



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Protection from eviction

40 Cases excluded from sections 23 and 24 of Rent (Scotland) Act 1984.

After section 23 of the ^{M1}Rent (Scotland) Act 1984 there shall be inserted the following section—

“23A Excluded tenancies and occupancy rights.

- (1) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if—
 - (a) under its terms the occupier has the use of any accommodation in common with the owner or a member of his family (whether or not in common with other persons); and
 - (b) immediately before the tenancy or right was granted and at all times since then the owner occupied as his only or principal home premises of which the whole or part of the accommodation referred to in paragraph (a) above formed part.
- (2) In subsection (1) above—
 - (a) “accommodation” includes neither an area used for storage nor a staircase, passage, corridor or other means of access;
 - (b) “owner” means, in relation to a tenancy, the landlord and, in relation to a right to occupy, the person granting it, and in any case where there are joint landlords or grantors any one of them shall be regarded as the “owner”; and
 - (c) “occupier” means, in relation to a tenancy, the tenant and, in relation to a right to occupy, its grantee;

Changes to legislation: Housing (Scotland) Act 1988, Section 40 is up to date with all changes known to be in force on or before 18 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

and section 83 of the Housing (Scotland) Act 1987 shall apply to determine whether a person is for the purposes of subsection (1) above a member of another's family as it applies for the purposes of that Act.

- (3) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it was granted as a temporary expedient to a person who entered the premises in question or any other premises without right or title (whether or not before the beginning of that tenancy or grant of that right another tenancy or right to occupy the premises or any other premises had been granted to him).
- (4) Nothing in section 23 or 24 of this Act applies to a tenancy or right of occupancy if it confers on the tenant or occupier the right to occupy the premises for a holiday only.
- (5) Nothing in section 23 or 24 of this Act applies to a right of occupancy which confers rights of occupation in a hostel, within the meaning of the Housing (Scotland) Act 1987, which is provided by—
 - (a) a local authority within the meaning of the Local Government (Scotland) Act 1973 or a joint board or joint committee within the meaning of that Act;
 - (b) a development corporation within the meaning of the New Towns (Scotland) Act 1968;
 - (c) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act 1980;
 - (d) the Scottish Special Housing Association;
 - (e) Scottish Homes;
 - (f) a registered housing association, within the meaning of the Housing Associations Act 1985; or
 - (g) any other person who is, or who belongs to a class of person which is, specified in an order made by the Secretary of State.
- (6) The power to make an order under subsection (5)(g) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

Marginal Citations

M1 1984 c. 58.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)