been done by, or in relation to, the Regulator.
- (2) The excepted staff are staff on secondment or loan to the Agency from another part of the Scottish Administration.
- (3) Sub-paragraph (1) does not affect the right of a transferred person to terminate that person's contract of employment if the terms of employment are changed substantially to the detriment of the person; but such a change is not to be taken to have occurred by reason only that the identity of that person's employer has changed.
- (4) A determination by Ministers that any member of their staff is employed as mentioned in sub-paragraph (1) or excepted by virtue of sub-paragraph (2) is conclusive of that fact for the purposes of this paragraph.

#### **Commencement Information**

**II** Sch. 1 para. 1 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

#### *Transfer of assets and liabilities*

- 2 (1) Ministers may by order provide for the transfer to the Regulator of—
- (a) any assets held or used by them for or in connection with the purposes of the Executive Agency of Ministers known as the Scottish Housing Regulator,
  - (b) any liabilities of Ministers incurred for or in connection with those purposes.
- (2) An order under sub-paragraph (1) may, in particular—
- (a) provide for the creation of rights or interests, or the imposition of liabilities or conditions, in relation to assets transferred, or rights or interests acquired, by virtue of the order,
  - (b) provide for any assets, liabilities or conditions to be determined under the order.

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- (3) An order under sub-paragraph (1) has effect in relation to any assets or liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the assets or liabilities.
- (4) A right of pre-emption, right of irritancy, right of return or other similar right—
- (a) does not operate or become exercisable as a result of any transfer of assets by virtue of an order under sub-paragraph (1), and
  - (b) accordingly has effect in the case of any such transfer as if the Regulator were the same person in law as Ministers and as if no transfer of the assets had taken place.
- (5) Such compensation as is just is to be paid (by Ministers or by the Regulator or by both) to any person in respect of any such right which—
- (a) would but for sub-paragraph (4) have operated in favour of, or become exercisable by, that person, but
  - (b) because of the operation of that sub-paragraph, cannot subsequently operate in the person's favour or (as the case may be) become exercisable by the person.
- (6) An order under sub-paragraph (1) may provide for the determination of disputes as to—
- (a) whether and, if so, how much compensation is payable, and
  - (b) the person to whom or by whom it is to be paid.
- (7) A certificate given by Ministers which states whether an asset or liability has, or has not, been transferred by virtue of an order under sub-paragraph (1) is conclusive evidence of whether the asset or liability has been so transferred.
- (8) In this paragraph “right of return” means any right for the return or reversion of assets in specified circumstances.

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

**SCHEDULE 2**

*(introduced by section 162)*

**MODIFICATIONS OF ENACTMENTS**

*Co-operative and Community Benefit Societies and Credit Unions Act 1968 (c.55)*

- 1 In section 4A(3)(ba) (societies which cannot disapply section 4) of the Co-operative and Community Benefit Societies and Credit Unions Act 1968, for “section 57 of the Housing (Scotland) Act 2001 (asp 10)” substitute “section 20(1) of the Housing (Scotland) Act 2010 (asp 17)”.

**Commencement Information**

**I3** Sch. 2 para. 1 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

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*Land Tenure Reform (Scotland) Act 1974 (c.38)*

- 2 In section 21 (provisions for contracting out to be void) of the Land Tenure Reform (Scotland) Act 1974, for “sections 8(6) and 11(3)” substitute “ sections 8(3A), 8(6), 11(3) and 11(3A) ”.

**Commencement Information**

**I4** Sch. 2 para. 2 in force at 1.3.2011 by S.S.I. 2011/96, art. 2, Sch.

*Housing (Scotland) Act 1987 (c.26)*

- 3 (1) The Housing (Scotland) Act 1987 is amended as follows.
- (2) Sections 17A and 17B are repealed.
- (3) In section 14(2)(a) (houses which may be sold by local authorities without consent) for “Part III of the Housing (Scotland) Act 1988” substitute “ Part 11 of the Housing (Scotland) Act 2010 (asp 17) ”.
- (4) In section 61(4)(e), for “is registered as such” substitute “ was first registered as such (and remains so registered) ”.
- (5) In the definition of “registered social landlord” in section 338(1), for “Housing (Scotland) Act 2001 (asp 10)” substitute “ Housing (Scotland) Act 2010 (asp 17) ”.

**Commencement Information**

**I5** Sch. 2 para. 3 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Housing (Scotland) Act 1988 (c.43)*

- 4 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) In section 1(3)(e), the words from “maintaining” to the third occurrence of “landlords” are repealed.
- (3) Sections 56 to 64 are repealed.
- (4) For paragraph 11(ea) (local authority and other tenancies) of Schedule 4 substitute—  
“(ea) a registered social landlord within the meaning of the Housing (Scotland) Act 2010 (asp 17).”.

**Commencement Information**

**I6** Sch. 2 para. 4 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Housing Act 1988 (c.50)*

- 5 In section 52(10) (recovery etc. of grants) of the Housing Act 1988, for “Housing (Scotland) Act 2001 (asp 10).” substitute “ Housing (Scotland) Act 2010 (asp 17). ”.

