



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 1

#### HOUSING STANDARDS

#### CHAPTER 7

##### RIGHT TO ADAPT RENTED HOUSES

#### 52 Right to adapt rented houses

- (1) This section applies to any tenancy of a house let for human habitation (other than a Scottish secure tenancy or a short Scottish secure tenancy).
- (2) The tenant in a tenancy to which this section applies may carry out any work in the house—
  - (a) which the tenant considers necessary for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence, or
  - (b) in respect of which a grant is payable in accordance with regulations made under section 15(1)(a) (grants for improving energy efficiency of houses) of the Social Security Act 1990 (c. 27).

[<sup>F1</sup>(2A) The work that may be carried out in pursuance of subsection (2)(a) does not include work to common parts within the meaning of section 37(5) of the Equality Act 2010.]

- (3) <sup>F2</sup>... A tenant is not entitled to exercise the right set out in subsection (2) without the consent of the landlord, which must not be unreasonably withheld.
- (4) An application for consent to carry out work in pursuance of subsection (2) must specify the work which the tenant proposes to carry out.
- (5) The landlord may, on receipt of such an application—
  - (a) consent,
  - (b) consent subject to such reasonable conditions as the landlord may impose, or
  - (c) refuse consent, provided that it is not refused unreasonably.

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 7. (See end of Document for details)*

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- (6) The landlord must, within one month of receipt of such an application, serve notice of the landlord's decision on the applicant.
- (7) That notice must—
- (a) where the landlord gives consent subject to conditions, set out those conditions and the reasons for imposing them,
  - (b) where the landlord refuses consent, set out the reason for refusal, and
  - (c) in either of those cases, explain the procedure for appealing the decision to impose conditions or, as the case may be, refuse consent.
- (8) Where a landlord fails to comply with subsection (6)—
- (a) the landlord is to be treated as having decided to refuse consent, and
  - (b) notice of such refusal is to be treated as having been served on the applicant on the last day of the period mentioned in that subsection.
- (9) The terms of a tenancy, and of any other agreement between the landlord and the tenant in any tenancy, are of no effect in so far as they purport to negate or modify the effect of this section.
- (10) Nothing in this section entitles a tenant to carry out work for which the consent or other approval of any person is required under any other enactment unless that consent or approval has been given.
- (11) Where it is for the landlord to obtain any such consent or approval, the landlord must, if requested to do so by the tenant, take reasonable steps for the purposes of doing so (and may recover any expenses incurred in doing so from the tenant).
- (12) But the need for any such consent or approval by any person other than the landlord is not, of itself, a reasonable ground on which the landlord may impose any condition under subsection (5)(b) or, as the case may be, refuse consent under subsection (5)(c).

#### **Textual Amendments**

- F1** S. 52(2A) inserted (21.2.2020) by [The Relevant Adjustments to Common Parts \(Disabled Persons\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/52\)](#), regs. 1, **11(2)**
- F2** Word in s. 52(3) repealed (21.2.2020) by [The Relevant Adjustments to Common Parts \(Disabled Persons\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/52\)](#), regs. 1, **11(3)**

### **53 Matters relevant to application to carry out work under section 52**

- (1) The landlord may, in considering whether it is reasonable to consent to an application to carry out work in pursuance of section 52(2)(a) (or whether it is reasonable to impose a condition on such a consent), have regard to—
- (a) the disabled person's disability,
  - (b) whether the work proposed is necessary for the purpose set out in section 52(2)(a),
  - (c) the safety of the occupiers of the house or of any other premises,
  - (d) any costs which the landlord is likely to incur, directly or indirectly, as a result of the proposed work,
  - (e) whether the proposed work is likely—

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- (i) to reduce the value of the house or of any other part of any premises of which the house forms part, or
    - (ii) to make the house or any other part of such premises less suitable for letting or for sale,
  - (f) whether, if the proposed work was to be carried out, the house could be reinstated to the condition it was in before it was carried out,
  - (g) any code of practice issued by the <sup>F3</sup>Commission for Equality and Human Rights<sup>F3</sup> which relates to this section or section 52.
- (2) The landlord may, in considering whether it is reasonable to consent to an application to carry out work in pursuance of section 52(2)(b) (or whether it is reasonable to impose a condition on such a consent), have regard to the matters mentioned in paragraphs (c) to (f) of subsection (1).
- (3) A condition imposed under section 52(5)(b) may—
- (a) specify the standard to which the work consented to must be carried out,
  - (b) require the tenant to reinstate the house at the end of the tenancy to the condition it was in before that work was carried out.
- (4) The landlord must, in considering whether to impose a condition under section 52(5) (b) as to the standard to which the proposed work must be carried out, have regard to—
- (a) the age and condition of the house, and
  - (b) the likely cost of complying with the condition.
- (5) It is reasonable for a landlord to refuse to consent to an application to carry out work in pursuance of section 52(2), or to impose any condition on such a consent, if the carrying out of the proposed work or, as the case may be, failure to comply with that condition, would make the landlord susceptible under any enactment or rule of law to any sanction or other remedy.
- (6) Subsection (5) applies only where the landlord has taken reasonable steps for the purposes of acquiring the right to give consent or, as the case may be, not to impose the condition without making the landlord so susceptible.
- (7) The landlord may recover from the tenant any expenses incurred by the landlord in taking any such reasonable steps (regardless of the landlord's decision on the tenant's application).

#### Textual Amendments

- F3** Words in s. 53(1)(g) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\), ss. 40, 93, Sch. 3 para. 63\(a\)](#) (with s. 92); [S.I. 2007/2603, art. 2](#) (subject to art. 3)

## 54 Amendment to the Housing (Scotland) Act 2001

In Paragraph 8 of schedule 5 to the Housing (Scotland) Act 2001 (asp 10)—

- (a) the word “and” which follows paragraph (c) is repealed,
- (b) at the end of paragraph (d) insert “and
- (e) any code of practice issued by the Disability Rights Commission which relates to this Part.”.

**Changes to legislation:**

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