



# Housing (Scotland) Act 2010

## 2010 asp 17

### PART 14

#### RIGHT TO BUY: REFORMS

#### 140 Re-accommodated persons: protection of right to buy

Section 61 of the Housing (Scotland) Act 1987 (c.26) is amended as follows—

- (a) in subsection (2)(c), for “(11)(n)”, substitute “(11)(ab), (ac) or (n)”,
- (b) in subsection (10)(b), after sub-paragraph (iii) insert—
  - “(iia) there shall be disregarded any period beginning with the termination of a tenancy (or of a tenant’s interest in a tenancy) under section 18(2), 20(3) or 22(3) of the Housing (Scotland) Act 2001 (asp 10) and ending with the person in question being re-accommodated in pursuance of section 19(3)(b), 21(3)(b) or 22(6) of that Act; and”
- (c) in subsection (11), after paragraph (aa) insert—
  - “(ab) any person who provided the tenant with accommodation in pursuance of—
    - (i) an order for recovery of possession made under section 16(2) of the Housing (Scotland) Act 2001 (asp 10) on any of the grounds set out in paragraphs 9 to 15 of schedule 2 to that Act; or
    - (ii) section 19(3)(b), 21(3)(b) or 22(6) of that Act;
  - (ac) any person who provided the tenant with accommodation in pursuance of a decision by the landlord to demolish a house subject to a Scottish secure tenancy as a result of which—
    - (i) the tenancy was terminated by written agreement between the landlord and the tenant; and
    - (ii) the accommodation concerned was made available to the tenant;”.

## **141      Limitation on right to buy: new tenants**

After section 61 of the Housing (Scotland) Act 1987 (c.26) insert—

### **“61ZA Limitation on right to purchase: new tenants**

- (1) Section 61 applies to a house let under a Scottish secure tenancy created on or after the day on which section 141 of the Housing (Scotland) Act 2010 (asp 17) comes into force only if the tenant has, since that day, continuously been in occupation of a house (including accommodation provided as mentioned in section 61(11)(ab), (ac) or (n)) or of a succession of houses provided by any persons mentioned in section 61(11).
- (2) For the purpose of determining such a period of continuous occupation—
  - (a) there shall be disregarded any period beginning with the termination of a tenancy (or of the tenant’s interest in a tenancy) under section 18(2), 20(3) or 22(3) of the Housing (Scotland) Act 2001 (asp 10) and ending with the tenant being re-accommodated in pursuance of section 19(3)(b), 21(3)(b) or 22(6) of that Act; and
  - (b) the landlord may disregard any interruption in occupation which appears to it to result from circumstances outwith the control of the tenant in question.”.

## **142      Pressured areas: amendments**

- (1) Section 61B of the Housing (Scotland) Act 1987 (c.26) is amended as follows—
  - (a) in subsection (1), for the words from the beginning to “authority’s” substitute “A local authority may designate any part of their”,
  - (b) after subsection (1) insert—
 

“(1A) A designation under subsection (1) may be made—

    - (a) generally in relation to all houses in the area designated which tenants have the right to purchase under section 61(1), or
    - (b) in relation to particular types of such houses only.

(1B) Where a designation relates only to a particular type of house in the area designated as a pressured area, the references in subsections (3), (4) and (7) to a house are to be read in connection with that designation as referring only to a house of that type.

(1C) A designation under subsection (1) has effect for such period, not exceeding 10 years, as the local authority may specify.”,
  - (c) subsection (2) is repealed,
  - (d) in subsection (5), after paragraph (a) insert—
 

“(aa) where the designation relates only to a particular type of house in the area designated as a pressured area, specify the type in question.”,
  - (e) in subsection (8), for the words from “Scottish” to “revocation” substitute “local authority at any time”,
  - (f) in subsection (9), for “proposal” substitute “designation”,
  - (g) in subsection (10), after second “area” insert “in relation to any type of house to which the designation relates”.

- (2) Section 61C of the Housing (Scotland) Act 1987 (c.26) is amended as follows—
- (a) subsections (1) and (2) are repealed,
  - (b) in subsection (3)—
    - (i) for “a proposal” substitute “, amending or revoking a designation”,
    - (ii) for “shall consult” substitute “shall—
      - (a) take such steps as are reasonable to publicise its proposal to make, amend or revoke the designation and its reasons for so proposing, and
      - (b) consult—”, and
    - (iii) old paragraphs (a) and (b) become sub-paragraphs (i) and (ii) of the new paragraph (b),
  - (c) after subsection (3) insert—

“(4) A local authority proposing to make, amend or revoke a designation under section 61B(1) must, before doing so, have regard to any guidance issued by the Scottish Ministers about—

    - (a) how and when they should do so,
    - (b) the information which they should take into account before doing so, and
    - (c) the terms of such designations.”.

