



Housing (Scotland) Act 1986

1986 CHAPTER 65

An Act to amend the Tenants' Rights, Etc. (Scotland) Act 1980, the Housing Associations Act 1985 in its application to Scotland and the Building (Scotland) Act 1959; to make further provision as regards housing in Scotland; and for connected purposes. [7th November 1986.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1—12. F1

Textual Amendments

F1 Ss. 1–12, 18, 21, Sch. 1 and Sch. 2 para. 2 repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

Amendment of Housing Associations Act 1985

13 Shared ownership agreements.

(1) F2

(2) In section 106(2) of the 1985 Act (interpretation for purposes of application to Scotland), for the definition of “shared ownership lease” there shall be substituted the following definition—

““shared ownership agreement” means an agreement whereby a registered housing association—

(a) sells *pro indiviso* right in a dwelling to a person and leases the remaining *pro indiviso* rights therein to him subject to his being

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Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 1986. (See end of Document for details)

entitled, from time to time, to purchase those remaining rights until he has purchased the entire dwelling; or

- (b) conveys *pro indiviso* rights in dwellings to trustees to hold on behalf of persons each of whom, by purchasing a share in those dwellings, becomes entitled to exclusive occupancy of one of the dwellings but with any such person who wishes to sell or otherwise dispose of his share being required to do so through the agency of the trustees,

or such other agreement as may be approved whereby a person acquires from a registered housing association *apro indiviso* right in a dwelling or dwellings and thereby becomes entitled to exclusive occupancy of the dwelling or, as the case may be, of one of the dwellings; ”.

Textual Amendments

F2 Ss. 13(1), 14–16, Sch. 2 para. 4(8)(a) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

14— ^{F3}
16.

Textual Amendments

F3 Ss. 13(1), 14–16, Sch. 2 para. 4(8)(a) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

Housing Expenditure and Grants

17 Precondition as regards use of renewal and repairs fund for certain housing expenditure.

In paragraph 22(2) of Schedule 3 to the ^{M1}Local Government (Scotland) Act 1975 (restrictions on use of capital and renewal and repair funds), after the word “restaurant” there shall be inserted the words “ ; and if the renewal and repair fund is used so to meet expenditure incurred by the authority in relation to any house, or other property, to which their housing revenue account relates, the amount in question shall, subject to paragraph 1(7) of Schedule 4 to the ^{M2}Housing (Financial Provisions) (Scotland) Act 1972, first to be carried to the credit of that account ”.

Marginal Citations

- M1** 1975 c. 30.
- M2** 1972 c. 46.

18 ^{F4}

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Textual Amendments

- F4** Ss. 1–12, 18, 21, Sch. 1 and Sch. 2 para. 2 repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

Amendment of Building (Scotland) Act 1959

19 Amendment of Building (Scotland) Act 1959.

- (1) The ^{M3}Building (Scotland) Act 1959 shall be amended in accordance with the following provisions of this section.
- (2) In section 3(4)(b) (circumstances in which building standards regulations are not to apply), after the words “exempted classes” there shall be inserted the words “, to such extent as may be specified in the regulations ”.
- (3) For section 4B (power of Secretary of State to approve types of building, etc.), there shall be substituted the following section—

“4B Class warrants.

- (1) The following provisions of this section shall have effect with a view to enabling the Secretary of State, on an application being made to him under this section, to issue a certificate (to be known as a “class warrant”) that a particular design (including specification of materials) of building conforms, either generally or in any class of case, to particular provisions of the building standards regulations.
- (2) A person intending to apply for a class warrant under this section shall send a copy of the prospective application in the prescribed manner to a body designated by the Secretary of State which, if it is satisfied that the design in respect of which the warrant is sought conforms to the building standards regulations, shall recommend that the class warrant be issued.
- (3) An application to the Secretary of State for a class warrant under this section shall be made in the prescribed manner and shall be accompanied by a relevant recommendation made under subsection (2) above.
- (4) The Secretary of State may, where a recommendation under subsection (2) above is made in respect of a design of building, issue a class warrant in respect of that design; and a class warrant so issued shall be accepted by a local authority as conclusive of the matters stated therein.
- (5) A body designated under subsection (2) above may charge such fee for considering a design in respect of which a copy application has been sent to it under that subsection as may be agreed between the applicant and the body.
- (6) A class warrant shall, if it so provides, cease to have effect at the end of such period as may be specified in it.
- (7) The Secretary of State may at any time vary or revoke a class warrant; but before doing so he shall give the person on whose application it was issued reasonable notice that he proposes so to do.

