

2008 No. 1889

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
HOUSING

**The Housing (Scotland) Act 2006 (Consequential Provisions)
Order 2008**

Made - - - - - *14th July 2008*
Coming into force - - - *1st October 2008*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2), (3), (4) and (5) of the Scotland Act 1998(a).

In accordance with section 115 of, and paragraphs 1, 2 and 3 of Schedule 7 to, that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Housing (Scotland) Act 2006 (Consequential Provisions) Order 2008 and shall come into force on 1st October 2008.

(2) Articles 2 and 3 of this Order extend to Scotland only.

Interpretation

2. In this Order—

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

“house” has the meaning given in section 194 (interpretation) of the 2006 Act;

“prescribed survey report” means a document prescribed under section 104(1) (information to be held or provided to potential buyers) of the 2006 Act which contains the information referred to in section 104(2)(a) and (b) of that Act.

Liability for a prescribed survey report

3.—(1) If the buyer of a house has—

(a) obtained a copy of a prescribed survey report under section 99(1) of the 2006 Act in respect of that house; and

(a) 1998 c.46.
(b) 2006 asp 1.

- (b) suffered material loss as a result of the report not meeting any of the requirements in paragraph (2),

the buyer has a right to damages against the person who prepared the report.

- (2) The requirements are that the prescribed survey report—
 - (a) is based on an inspection of the house;
 - (b) has been prepared in a fair and unbiased way;
 - (c) has been prepared with reasonable skill and care.
- (3) For the purposes of this article, material loss has been suffered when—
 - (a) the market value of the house on the date of the prescribed survey report is materially lower than the value given in the prescribed survey report; and
 - (b) the buyer has paid more than the market value of the house.

Jurisdiction

4.—(1) This article applies to a claim for damages under article 3 against a person domiciled in a part of the United Kingdom.

(2) That person may be sued for such a claim in Scotland.

(3) The rule in paragraph (2) applies in addition to the rules contained in Schedule 4 to the Civil Jurisdiction and Judgments Act 1982^(a) (and that Schedule applies to the claim as if that rule were contained in it).

(4) Section 17(1) of that Act does not apply to such a claim.

5.—(1) This article applies to proceedings in Scotland for a claim under article 3.

(2) A person may be sued for such a claim in the courts for the place in which the house is situated.

(3) The rule in paragraph (2) applies in addition to the rules contained in Schedule 8 to the Civil Jurisdiction and Judgments Act 1982 (and that Schedule applies to the claim as if that rule were contained in it).

(4) Section 21(1) of that Act does not apply to such a claim.

^(a) 1982 c.27.

Modification of the House of Commons Disqualification Act 1975

6. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975^(a) (other disqualifying offices), in the entry relating to members of the panel of persons appointed under Schedule 4 to the Rent (Scotland) Act 1984^(b) to act as chairmen and other members of rent assessment committees, for “rent assessment committees” substitute “private rented housing committees”.

DAVID CAIRNS
Minister of State
Scotland Office
Ministry of Justice

Dover House,
London
14th July 2008

^(a) 1975 c.24. There have been a number of amendments to Schedule 1, Part 3, none of which are relevant.
^(b) 1984 c.58.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 104 of the Housing (Scotland) Act 2006 (“the 2006 Act”) permits the Scottish Ministers to prescribe documents which must be made available to potential buyers of a house.

In this Order a prescribed survey report is a document prescribed under section 104(1) of the 2006 Act which contains information both about the physical condition of a house and its value.

Article 3 of this Order provides for liability on the part of the person who prepared the report to the buyer of the house.

Article 4 provides an additional ground of jurisdiction in claims for damages under article 3. A person domiciled in any part of the United Kingdom may be sued in Scotland. Where there are proceedings in Scotland, article 5 allows a person to be sued in the courts for the place where the house is situated.

Articles 2 and 3 extend to Scotland only. Otherwise the Order has UK extent.

Article 6 provides for the name of rent assessment committees to be amended to private rented housing committees in the list of Disqualifying Offices in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975. The name of the committees was changed by section 21 of the 2006 Act.

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