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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 270 (C.25)**

**HOUSING**

**The Housing (Scotland) Act 2006 (Commencement  
No. 5, Savings and Transitional Provisions) Order 2007**

*Made - - - - 27th March 2007*

The Scottish Ministers, in exercise of the powers conferred by sections 191(2) and 195(3) of the Housing (Scotland) Act 2006<sup>(1)</sup>, hereby make the following Order:

**Citation**

**1.** This Order may be cited as the Housing (Scotland) Act 2006 (Commencement No. 5, Savings and Transitional Provisions) Order 2007.

**Interpretation**

**2.** In this Order—

“the 2006 Act” means the Housing (Scotland) Act 2006; and

“the 1987 Act” means the Housing (Scotland) Act 1987<sup>(2)</sup>.

**Commencement of Provisions**

**3.** The day appointed for the coming into force of the provisions of the 2006 Act specified in Column 1 of the Table below is as shown in Column 2, but where a particular purpose is specified in relation to any provision in Column 3, that provision shall come into force on that day only for that purpose.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Sections 167 to 171, 179	28th May 2007	
Sections 12 to 29, 36 to 39, 58, 59(2) to (5), 60, 61, 63(2) to (9), 64(1) to (5) and (7),	3rd September 2007	

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(1) 2006 asp 1.

(2) 1987 (c. 26).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
65(1), (2) and (5), 66, 67, 172 to 174, 181(2), (4) and (6), 183, Schedule 2		
Section 192	3rd September 2007	Only for the purpose of giving effect to the consequential changes in Schedule 6 and the repeals in Schedule 7 listed in this Order
Schedule 6, paragraphs 4, 5, 7, 8, 16, 17, 19	3rd September 2007	
Schedule 7	3rd September 2007	Only for the purposes of the repeal of section 113 of and Schedule 10 to the 1987 Act

### **Savings**

**4.** Notwithstanding the repeal of Schedule 10 to the 1987 Act by virtue of article 3, that Schedule shall continue to have effect in respect of any proceedings already commenced to enforce the obligations provided for in that Schedule.

### **Transitional provisions**

**5.** Where, under paragraph 5 of Schedule 10 to the 1987 Act, the sheriff has granted an order authorising the inclusion in a lease, or in an agreement collateral to a lease, of provisions excluding in relation to the lease the provisions of paragraph 3 of that Schedule, the tenancy in respect of that lease shall be treated as if the sheriff had granted an order under section 18 of the 2006 Act excluding the application to the tenancy of sections 14, 15 and 17 of the 2006 Act.

**6.** Where, under paragraph 5 of Schedule 10 to the 1987 Act, the sheriff has granted an order authorising the inclusion in a lease, or in an agreement collateral to a lease, of provisions modifying in relation to the lease the provisions of paragraph 3 of that Schedule, to the extent that any of those modifications is capable of modifying the application of the provisions of sections 14, 15 or 17 of the 2006 Act, those modifications shall be treated as if made by order of the sheriff under section 18 of the 2006 Act.

St Andrew's House,  
Edinburgh  
27th March 2007

*DES McNULTY*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Housing (Scotland) Act 2006 (“the 2006 Act”).

Sections 167 to 171, which amend the Mobile Homes Act 1983 and the Caravan Sites Act 1968 to extend protection for people who occupy a mobile home (including changes to provisions on criminal offences relating to harassment), are brought into force on 28th May 2007, as is section 179 which requires the Scottish Ministers to prepare and publish an energy efficiency strategy for living accommodation.

The remaining provisions listed in this Order come into force on 3rd September 2007. These provide for increased statutory obligations on private landlords to keep houses in repair, the right of application by tenants to the Private Rented Housing Panel, when the landlord is alleged to be in breach of these obligations, and the right for local authorities to carry out works determined by a Private Rented Housing Committee, which a landlord cannot or will not do. Provisions allowing local authorities to recover the costs of the work done and relating to appeals are also brought into force. Two criminal offences relating to landlords of houses subject to repairing standard enforcement orders are brought into force. Schedule 2 makes provision for the procedure of Private Rented Housing Committees.

The power is brought into force for the Scottish Ministers to regulate to change the route for an appeal against a private landlord's decision in relation to the tenant's right to make an adaptation to meet the needs of a disabled occupant. Provisions allowing a local authority to make and register a repayment charge on living accommodation in order to secure certain amounts due to it are also brought into force.

Some consequential changes in Schedule 6 and some repeals in Schedule 7 of the 2006 Act are also brought into force.

Article 4 saves the effect of Schedule 10 of the Housing (Scotland) Act 1987 in respect of any proceedings already commenced to enforce the landlord's repairing obligations provided for in that Schedule.

Schedule 10 to the Housing (Scotland) Act 1987 allows a sheriff to grant an order excluding certain repairing provisions from a lease or modifying those provisions in a lease. Where an order has been granted excluding these provisions, article 5 provides that such cases are to be treated as if the sheriff had granted an order under section 18 of the 2006 Act excluding the application to the tenancy of sections 14, 15 and 17 of that Act.

Where an order has been granted under Schedule 10 modifying the provisions of a lease, article 6 provides that those modifications, if they are capable of modifying the provisions of sections 14, 15 or 17 of the 2006 Act, are to be treated as if made by order of the sheriff under section 18 of the 2006 Act.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 176 and 177	29th January 2006	<a href="#">2006/14</a>

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 178 and 180	17th May 2006	<a href="#">2006/252</a>
Sections 70, 175, 185, 193 and 194	5th July 2006	<a href="#">2006/395</a>
Sections 52, 53, 54, 55, 56, 57, 63(1), 64(6), 65(3) and (4), 181(1)(c) and (5), 182, 184, 186, 187, 188 and 189	4th December 2006	<a href="#">2006/395</a> and <a href="#">2006/569</a>
Partially, sections 22(5), 64(7), 65(5), 66(1) and (4), 99, 104, 105, 111(3), Schedule 2, paragraph 8 and Schedule 3, paragraph 2	4th December 2006	<a href="#">2006/395</a> and <a href="#">2006/569</a>