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- (8) Where the Secretary of State varies or revokes a class warrant he shall publish notice of that fact in such manner as he thinks fit.
- (9) There may be prescribed—
- (a) the type, part or parts of building to which the provisions of this section shall apply;
 - (b) the terms and conditions on which a class warrant may be issued;
 - (c) procedures incidental to any provisions of this section;
 - (d) the fee, if any, to be charged for issuing a class warrant;
 - (e) any variations in the design of building which will be permitted.
- (10) Where a fee is chargeable by virtue of subsection (9)(d) above, the regulations under which it is chargeable may make different provision (which, without prejudice to the generality of this subsection, may include provision for remission of the fee in whole or in part) for—
- (a) different cases or classes of case; or
 - (b) different circumstances or classes of circumstances,
- (difference being determined by reference to any factor or factors whatsoever).”.
- (4) After section 6 there shall be inserted the following section—

“6AA Self-certification of design.

- (1) On making an application for a warrant under section 6 of this Act, an applicant may submit a certificate issued under this section certifying that the design (including the specification of material to be used) of the building complies with building standards regulations prescribed under paragraph (a) of subsection (2) below; and in determining whether to issue the warrant, the local authority shall accept the certificate as conclusive of the facts to which it relates.
- (2) There may be prescribed—
- (a) the part or parts of the building standards regulations in relation to which a certificate under this section may be submitted and different provision may be made in respect of different parts of the regulations and in respect of different types of building;
 - (b) whether or not by reference to specific criteria, such person or persons as shall be entitled to issue such certificate;
 - (c) the form of such certificate;
 - (d) the drawings, plans, specifications or other material which shall be submitted with the certificate.”.
- (5) In section 9 (certificate of completion), after subsection (2) there shall be inserted the following subsection—
- “(2A) Where the Secretary of State has issued a relevant class warrant, a local authority shall grant a certificate of completion in respect of any building unless—
- (i) the approved design (or an approved variation) has not been complied with whether by reason of faulty workmanship or otherwise; or

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- (ii) the building standards regulations in relation to any part of the building to which section 4B of this Act does not apply have not been complied with.”.
- (6) For section 20 (fees chargeable by local authorities) there shall be substituted the following section—

“20 Fees chargeable by local authorities.

- (1) A local authority may in respect of the performance of their functions under this Act charge such fees as may be prescribed; but there may also be prescribed cases or classes of case for which, or circumstances or classes of circumstances where, no fee shall be chargeable.
- (2) Where a fee is chargeable by virtue of subsection (1) above, the regulations under which it is so chargeable may make different provision (which, without prejudice to the generality of this subsection, may include provision for remission of the fee in whole or in part) for—
- (a) different cases or classes of case;
 - (b) different circumstances or classes of circumstances;
 - (c) different items or classes of business,
- (difference being determined by reference to any factor or factors whatsoever).”.

Marginal Citations

M3 1959 c. 24.

