

HOUSING (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part Three – Private Rented Housing

Enforcement of repairing standard

59. [Part 3](#) of the Act (at sections 25 to 27) also makes provision to expand access to the private rented housing panel by enabling third party applications by local authorities to enforce the repairing standard.
60. Section 25(1)(a) amends section 22 of the 2006 Act by inserting subsections (1A) and (1B), to enable a third party to apply to the private rented housing panel for a determination of whether a landlord has failed to comply with the repairing standard which is provided for in section 13 of the 2006 Act (section 14(1)(b) of the 2006 Act provides that the landlord in a tenancy must ensure that the house meets the repairing standard at all times during the tenancy). New section 22(1B) defines such a third party applicant as a local authority, or a person specified by order by the Scottish Ministers.
61. Section 25(1)(b) amends section 22(2) of the 2006 Act to require that an application made by a third party must set out the third party applicant's reasons for considering that the repairing standard is not met.
62. Section 25(1)(c) amends section 22(3) of the 2006 Act to provide that an application in respect of the repairing standard cannot be made unless the person making the application has informed the landlord that work needs to be carried out for the purpose of complying with the repairing standard. Section 25(1)(d) amends section 22(4) to provide that applications made under this amended section (both by tenants and by third party applicants) cannot be made if the landlord is a local authority landlord, a registered social landlord, Scottish Water or Scottish Homes.
63. New section 22(4A) as inserted by section 25(1)(e) of the Act makes provision that the tenant of the house concerned is entitled to be a party to the determination of any application by a third party to the private rented housing panel.
64. Section 25(3) amends section 22A(1) of the 2006 Act to provide that on receipt of an application by a tenant or third party applicant (other than a local authority third party applicant), the private rented housing panel must provide the information specified in section 22A(2) to the local authority for the area in which the house is situated for the purpose of the local authority maintaining the register under section 82(1) of the 2004 Act (landlord register).
65. Section 25(4) of the Act amends section 23 of the 2006 Act so that the processes whereby the president of the private rented housing panel decides whether to refer an application to a private rented housing committee or to reject it will also apply to applications made by a third party. Notification of rejected third party applications must be given to the third party applicant and the tenant, setting out the reasons for

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

rejection and the procedures for appealing against it (new subsection (4A) as inserted into section 23 of the 2006 Act).

66. Section 25(5) amends section 24 of the 2006 Act so that the private rented housing committee must make a determination of applications made by a tenant or a third party as to whether the landlord has failed to comply with the repairing standard (in other words the landlord's duty under section 14(1)(b)).
67. Section 25(6) amends section 181 of the 2006 Act to provide a new power of entry for third parties in relation to the repairing standard. This provides for the right of entry by a person authorised by a third party applicant, for the purposes of deciding whether an application is to be made to the PRHP under section 22(1A) of the 2006 Act.
68. Section 25(7)(a) amends section 182 of the 2006 Act, which outlines circumstances where a sheriff or justice of the peace may issue a warrant to enter a house, by force if necessary, to include that a warrant may be issued for the purposes of deciding whether an application is to be made to the PRHP under section 22(1A) of the 2006 Act. Section 25(7)(b) provides that the reference to the 'occupier' in section 182(3) for the purposes of an application for an warrant under section 181(1A) includes the tenant, the landlord and any known agent of the landlord. Section 25(8) inserts a new subsection (4A) into section 184 of the 2006 Act so that the requirement under section 184(4) for at least 24 hours' notice to be given to the occupants of the land or premises concerned before exercising the right of entry under section 181(1A), is read as requiring notice to be given to the tenant, landlord and any known agent of the landlord.
69. Section 25(9) amends section 187 of the 2006 Act which sets out the means by which a formal communication under the Act is served, submitted, given, made or issued to a person, by substituting for the reference to "the recorded delivery service" a reference to "a service which provides for the delivery of the communication to be recorded".
70. Section 25(10) amends section 194(1) of the 2006 Act (interpretation) to include 'third party applicant', which is to be interpreted as a local authority or a person specified by order made by the Scottish Ministers.
71. Section 25(11) repeals section 35(3) of the Private Rented Housing (Scotland) Act 2011, which (if commenced) would have inserted the word "Tenant" at the start of the title of section 22 of the 2006 Act, entitled 'Application to the Private Rented Housing Panel'.