

# **PRIVATE RENTED HOUSING (SCOTLAND) ACT 2011**

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## **EXPLANATORY NOTES**

### **STRUCTURE AND SUMMARY OF THE ACT**

#### **Part 4 – Miscellaneous**

#### ***Section 35 - Landlord applications to the private rented housing panel***

42. Section 14 of the Housing (Scotland) Act 2006 places a duty on a landlord in certain tenancies to ensure that the house meets the Repairing Standard (set out in section 13 of the Act) and allows a tenant who considers that the landlord has failed to comply with this duty to apply to the Private Rented Housing Panel for assistance.
43. The Act also gives a landlord, or a person authorised by the landlord, the right to enter the house in respect of carrying out this duty; i.e., to inspect the premises or carry out works. Section 35 of the Act amends the 2006 Act by introducing a new section 28A to enable a landlord to apply to the Private Rented Housing Panel for assistance in exercising these entry rights in order to comply with the Repairing Standard where the tenant has been uncooperative, without the need for court action or waiting until the end of the tenancy. Such an application will be considered by a single member of the Panel.
44. New section 28B gives Ministers power to make by regulations further provision about applications made under section 28A. Such provision may relate to the form and content of applications, the prescription of a fee to accompany applications, the procedure to be followed by applicants and the Panel, the time limits for making decisions and the determination of applications and action following determination, amongst other things.
45. New section 28C outlines the arrangements that the panel member must make and the procedure that must be followed for a suitable time for access. This procedure commences where the panel member decides to offer assistance, at which point a notice is served under section 28A(5) and the member liaises with the landlord and tenant with a view to agreeing a date and time for access (section 28C(2)). If the tenant makes representations to the panel member that entry is inappropriate or unnecessary (for example, when the panel member calls to try to agree a date for access) the member has to decide whether to continue to assist the landlord, and may contact the landlord before reaching that decision (section 28A(7)). If the tenant fails to respond, or refuses to agree a date and time, the panel member may fix them (section 28C(4)). Either the landlord or tenant can request that the panel member attend at the property at the time fixed. Section 35(5) of the Act amends section 29 of the 2006 Act to provide for the recording and reporting of instances where landlord applications are made, houses attended to by a member following a request for attendance, and instances where a warrant for entry is sought.