

PRIVATE RENTED HOUSING (SCOTLAND) ACT 2011

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 4 – Miscellaneous

Section 32 - Premiums

36. Section 82 of the Rent (Scotland) Act 1984 makes it an offence to charge or receive any premium or make any loan, in addition to the rent, a condition of the grant, renewal or continuance of a protected tenancy. Despite this, there is evidence that some confusion exists about what it means in practice and a variety of charges are made to tenants. Section 32 of the Act clarifies that all charges in connection with the grant, renewal or continuance of a tenancy are illegal apart from certain specified, reasonable charges. It inserts a new section 89A into the 1984 Act, giving Ministers powers to outline in secondary legislation charges that will be allowed in connection with the grant, renewal or continuance of a protected tenancy. The regulations will be able to specify categories of payment that are not to be treated as premiums in terms of section 82 and to set a maximum limit to the amount of any such payment that could be charged. Ministers must, before making regulations, consult representatives of tenants, private landlords and landlords' agents, as well as such other persons (including tenants, private landlords and landlords' agents) as they consider appropriate.
37. Any such regulations may also apply to assured tenancies (including short assured tenancies) because new section 89A will constitute part of the sequence of sections 86 to 90 of the 1984 Act referred to in section 27 of the Housing (Scotland) Act 1988.