

PRIVATE RENTED HOUSING (SCOTLAND) ACT 2011

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 4 – Miscellaneous

Sections 36 and 37 - Long leases and heritable securities

46. **Sections 36 and 37** amend the “20 year rules” - sections 8 and 11 of the Land Tenure Reform (Scotland) Act 1974. The amendments introduce powers for Scottish Ministers to prescribe bodies or types of body, which will alter how the rules apply to them.
47. Section 8 of the 1974 Act restricts the ability of landlords and tenants (other than social landlords and rural housing bodies) to enter into residential leases for more than 20 years. The amendment by section 36 means that other bodies or types of body can be exempted from this restriction. In prescribing a body or a type of body Ministers have the power to set conditions and restrictions. The conditions may include the type of leases to be exempted, what happens if the conditions or restrictions are breached and make provision that, in the event of a breach, will protect the interests of tenants and residents. Scottish Ministers also have power to amend legislation if that is required.
48. Section 11 of the 1974 Act allows a debtor to redeem a heritable security over residential property after 20 years have elapsed, regardless of any longer contractual term. Social landlords, their connected bodies and rural housing bodies are able to renounce their right to redeem. The amendment by section 37 allows bodies and types of body to be prescribed so that they too will gain this ability. This could be useful, for example, if a landlord wishes to participate in a long-term fixed interest bond issue which relies on the bond holder retaining security over the underlying housing assets for more than 20 years. Scottish Ministers have the power to set conditions and restrictions which a prescribed body or type of body must meet and to specify the sort of securities in respect of which renunciation can be made.