

# HOUSING (SCOTLAND) ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON PARTS

#### Part 8 – Miscellaneous

197. **Section 175** amends the Antisocial Behaviour etc. (Scotland) Act 2004. These amendments give Ministers powers to issue a Letting Code, which is a code of practice on standards of management for landlords and their agents. Ministers must first assess existing arrangements relating to standards of management and consult relevant persons on the Code. Any such Code would have to be considered by a local authority when deciding whether someone is a fit and proper person to be a landlord. The local authority will also have to take into account the fact and nature of any agreement that the landlord has with an agent in connection with the letting of the house, when deciding whether the landlord (but not the agent) is a fit and proper person.
198. **Section 176** makes further amendments to the Antisocial Behaviour etc. (Scotland) Act 2004. The reference to unlawful discrimination as part of the fit and proper person test is altered so that it relates to all current forms of unlawful discrimination, rather than specific forms. A local authority is required to include in the register of landlords the fact that a house is subject to a repairing standard enforcement order and to remove the reference when the order is revoked or the work completed. This corresponds to the period during which it is illegal for the landlord to re-let the house without the consent of a private rented housing committee. Public access to information contained in a local authority's register of private landlords is controlled, so that the access is geared to the purposes for making that information available to the public and does not support other undesirable purposes such as trawling the internet-based register. Another amendment prevents an abuse by ensuring that a person whose application is refused cannot re-apply immediately and thus let lawfully while the new application is considered. Only the owner and the immediate landlord of the occupier are to be subject to the fit and proper person test. An agent of the immediate landlord would also be subject to the test, but not intermediate landlords.
199. **Section 177** inserts a new section 68A into the Housing (Scotland) Act 2001. The new section provides that Ministers have a power to direct a registered social landlord (RSL) to authorise another RSL to exercise any of its housing management functions. The delegating RSL must have had an interest in land transferred to it from a local authority before this new section came into force and the local authority must no longer have a duty to maintain a housing revenue account (ie, no longer have council housing stock). Ministers must be satisfied that the direction is appropriate to meet the spirit of the proposals put to tenants before the stock transfer. Use of the power is time-limited to five years from commencement of the provision.
200. **Section 178** amends section 58(3) of the Housing (Scotland) Act 2001 to make clear that RSLs may undertake a broad range of activities to improve the economic, social and environmental circumstances of the communities within which they operate and that such activities may benefit both the RSLs' residents and other people.

*These notes relate to the Housing (Scotland) Act 2006  
(asp 1) which received Royal Assent on 5 January 2006*

201. **Section 179** places a requirement on Ministers to publish a strategy for improving energy efficiency in living accommodation (defined in **section 194** as “any place which is, or which is capable of being, occupied for the purposes of human habitation”). This strategy may be published as part of a general strategy for improving energy efficiency. It may include measures that would improve the energy efficiency of living accommodation and an assessment of the reduction in carbon dioxide emissions that would result from them. Ministers are required to review the strategy and to report on progress at least every five years.
202. **Section 180** amends the Housing (Scotland) Act 1988 to allow a landlord to seek possession, on grounds of antisocial behaviour, of a house let under a contractual assured tenancy, even though the tenancy agreement does not provide that possession could be sought on those grounds.