



# Housing (Scotland) Act 2001

## 2001 asp 10

### PART 7

#### MISCELLANEOUS AND GENERAL

##### *General*

#### 109 Orders and regulations

- (1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power includes power—
  - (a) to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,
  - (b) to make different provision for different purposes and different areas.
- (3) An order under section 87 or 110 may modify any enactment, instrument or document.
- (4) A statutory instrument containing an order or regulations under this Act (except sections 7(3) [<sup>F1</sup>, 14A(9)] [<sup>F2</sup>, 16(5A)(c)], 93(5) and 113 and, where subsection (5) of this section applies, sections 87 and 110) is subject to annulment in pursuance of a resolution of the Parliament.
- (5) No order under section 87 or 110 containing provisions which add to, replace or omit any part of the text of an Act is to be made unless a draft has been laid before, and approved by resolution of, the Parliament.
- (6) No regulations are to be made under section 7(3), and no order is to be made under section [<sup>F3</sup>14A(9) or] [<sup>F4</sup>16(5A)(c) or] 93(5), unless a draft has been laid before, and approved by resolution of, the Parliament.

#### Textual Amendments

- F1** Word in s. 109(4) inserted (22.2.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), ss. **155(c)(i)**, 166(2); S.S.I. 2012/19, art. 2(d)

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- F2** Word in s. 109(4) inserted (23.2.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Amendment\) Order 2011 \(S.S.I. 2011/445\)](#), arts. 1, 2
- F3** Words in s. 109(6) inserted (22.2.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 155(c)(ii)**, 166(2); [S.S.I. 2012/19](#), art. 2(d)
- F4** Words in s. 109(6) inserted (22.2.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 153(b)**, 166(2); [S.S.I. 2012/19](#), art. 2(b)

## 110 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act.

## 111 Interpretation

In this Act, unless the context otherwise requires—

“the 1987 Act” means the [Housing \(Scotland\) Act 1987 \(c.26\)](#),

“the 1988 Act” means the [Housing \(Scotland\) Act 1988 \(c.43\)](#),

[<sup>F5</sup>“the 2016 Act” means the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#),]

“assured tenancy” and “short assured tenancy” have the same meanings as in Part II of the 1988 Act,

“family” and membership of a person’s family are to be construed in accordance with section 108,

“flat” means a separate and self-contained set of premises, whether or not on the same floor, forming part of a building from some other part of which it is divided horizontally,

“homeless”, “homelessness” and “threatened with homelessness” are to be construed in accordance with Part II of the 1987 Act,

“hostel” means—

(a) in relation to a building provided or converted before 3rd January 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained houses) and board, and

(b) in relation to a building provided or converted on or after that date, a building in which is provided for persons generally or for any class or classes of persons, residential accommodation (otherwise than in houses) and either board or common facilities for the preparation of adequate food to the needs of those persons, or both,

“house” includes—

(a) any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and in particular includes a flat, and

(b) any yard, garden, outhouses and pertinents belonging to the house or usually enjoyed with it,

“housing accommodation” includes flats, lodging-houses and hostels,

“housing support services” has the meaning given in section 91(8),

“local authority” means a council constituted under section 2 of the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), and “local government area” means the area for which such a council is constituted,

“local authority landlord” has the meaning given in section 11(3),

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[<sup>F6</sup>“private residential tenancy” has the meaning given by the 2016 Act,]  
[<sup>F7</sup>“registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010 (asp 17),]  
“registered tenant organisation” has the meaning given in section 53(6),  
“Scottish secure tenancy” is to be construed in accordance with section 11 (and does not include a short Scottish secure tenancy),  
“short Scottish secure tenancy” is to be construed in accordance with section 34.

#### Textual Amendments

- F5** Words in s. 111 inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 7\(4\)\(a\)](#); S.S.I. 2017/346, reg. 2, sch.
- F6** Words in s. 111 inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 7\(4\)\(b\)](#); S.S.I. 2017/346, reg. 2, sch.
- F7** Words in s. 111 substituted (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 7\(6\)](#); S.S.I. 2012/39, art. 2, sch. 1 (with sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

#### Commencement Information

- I1** S. 111 wholly in force at 1.10.2001, see s. 113 and [S.S.I. 2001/336, art. 2\(2\)](#), [Sch. Pt. I](#) (subject to transitional provisions in [art. 3](#)) (as amended by [S.S.I. 2001/397, art. 7\(b\)](#))

## 112 Modification of enactments

Schedule 10, which modifies enactments in consequence of the provisions of this Act, has effect.