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**I7** Sch. 2 para. 5 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

- 6 In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies) after the entry relating to the Scottish Further and Higher Education Funding Council”, insert— “ The Scottish Housing Regulator ”.

**Commencement Information**

**I8** Sch. 2 para. 6 in force at 1.4.2011 by S.S.I. 2011/96, art. 2, Sch.

*Housing (Scotland) Act 2001 (asp 10)*

- 7 (1) The Housing (Scotland) Act 2001 is amended as follows.
- (2) Sections 57 to 68 (and schedules 7 and 8) are repealed.
- (3) Sections 69 to 75 are repealed.
- (4) In section 76—
- (a) in subsection (1), the words “or a registered social landlord” are repealed,
  - (b) in subsection (2), the words “or, as the case may be, section 66 of this Act” are repealed.
- (5) Sections 79 to 82 are repealed.
- (6) In section 111, for the definition of “registered social landlord”, substitute—
- ““registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010 (asp 17),”.
- (7) In schedule 9—
- (a) in paragraph 1(1), sub-sub-paragraph (b) (and the word “or” immediately preceding it) are repealed,
  - (b) in paragraph 2(1), the words “or section 66 of this Act” are repealed.

**Commencement Information**

**I9** Sch. 2 para. 7 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Scottish Public Services Ombudsman Act 2002 (asp 11)*

- 8 In the Scottish Public Services Ombudsman Act 2002, in schedule 2 (listed authorities) for the words “Scottish Homes” in paragraph 44 substitute “ The Scottish Housing Regulator ”.

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**I10** Sch. 2 para. 8 in force at 1.4.2011 by S.S.I. 2011/96, art. 2, Sch.

*Freedom of Information (Scotland) Act 2002 (asp 13)*

9 In the Freedom of Information (Scotland) Act 2002, in schedule 1 (Scottish public authorities) after paragraph 85A insert—

“85B The Scottish Housing Regulator.”.

**Commencement Information**

**I11** Sch. 2 para. 9 in force at 1.4.2011 by S.S.I. 2011/96, art. 2, Sch.

*Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)*

10 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (specified authorities) after the entry relating to the Scottish Further and Higher Education Funding Council insert— “ Scottish Housing Regulator ”.

**Commencement Information**

**I12** Sch. 2 para. 10 in force at 1.4.2011 by S.S.I. 2011/96, art. 2, Sch.

*Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*

11 In the definition of “registered social landlord” in section 143(2) of the Antisocial Behaviour etc. (Scotland) Act 2004, for “section 57 of the Housing (Scotland) Act 2001 (asp 10)” substitute “ section 20(1) of the Housing (Scotland) Act 2010 (asp 17) ”.

**Commencement Information**

**I13** Sch. 2 para. 11 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Further and Higher Education (Scotland) Act 2005 (asp 6)*

12 In section 22(5) of the Further and Higher Education (Scotland) Act 2005, for paragraph (i) substitute—

“(i) the Scottish Housing Regulator.”

**Commencement Information**

**I14** Sch. 2 para. 12 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Charities and Trustee Investment (Scotland) Act 2005 (asp 10)*

13 (1) The Charities and Trustee Investment (Scotland) Act 2005 is amended as follows.

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(2) In Section 19, after subsection (4) insert—

“(4A) OSCR must consult the Scottish Housing Regulator before making an application under subsection (4) in relation to a registered social landlord (within the meaning of the Housing (Scotland) Act 2010 (asp 17)).”

(3) In section 38—

- (a) subsection (1) is repealed,
- (b) in subsection (2), for “functions referred to in subsection (1)” substitute “OSCR’s functions under sections 28 to 35 (other than section 30) and section 70A ”,
- (c) subsection (7) is repealed,
- (d) the words “(1) or”, where occurring in subsections (8), (9) and (10), are repealed,
- (e) subsection (12) is repealed.

**Commencement Information**

**I15** Sch. 2 para. 13 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Housing (Scotland) Act 2006 (asp 1)*

- 14 In section 22(4)(b) (application to private rented housing panel) of the Housing (Scotland) Act 2006, for “section 57 of that Act” substitute “ section 20(1) of the Housing (Scotland) Act 2010 (asp 17) ”.

**Commencement Information**

**I16** Sch. 2 para. 14 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

*Public Services Reform (Scotland) Act 2010 (asp 8)*

- 15 (1) The Public Services Reform (Scotland) Act 2010 is amended as follows.
- (2) In section 115(6), after the entry relating to the Mental Welfare Commission for Scotland insert— “ Scottish Housing Regulator, ”.
- (3) In schedule 19 (persons subject to user focus duty), after the entry relating to the Office of the Scottish Charity Regulator insert— “ Scottish housing regulator ”.
- (4) In schedule 20 (persons subject to duty of co-operation), after the entry relating to the Mental Welfare Commission for Scotland insert— “ Scottish Housing Regulator ”.

**Commencement Information**

**I17** Sch. 2 para. 15 in force at 1.4.2012 by S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2)

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