

# HOUSING (SCOTLAND) ACT 2014

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## EXPLANATORY NOTES

### THE STRUCTURE AND A SUMMARY OF THE ACT

#### Part Two – Social Housing

##### Allocation of social housing

##### Rules on priority of allocation of housing: consultation

15. **Section 4** inserts new section 20A into the 1987 Act. New section 20A requires social landlords to consult those mentioned in subsection 20A(2) and prepare and publish a report on the consultation, before determining the priority of allocation of houses held by it for housing purposes. When making or amending the allocation policy, subsection (2) amends section 21 of the 1987 Act to require social landlords to take account of any local housing strategy and any guidance issued by the Scottish Ministers. Before publishing any guidance on the priority of allocation of housing, the Scottish Ministers must consult such persons as they consider appropriate. Subsection (2) also enables the Scottish Ministers to make regulations subject to the affirmative procedure, which prescribe the type or description of persons whom social landlords must include in their rules governing the priority of allocation of houses. This is intended as a safeguard to ensure that categories of persons are not routinely omitted from an individual landlord's allocation policies.
16. **Section 5** amends section 20 of the 1987 Act to ensure that social landlords take no account of the ownership of or value of heritable property owned by the applicant or by a person who lives with or who it is proposed will live with the applicant, in the limited circumstances set out in new subsection (2C). These circumstances include, for example, where a property has not been let and the owner cannot secure entry to that property or where it is probable that occupation of the property will lead to abuse from some other person residing in that property.
17. **Section 6** amends section 20 and inserts new section 20B in the 1987 Act to allow social landlords to impose a minimum period before the applicant is eligible for the allocation of housing, if certain circumstances apply. A minimum period requirement cannot be placed on homeless applicants to whom the local authority has a duty to provide settled accommodation (new section 20B(2)(b)). A social landlord may determine that an applicant is ineligible for the allocation of social housing if any of the circumstances in new section 20B(6) apply in relation to the applicant. Some of the circumstances also apply in relation to a person who it is proposed will reside with the applicant. The circumstances include antisocial behaviour, harassment, using a house for immoral or illegal purposes or offences punishable by imprisonment that were committed in the vicinity of the house. Subsection 20B(3) provides the Scottish Ministers with the power to issue guidance on any matter relating to section 20B and requires that the guidance should be consulted on before publication. Subsection 20B(5) provides the Scottish Ministers with the power by regulations to prescribe the maximum period preceding the application that a social landlord may consider any of the circumstances in section 20B(6). Subsection 20B(5) also provides the Scottish Ministers with the power by regulations to prescribe a maximum period for an application to have remained

*These notes relate to the Housing (Scotland) Act 2014  
(asp 14) which received Royal Assent on 1 August 2014*

in force before an applicant is eligible for housing to be allocated when a landlord imposes such a period under any of those circumstances. Where a social landlord has imposed a minimum period before the applicant is eligible for the allocation of social housing, subsection 20B(9) enables the landlord to withdraw or reduce the minimum period. Subsection (10) provides applicants with a right to appeal to the sheriff against a landlord's decision to make them ineligible for a period for the allocation of housing.