

HOUSING (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part Three – Private Rented Housing

Transfer of sheriff’s jurisdiction to First-tier Tribunal

33. [Sections 16 to 20](#) and schedule 1 to the Bill make provision to transfer the types of civil private rented sector housing court actions specified in these provisions from the jurisdiction of the sheriff court to the jurisdiction of the First-tier Tribunal (“FTT”). These actions include repossession cases and various non-repossession related cases. The FTT is due to be established under the Tribunals (Scotland) Act 2014 (“the Tribunals Act”). Provisions and powers provided in the Tribunals Act will allow for operational detail such as the establishment of tribunal rules and appointment of members to the FTT. The Explanatory Notes in relation to this Part of the Act should, therefore, be read in conjunction with the Tribunals Act.
34. [Section 16](#) provides for the functions and jurisdiction of the sheriff court in relation to civil actions arising from regulated tenancies within the meaning of section 8 of the Rent (Scotland) Act 1984 (“the 1984 Act”), Part VII contracts within the meaning of section 63 of the 1984 Act and assured tenancies within the meaning of section 12 of the Housing (Scotland) Act 1988 (“the 1988 Act”), to be transferred to the FTT. This includes matters of eviction.
35. [Part 1](#) of schedule 1 makes consequential amendments to this effect.
36. [Section 17\(2\)](#) amends section 18 of the Housing (Scotland) Act 2006 (“the 2006 Act”) to provide that applications from a landlord or tenant for an order to exclude or modify the application of sections 14, 15 and 17 of the 2006 Act to the tenancy (with regards to the landlord’s duty to repair and maintain, and the prohibition on contracting out of the landlord’s duty to repair and maintain) are transferred from the jurisdiction of the sheriff court to the jurisdiction of the FTT.
37. [Section 17\(4\)](#) amends section 57 of the 2006 Act to provide that where the section applies, the FTT, as opposed to the sheriff, may order a person who prevents or obstructs another person from doing anything which that person is required, authorised or entitled to do under Part 1 of the 2006 Act, to permit that person to do all things which they are required, authorised or entitled to do.
38. [Part 2](#) of schedule 1 makes consequential amendments to this effect.
39. [Section 18](#) inserts new section 66A into the 2006 Act. New section 66A provides the ability for tenants to appeal a landlord’s refusal of, or imposition of conditions on, consent to adapt a rented house for a disabled person or for energy efficiency. The effect of the insertion of this section is to transfer jurisdiction to the FTT.
40. [Part 3](#) of schedule 1 makes consequential amendments.

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

41. **Section 19** provides for the jurisdiction to decide civil matters relating to landlord registration arising from the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”) (appeals against local authority decisions regarding landlord registration) to be transferred from the sheriff court to the FTT.
42. **Part 4** of schedule 1 makes consequential amendments.
43. **Section 20(1)(a)** provides a power for the Scottish Ministers, by regulations, to transfer jurisdiction to decide cases under section 153(2) of the 2006 Act (where a person has obstructed another person from completing an action in relation to breaches of houses in multiple occupation (“HMO”) licences or local authority amenity notices) from the sheriff to the FTT.
44. **Section 20(1)(b)** provides that the Scottish Ministers may also, by regulations, transfer appeals against decisions of local authorities to which section 158 of the 2006 Act applies (against decisions relating to HMOs) and applications to extend the period mentioned in paragraph 9(1) of schedule 4 to that Act and warrants for ejection under paragraph 2 of schedule 5 to that Act in relation to premises or land, from the sheriff to the FTT.
45. **Section 20(2)** provides that regulations under subsection (1) may also:
 - disapply section 153(2) of the 2006 Act (regarding orders in cases where a person has obstructed another person under sections 145(2), 146(2), 151 or schedule 5 of that Act) which would become appropriate if all powers to make orders in these cases have been transferred to the FTT,
 - disapply section 159(1) and paragraph 9(2) of schedule 4 to the 2006 Act (which allow any decision of a local authority in relation to HMOs to be appealed by summary application to the sheriff and the sheriff to extend the period in which a local authority must decide whether to grant or refuse an HMO licence application),
 - disapply paragraph 3(1) of schedule 5 to the 2006 Act (which relates to warrants for ejection where a person has not complied with a requirement to evacuate to allow work to be carried out), and
 - make other consequential amendments to the 2006 Act and any other enactment as the Scottish Ministers consider appropriate.