### **143      Limitation on right to buy: new supply social housing**

After section 61E of the Housing (Scotland) Act 1987 (c.26) insert—

#### **“61F Limitation on right to purchase: new supply social housing**

- (1) Section 61 does not apply to a new supply social house.
- (2) Subsection (1) does not affect the right of a tenant to purchase a new supply social house under this Part if—
  - (a) the tenant moved to the new supply social house in pursuance of—
    - (i) an order for recovery of possession made under section 16(2) of the Housing (Scotland) Act 2001 (asp 10), on any of the grounds set out in paragraphs 9 to 15 of schedule 2 to that Act, in respect of a house subject to a Scottish secure tenancy created before the relevant day; or
    - (ii) the operation of section 19(3)(b), 21(3)(b) or 22(6) of that Act following termination of a Scottish secure tenancy created before the relevant day;
  - (b) the tenant moved to the new supply social house from a house subject to a Scottish secure tenancy created before the relevant day in pursuance of a decision by the landlord to demolish that other house as a result of which—
    - (i) the tenancy of that other house was terminated by written agreement between the landlord and the tenant; and
    - (ii) the new supply social house was made available to the tenant;
  - (c) the tenant occupied the new supply social house immediately before the relevant day under a short Scottish secure tenancy which has, since

---

*Status: This is the original version (as it was originally enacted).*

---

- that day, been converted into a Scottish secure tenancy under section 37 of the Housing (Scotland) Act 2001 (asp 10); or
- (d) the landlord failed to give the tenant notice (in the prescribed form) of the effect of subsection (1)—
- (i) where the landlord acquired the new supply social house from the tenant, at least 7 days before the missives for that acquisition were concluded; or
  - (ii) in any other case, at least 7 days before the creation of the Scottish secure tenancy to which the new supply social house is subject.

(3) In this section—

“new supply social house” means a house let under a Scottish secure tenancy created on or after the relevant day which—

- (a) was not let under a Scottish secure tenancy on or before 25 June 2008; or
  - (b) was acquired by the landlord on or after 25 June 2008; and
- “relevant day” means the day on which section 143 of the Housing (Scotland) Act 2010 (asp 17) comes into force.”.

## **144 Limitation on right to buy: police housing**

- (1) After section 69 of the Housing (Scotland) Act 1987 (c.26) insert—

### **“69A Power to refuse to sell houses required for police purposes**

- (1) Subsection (2) applies where—
- (a) an application to purchase is served on a local authority landlord in relation to a house which it holds for the purposes of a police force (within the meaning of the Police (Scotland) Act 1967 (c.77)); and
  - (b) the tenant would, apart from this section, have a right under section 61 to purchase the house.
- (2) The landlord may, within one month of service of the application to purchase, serve a notice of refusal on the tenant.
- (3) In determining whether to serve a notice of refusal under subsection (2), the landlord must have regard to—
- (a) the likely impact which the proposed purchase would have on police operations and resources; and
  - (b) any representations by the tenant which indicate special reasons for wishing to purchase the house.
- (4) The landlord must, in particular, consider—
- (a) whether the policing needs of the area in which the house is situated are such that it would be desirable for the house to be occupied by a constable;
  - (b) whether it is likely to be able reasonably to provide other suitable accommodation for a constable in that area;
  - (c) whether it is likely that a constable may need to be accommodated in that area at short notice;

- (d) any representations by the tenant about—
    - (i) the tenant's state of health; or
    - (ii) family associations or other special circumstances by reason of which the tenant has a local connection to that area.
- (5) A refusal by the landlord under subsection (2) shall contain sufficient information to demonstrate that it has had regard to the matters mentioned in subsection (3)."
- (2) In section 338(1) of the Housing (Scotland) Act 1987 (c.26), after the definition of "local authority" insert—
  - ""local authority landlord" has the same meaning as in the Housing (Scotland) Act 2001 (asp 10);".

**145 Duty to collect and publish information: local authority housing stock**

- (1) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must collect and publish information on the matters described in subsection (2) in respect of each local authority.
- (2) Those matters are—
  - (a) the number of houses sold under the right to buy,
  - (b) the receipts derived from these sales,
  - (c) how much new debt has been incurred in respect of local authority housing stock, and
  - (d) how much existing debt in respect of local authority housing stock has been repaid,during that financial year.

**146 Duty to collect and publish information: tenants eligible for right to buy**

- (1) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must collect and publish information on the matters described in subsection (2) in respect of each local authority.
- (2) Those matters are the number of tenants with the right to buy the house to which their tenancy applies during that financial year—
  - (a) under the conditions set out in article 4 of the Housing (Scotland) Act 2001 (Scottish Secure Tenancy etc.) Order 2002 (SSI 2002/318), and
  - (b) under section 61 of the Housing (Scotland) Act 1987 (c.26).

**147 Duty to collect and publish information: sale of houses by registered social landlords**

- (1) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must collect and publish information on the matters described in subsection (2) in respect of each registered social landlord during that financial year.
- (2) Those matters are—
  - (a) the number of houses sold under the right to buy, and
  - (b) the receipts derived from these sales.