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## EXPLANATORY NOTE

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

These Regulations revoke and re-enact with amendments the Housing (Preservation of Right to Buy) (Scotland) Regulations 1992 (“the 1992 Regulations”).

Before section 81A of the Housing (Scotland) Act 1987 (“the 1987 Act”) came into effect, when a public sector landlord of a house occupied by a secure tenant disposed of that house to a private sector landlord, the tenant no longer had a statutory right to buy the house. The continuation of that right could only be ensured by contractual means. Section 81A was inserted into the 1987 Act by section 128 of the Housing Act 1988 (“the 1988 Act”). It preserves the right to buy following such a disposal, and gives the Secretary of State the power to prescribe by Regulations that in certain circumstances it is not preserved. It also enables him to prescribe additions and exceptions to, and adaptations and modifications of, the right to buy provisions of the 1987 Act in their application to the preserved right to buy. The right to buy provisions are Part III and section 216 of the 1987 Act.

The 1992 Regulations were made under those powers. However, the right to buy provisions of the 1987 Act have been amended by the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”) and new Regulations were considered necessary to reflect those changes.

These Regulations provide that the right to buy is not preserved where the disposal is under Part III of the Housing (Scotland) Act 1988 (change of landlord: secure tenants) or is to a co-operative housing association (regulation 5).

The Regulations also make additions and exceptions to, and adaptations and modifications of, the right to buy provisions of the 1987 Act (as amended by the 1988 and 1993 Acts) in their application to the preserved right to buy (regulations 3 and 4). Schedule 1 sets out the alterations made and Schedule 2 sets out the right to buy provisions as so altered.

Regulations 6 and 7 provide for specific matters authorised by section 81A of the 1987 Act.

The alterations made to the right to buy provisions are in the main consequential changes to enable them to work in the situation of the preserved right to buy and the omission of irrelevant material. An exception of substance, however, is that in the case of the preserved right to buy the provisions enabling the tenant to purchase the house by means of the rent to loan scheme (introduced into the 1987 Act by the 1993 Act) will not apply.

The differences between these Regulations and the 1992 Regulations reflect mainly the amendments made to the right to buy provisions of the 1987 Act by the 1993 Act. The principal amendments made by the 1993 Act related to—

- (a) the introduction of a rent to loan scheme which is a new method of buying a house under the right to buy provisions and which it would be inappropriate to apply to the preservation of the right to buy (paragraphs 3, 4(a)(iv) and (b)(iv) and (c), 10, 14(b) and (c), 17, 24 and 26(c) of Schedule 1 to these Regulations relate to those amendments);
- (b) the periods for qualifying for entitlement to purchase and for the purposes of discount (paragraph 2(c)(ii) and (iii) of Schedule 1 relates to these amendments);
- (c) the abatement of the purchase price on the landlord’s delay (paragraphs 8 and 9 of Schedule 1 relate to these amendments); and
- (d) the imposition of a duty on local authority landlords to provide information about right to buy (paragraph 20 of Schedule 1 relates to this amendment).