#### Commencement Information

- I2** [S. 112](#) partly in force; [s. 112](#) not in force at Royal Assent see [s. 113](#); [s. 112](#) in force for specified purposes at 1.11.2001 by [S.S.I. 2001/336, art. 2\(3\)](#), [Sch. Pt. II](#) (subject to transitional provisions in [art. 3](#)) (as amended by [S.S.I. 2001/397, art. 7\(b\)](#)) and by [S.S.I. 2001/397, art. 2\(2\)](#), [Sch.](#) (subject to transitional provisions in [arts. 3-6](#)); [s. 112](#) in force for further specified purposes: at 19.12.2001 by [S.S.I. 2001/467, art. 2\(2\)](#), [Sch.](#) (subject to transitional provisions in [art. 3](#)); at 1.4.2002 by [S.S.I. 2002/168, art. {2\(2\)}](#), [Sch.](#) (subject to transitional provisions and savings in [art. 3](#)); at 30.9.2002 by [S.S.I. 2002/321, art. 2](#) (subject to transitional provisions and savings in [arts. 3-5](#)) and [S.S.I. 2002/433, art. 2, Sch.](#)
- I3** [S. 112](#) in force at 1.10.2003 for specified purposes by [S.S.I. 2003/434, art. 2, sch.](#) (with [arts. 3, 4](#))

## 113 Commencement and short title

- (1) Except for sections 109 and 110 and this section, the provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.
- (2) Different days may be appointed under this section for different purposes or different areas.
- (3) This Act may be cited as the Housing (Scotland) Act 2001.

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### Subordinate Legislation Made

- P1** S. 113(1)(2) power exercised as follows:
- different dates appointed for specified provisions by S.S.I. 2001/336, **art. 2(2)(3)** (subject to transitional provisions and savings in **art. 3**) (as amended by S.S.I. 2001/397, **art. 7(b)**);
  - 1.11.2001 appointed for specified provisions by S.S.I. 2001/397, **art. 2(2)**, **Sch.** (subject to transitional provisions and savings in **arts. 3-6**);
  - 19.12.2001 appointed for specified provisions by S.S.I. 2001/467, **art. 2(2)**, **Sch.** (subject to transitional provisions in **art. 3**);
  - 1.4.2002 appointed for specified provisions by S.S.I. 2002/168, **art. 2(2)**, **Sch.** (subject to transitional provisions and savings in **art. 3**);
  - 30.9.2002 appointed for specified provisions by S.S.I. 2002/321, **art. 2(2)**, **Sch.** (subject to transitional provisions and savings in **arts. 3-5**);
  - 30.9.2002 appointed for specified provisions by S.S.I. 2002/433, **art. 2(2)**, **Sch.**

**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. 5(5A) inserted by [2003 asp 10 s. 5\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 14(1)(a) words renumbered as s. 14(1)(a) by [2021 asp 16 s. 22\(2\)\(a\)\(i\)](#)
- s. 14(1)(b) inserted by [2021 asp 16 s. 22\(2\)\(a\)\(ii\)](#)
- s. 14(1A)(1B) inserted by [2021 asp 16 s. 22\(2\)\(b\)](#)
- s. 14(5C)-(5E) inserted by [2021 asp 16 s. 22\(2\)\(e\)](#)
- s. 16(2)(d)(e) inserted by [2021 asp 16 s. 22\(3\)\(b\)\(ii\)](#)
- s. 16(3ZA)(3ZB) inserted by [2021 asp 16 s. 22\(3\)\(c\)](#)
- s. 16(5C) inserted by [2021 asp 16 s. 22\(3\)\(e\)](#)
- s. 16(7)-(10) inserted by [2021 asp 16 s. 22\(3\)\(f\)](#)
- s. 34(7A)-(7C) inserted by [2003 asp 10 s. 6\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 34(8)(b) and words inserted by [2003 asp 10 s. 6\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 89(12) inserted by [2019 asp 10 s. 18\(3\)](#)
- sch. 2 para. 15A inserted by [2021 asp 16 s. 22\(4\)](#)
- sch. 6 para. 5A and cross-heading inserted by [2003 asp 10 s. 5\(5\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)