

HOUSING (SCOTLAND) ACT 2001

EXPLANATORY NOTES

BACKGROUND AND OVERVIEW

Part 3 – Regulation of Social Landlords

Chapter 3 – Common Provisions

Section 76: Disposals of tenanted houses: consultation and consent

119. This section, together with *schedule 9*, sets out the duties of local authorities, registered social landlords and the Scottish Ministers in relation to consultation of tenants before a disposal which would result in a change of landlord. It includes a requirement to carry out a ballot of affected tenants before their houses are transferred into new ownership, and a duty on Ministers not to give their consent to such a transfer unless they are satisfied that a majority of those expressing a view in the ballot wish the disposal to proceed.
120. *Subsection (2)* provides that no tenanted property of a local authority or registered social landlord should be transferred to any landlord other than a registered social landlord, unless Ministers are satisfied that transfer to a registered social landlord is not appropriate.

Section 77: Power to obtain information

121. This section and section 78 make provision for the Scottish Ministers to have access to the information held by a registered social landlord or a local authority in connection with the management of housing accommodation and the provision of related services. Ministers can serve a notice on a person requiring the person to provide them or a person authorised by them with such information or documents as they may specify. *Subsections (3) to (6)* specify the persons on which a notice may be served: in general, no notice is to be served on an officer, member, employee or agent of the local authority or landlord unless a notice has previously been served on the local authority or landlord and has not been complied with or the information or documents are not believed to be in the possession of the local authority or landlord.

Section 78: Power to obtain information: further provision

122. This section contains supplementary provisions in relation to the power of the Scottish Ministers to obtain information under section 77. It includes provisions relating to the disclosure of confidential information. It provides technical clarification of what is meant by a document and producing it, and entitles a person receiving documents under section 77 to copy or make extracts of them. This section also makes it a criminal offence to fail to do anything necessary to provide information under section 77, or to alter, suppress or destroy a document which a person may have been required to produce.

Section 79: Issue of guidance by the Scottish Ministers

123. This section gives the Scottish Ministers the power to issue guidance with respect to the management of housing accommodation and related services by local authorities and registered social landlords. *Subsection (2)* lists particular matters which guidance may cover. Before issuing any guidance, or revised guidance, Ministers must consult such persons as they think fit. *Subsection (7)* provides that any guidance issued under this section, under Part 1 of the Act or under section 37 of the Housing (Scotland) Act 1987 (homelessness), is relevant in determining whether or not there has been mismanagement by a local authority or a registered social landlord, or whether action needs to be taken to ensure a proper level of management.

Section 80: Code of good practice

124. This section places a duty on the Scottish Ministers to publish a code of practice at least once every 5 years on the operation of regulation under this Part of the Act.

Section 81: Charges for regulatory functions of the Scottish Ministers

125. This section allows the Scottish Ministers to charge a local authority or registered social landlord an amount in respect of their expenses in exercising their regulatory functions in connection with the provision of housing accommodation and related services by the authority or landlord. Ministers are required to consult the authority or landlord before charging them.