



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Protection from eviction

37 The measure of damages.

- (1) The basis for the assessment of damages referred to in section 36(3) above is the difference in value, determined as at the time immediately before the residential occupier ceased to occupy the premises in question as his residence, between—
 - (a) the value of the landlord's interest determined on the assumption that the residential occupier continues to have the same right to occupy the premises as before that time; and
 - (b) the value of the landlord's interest determined on the assumption that the residential occupier has ceased to have that right.
- (2) For the purposes of the valuations referred to in subsection (1) above, it shall be assumed—
 - (a) that the landlord is selling his interest in the premises on the open market to a willing buyer;
 - (b) that neither the residential occupier nor any member of his family wishes to buy; and
 - (c) that it is unlawful to carry out any substantial development of any of the land in which the landlord's interest subsists or to demolish the whole or part of any building on that land.
- (3) Subsection (8) of section 36 above applies in relation to this section as it applies in relation to that.
- (4) Section 83 of the ^{M1}Housing (Scotland) Act 1987 (meaning of "members of a person's family") applies for the purposes of subsection (2)(b) above.

Changes to legislation: Housing (Scotland) Act 1988, Section 37 is up to date with all changes known to be in force on or before 19 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The reference in subsection (2)(c) above to substantial development of any of the land in which the landlord's interest subsists is a reference to any development other than—
- (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted; or
 - (b) a change of use resulting in a building on the land or any part of such a building being used as, or as part of, one or more dwelling-houses;
- and in this subsection “general development order” has the same meaning as in section 40(3) of the ^{M2}Town and Country Planning (Scotland) Act 1972 and other expressions have the same meaning as in that Act.

Modifications etc. (not altering text)

- C1** S. 37 modified (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 \(asp 10\)](#), s. 13(1), [sch. 2 para. 7\(1\)\(2\)\(4\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#)
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Marginal Citations

- M1** 1987 c. 26.
M2 1972 c. 52.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)