

HOUSING (SCOTLAND) ACT 2001

EXPLANATORY NOTES

BACKGROUND AND OVERVIEW

Part 2 – Tenants of Social Landlords

Chapter 1 – Scottish Secure Tenancies

Section 11: Scottish secure tenancy

22. This section specifies which tenancies are to be Scottish secure tenancies and makes provision for joint tenancies and for transition from existing tenancies to the Scottish secure tenancy.
23. The Scottish Ministers may make orders specifying the dates on or after which the tenancies of any prescribed landlord or description of landlord will be Scottish secure tenancies. This would enable all tenancies to convert at the same time, but allows for phased implementation where necessary. Such orders may (*subsection (2)*) include provisions to protect the rights of the landlord, the tenant or a third party (eg a person with a heritable security over the property) in relation to a tenancy which is converted to a Scottish secure tenancy. An order under that subsection could be used to protect the terms and conditions of the right to buy for existing tenants.
24. In general, a tenancy will only be a Scottish secure tenancy if:
 - the house is let as a separate dwelling;
 - the tenant is an individual and the house is the tenant's only or principal home; and
 - the landlord is a local authority landlord (as defined in *subsection (3)*), a registered social landlord, or a water or sewerage authority.
 - where the landlord is a registered social landlord which is a co-operative housing association, the tenant is a member of the association; and
 - the tenancy was created on or after such date as specified by order or before that date if of a description specified by order
25. This section introduces *Schedule 1* which defines tenancies which could meet these general criteria but will nonetheless not be Scottish secure tenancies.
26. *Subsection (8)* provides that a tenancy which is a Scottish secure tenancy will continue to be one even where the landlord is no longer a local authority, a registered social landlord or a water or sewerage authority or where the house is no longer the only or principal home of the tenant, or where the landlord is a registered social landlord which is a co-operative housing association and the tenant is no longer a member of the association.
27. *Subsections (5) and (6)* make provisions for joint tenancies, including a requirement on a landlord to grant a joint tenancy, where it is requested in writing, unless it has reasonable grounds for not doing so. *Subsection (9)* protects the tenancy rights of those tenants who have been temporarily housed elsewhere.