Amendment of Land Compensation (Scotland) Act 1973

20 Compensation for person displaced from dwelling-house let under secure tenancy.

- (1) The ^{M4}Land Compensation (Scotland) Act 1973 shall be amended in accordance with the following provisions of this section.
- (2) In section 27(1) (right to home loss payment where person displaced from dwelling)—
- (a) after paragraph (e) there shall be inserted the following paragraph—
 - “(f) an order for recovery of possession of the dwelling under section 15(2) of the Tenants’ Rights, Etc. (Scotland) Act 1980, on the ground set out in paragraph 10 of Part I of Schedule 2 to that Act.”; and
 - (b) after sub-paragraph (v) there shall be inserted the following sub-paragraph—
 - “(vi) where paragraph (f) above applies, the landlord.”.
- (3) In section 29 (supplementary provisions about home loss payments), after subsection (7) there shall be inserted the following subsection—
- “(7AA) If a landlord recovers possession of a dwelling by agreement—

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- (a) after serving notice under section 14 of the Tenants' Rights, Etc. (Scotland) Act 1980 on the tenant specifying the ground set out in paragraph 10 of Part I of Schedule 2 to that Act; or
- (b) where, but for that agreement, it would have served such notice on him specifying that ground,
- it may, in connection with the recovery, make to him a payment corresponding to any home loss payment which it would be required to make to him if the recovery were by order under section 15(2) of that Act.”.

Marginal Citations

M4 1973 c. 56.

21 F5

Textual Amendments

F5 Ss. 1–12, 18, 21, Sch. 1 and Sch. 2 para. 2 repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

Supplemental

22 Interpretation.

In this Act—

“the 1980 Act” means the Tenants' Rights, Etc. (Scotland) Act 1980; and

“the 1985 Act” means the ^{M5}Housing Associations Act 1985.

Marginal Citations

M5 1985 c. 69.

23 Consequential, transitional and supplementary provision.

- (1) The Secretary of State may by order made by statutory instrument make such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or proper for giving full effect to, or in consequence of any of the provisions of, this Act.
- (2) A statutory instrument made under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) paragraph 7(a)(ii) and (b)(ii) of Schedule 1 to this Act shall have no effect as regards any case in which repayment has become exigible under subsection (1) of section 6 of the 1980 Act before the coming into force of that paragraph; but in any other case the terms of any standard security, offer to sell or concluded missives shall, in so far as they are inconsistent with the period of years specified in that subsection, or with the

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proportions specified in subsection (3) of that section, have effect as if so modified as to obviate that inconsistency.

24 Expenses.

There shall be paid out of the money provided by Parliament any—

- (a) sums required by the Secretary of State for making grants, loans or other payments by virtue of this Act,
- (b) administrative expenses incurred by him by virtue of this Act;
- (c) increase attributable to the provisions of this Act in the sums which under any other enactment are paid out of money so provided.

25 Minor amendments and repeals.

- (1) The enactments specified in Schedule 2 to this Act shall have effect subject to the amendments there specified, (being minor amendments or amendments consequential on the provisions of this Act).
- (2) The enactments specified in Schedule 3 to this Act are repealed to the extent specified in the third column of that Schedule.

26 Citation, commencement and extent.

- (1) This Act may be cited as the Housing (Scotland) Act 1986.
- (2) This Act, except this section, shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be so appointed for different provisions and for different purposes.
- (3) This Act applies to Scotland only.

Modifications etc. (not altering text)

C1 Power of appointment conferred by s. 26(2) fully exercised: [S.I. 1986/2137](#), [art. 2](#)

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SCHEDULES

SCHEDULE 1

F6

Textual Amendments

F6 Ss. 1–12, 18, 21, Sch. 1 and Sch. 2 para. 2 repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Building (Scotland) Act 1959 (c. 24)

1 In section 17(2) of the Building (Scotland) Act 1959 (restriction on effect of requirement to demolish, or carry out operations in relation to, a building), after paragraph (b) there shall be inserted the following paragraph—

“(bb) a building to which section 262A of the said Act of 1972 (control of demolition in conservation areas) applies;”.

2 F7

Textual Amendments

F7 Ss. 1–12, 18, 21, Sch. 1 and Sch. 2 para. 2 repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

The Land Tenure Reforms (Scotland) Act 1974 (c. 38)

3 In section 8(7) of the Land Tenure Reform (Scotland) Act 1974 (saving)—

(a) for the words “1971” there shall be substituted the words “ 1984 or a secure tenancy within the meaning of the ^{M6}Tenants’ Rights, Etc. (Scotland) Act 1980 ”; and

(b) for the words “that Act” there shall be substituted the words “ either of those Acts ”.

Marginal Citations

M6 1980 c. 52.

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Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 1986. (See end of Document for details)

The Housing Associations Act 1985 (c. 69).

- 4 (1) The Housing Associations Act 1985 shall be amended in accordance with this paragraph.
- (2) In section 8(1) (power of registered housing associations to dispose of land), after the word “buy” there shall be inserted the words “ and Part I of the Tenants’ Rights, Etc. (Scotland) Act 1980 (analogous Scottish Provisions) ”.
- (3) In section 15(1) (prohibition on payments etc. by certain registered housing associations), at the end there shall be added the words “ or by section 15A of this Act ”.
- (4) In section 40 (index of defined expressions), after the entry relating to a shared ownership lease there shall be inserted the following entry—

“shared ownership agreement (in relation to section 106”.
Scotland)

- (5) In section 42 (projects qualifying for housing association grant: accommodation for letting, hostels), in subsection (2)(a)—
- (a) after the word “includes” there shall be inserted the words
“(i) In England and Wales,”; and
- (b) after the word “lease,” there shall be inserted the following sub-paragraph—
“(ii) in Scotland, disposal under a shared ownership agreement,”.
- (6) In section 86 (Housing Corporation indemnities for building societies)—
- (a) in subsection (1)—
- (i) after the words “building society” in each of the three places where they occur there shall be inserted the words “ or recognised body ”; and
- (ii) in paragraph (b), for the word “the” where it last occurs there shall be substituted the word “ a ”;
- (b) in subsection (2), after the words “building society” there shall be inserted the words “ or recognised body ”;
- (c) in subsection (5), after the words “building societies” there shall be inserted the words “ or recognised bodies ”; and
- (d) at the end there shall be added the following subsections—
- “(6) In this section, “recognised body” means a body designated, or of a class or description designated, in an order made under this subsection by statutory instrument by the Secretary of State with the consent of the Treasury.
- (7) Before making an order under subsection (6) above varying or revoking an order previously so made, the Secretary of State shall give an opportunity for representations to be made on behalf of a recognised body which, if the order were made, would cease to be such a body.”.
- (7) In section 106 (interpretation), at the end there shall be added the following subsection—

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“(3) In the definition of “shared ownership agreement” in subsection (2) above, “approved” means approved by the Secretary of State after consultation with the Housing Corporation.”.

(8) In section 107—

(a) F8

(b) in subsection (4) (list of provisions of Act applying to Scotland only), after the word “only—” there shall be inserted the words—

“ F9

section 15A.”.

Textual Amendments

F8 Ss. 13(1), 14–16, Sch. 2 para. 4(8)(a) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

F9 Words repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

SCHEDULE 3

REPEALS

Chapter	Short title	Extent of repeal
10 & 11 Eliz. 2. c. 37	The Building Societies Act 1962.	In Schedule 3.3(2)(b), the word “and” where it first occurs.
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Section 25(1)(d).
1980 c. 52.	The Tenants’ Rights, Etc. (Scotland) Act 1980.	In section 1(8), the word “and” at the end of paragraph (c). In section 1(11), the words “nor” at the end of paragraph (b). In section 10(2), the word “and” at the end of paragraph (f). In section 30(5), the words “and the standard rate shall be effective from the date when it is declared by the Secretary of State”. In Schedule 1, paragraph 1.

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Changes to legislation: *There are currently no known outstanding effects for the Housing (Scotland) Act 1986. (See end of Document for details)*

1985 c. 69.

The Housing Associations
Act 1985.

Section 100.

In section 106(2), the definition of “heritable security”.

In section 107(3), the words “17(4),”; the words “sections 44 and 45,”; the word “(3)” where it occurs in the entry relating to section 52; and the words “section 105,”.

Status:

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Changes to legislation:

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