



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 8

#### MISCELLANEOUS

#### **175 Matters relevant to deciding whether person is fit and proper to act as a landlord**

- (1) The Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) is amended as follows.
- (2) In section 85 (matters to be considered by local authority in deciding whether a person is a fit and proper person to act as landlord to an unconnected person)—
  - (a) in subsection (2)(c), before sub-paragraph (i) insert—

“(zi) any Letting Code issued under section 92A;”
  - (b) after subsection (3) insert—

“(3A) Material falls within this subsection if it relates to any agreement between the relevant person and any person in terms of which that person acts for the relevant person in relation to a lease or occupancy arrangement such as is mentioned in section 84(3)(c).”
  - (c) after subsection (4) insert—

“(4A) A local authority need not, despite subsection (1), have regard to any material falling within subsection (3A) in deciding for the purposes of section 84(4) whether a person specified in an application by virtue of section 83(1)(c) is a fit and proper person to act for a landlord.”
- (3) After section 92 insert—

#### **“92A The Letting Code**

- (1) The Scottish Ministers may prepare and issue a code of practice, to be known as the Letting Code, making provision about the standards of management of—
  - (a) any relevant person who enters into, or who seeks to enter into, a lease or occupancy arrangement by virtue of which an unconnected person may use a house as a dwelling, and

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- (b) any other person who acts for such a relevant person in relation to such a lease or occupancy arrangement.
- (2) The Scottish Ministers must, from time to time, review any Letting Code issued under subsection (1) and may, following such a review—
  - (a) vary it, or
  - (b) revoke and replace it.
- (3) The Scottish Ministers must, before preparing, varying or replacing any Letting Code—
  - (a) publish, in such manner as they think fit, an assessment of the effectiveness of any existing obligations and voluntary arrangements which relate to any standards of management which a Letting Code may make provision about, and
  - (b) consult—
    - (i) such bodies representing local authorities,
    - (ii) such bodies representing private sector landlords, and
    - (iii) such other persons,
 as they think fit about the need for, and the terms of, the Letting Code or variation proposed.
- (4) An assessment under subsection 3(a) above must, in particular, assess the effectiveness of—
  - (a) the Rent (Scotland) Act 1984 (c. 58), and
  - (b) registration under this Part,
 in dealing with harassment, unlawful eviction or unlawful management practices.”.

## **176 Other amendments of Antisocial Behaviour etc. (Scotland) Act 2004**

- (1) The Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) is amended as follows.
- (2) In section 82 (registers of certain landlords), subsection (2) is repealed.
- (3) In section 83(1) (information to be specified in an application for registration)—
  - (a) the word “and” which follows paragraph (c) is repealed,
  - (b) after paragraph (c) insert—
    - “(ca) the address to which correspondence with the relevant person should be directed; and”.
- (4) In section 84(5) (information to be stated in an entry in register), for “(c)” substitute “(ca)”.
- (5) In section 85(2)(b) (material relating to unlawful discrimination), the words from first “on” to “disability” are repealed.
- (6) After section 87, insert—

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### **“87A Duty of local authority to note decisions of private rented housing committee**

- (1) This section applies where a local authority receives notice under paragraph 6 of schedule 2 to the Housing (Scotland) Act 2006 (asp 1) that a private rented housing committee has, in pursuance of a decision of the committee—
    - (a) made or varied a repairing standard enforcement order;
    - (b) revoked a repairing standard enforcement order;
    - (c) consented under section 28(6) of that Act to the landlord entering into a tenancy or occupancy arrangement; or
    - (d) granted a certificate under section 60 of that Act;and the landlord to whom the notice relates is a person registered by the local authority.
  - (2) Where paragraph (a) or (c) of subsection (1) applies, the local authority must note the decision of the committee in the person's entry in the register.
  - (3) Where paragraph (b) or (d) of subsection (1) applies, the local authority must remove any information noted in the register by virtue of subsection (2) which relates to the order revoked or to the order in relation to which the certificate was granted, as the case may be.”.
- (7) After section 88 insert—

### **“88A Access to register**

- (1) Each local authority shall, on the application of any person (“the applicant”), in relation to—
  - (a) a particular house, provide the applicant with—
    - (i) the name of the owner included in its register by virtue of section 83(1)(a) or 87(2);
    - (ii) the name of any person who acts for the owner in relation to a lease or occupancy arrangement to which the house is subject included in its register by virtue of section 83(1)(c), 87(2) or 88(2);
    - (iii) the address to which correspondence with the relevant person should be directed included in its register by virtue of section 83(1)(ca) or 87(2); and
    - (iv) any information included in its register by virtue of section 87A(2).
  - (b) a particular person, confirm to the applicant whether that other person is registered in its register.
- (2) A local authority may, on the application of any person, provide that person with such other information from its register as it thinks appropriate.
- (3) Information provided under subsection (2) may be provided subject to such conditions as the local authority thinks appropriate.
- (4) Despite subsection (1), a local authority may withhold information where it considers that providing the information would be likely to jeopardise—

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- (a) the safety or welfare of any person; or
  - (b) the security of any premises.”.
- (8) In section 93(5) (circumstances in which offence is not committed)—
- (a) the word “but” which follows paragraph (a) is repealed,
  - (b) after paragraph (a), insert—
    - “(aa) the local authority has not, during the year which immediately preceded the making of the application, refused to enter the relevant person in pursuance of an earlier application under section 83;
    - (ab) the application is accompanied by the fee determined under section 83(2); and”.
- (9) In section 97(6) (restriction on court's power to require tenant to pay rent etc.), for “order” substitute “ decision ”.
- (10) In section 97(7) (circumstances in which tenant is not required to pay sums)—
- (a) for “sheriff principal” substitute “ court hearing the appeal ”;
  - (b) for “order” substitute “ decision ”.
- (11) In section 101 (interpretation of Part 8), after subsection (1) insert—
- “(1A) This subsection applies where—
- (a) a person other than the owner of a house is the landlord in relation to a lease or occupancy arrangement by virtue of which another person uses the house as a dwelling; and
  - (b) that other person is not a member of the family of the owner or of the person who is the landlord.
- (1B) Where subsection (1A) applies, both—
- (a) the person who is the landlord; and
  - (b) any other person who acts for that person in relation to the lease or occupancy arrangement,
- shall, for the purposes of this Part, be treated as having been appointed by the owner to act for, and as acting for, the owner in relation to a lease or occupancy arrangement by virtue of which a person who is not a member of the family of the owner may use the house as a dwelling.”.

## 177 Registered social landlords: delegation of functions

After section 68 of the Housing (Scotland) Act 2001 (asp 10), insert—

### *“Delegation of functions*

#### **68A Power to direct certain registered social landlords to delegate functions**

- (1) This subsection applies where—
- (a) a local authority has disposed of an interest in land to a registered social landlord (“RSL 1”) under section 12 of the 1987 Act before the date on which this section came into force,

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- (b) sections 191 to 193 and section 203(1) of the 1987 Act no longer apply to that local authority by virtue of an order made under section 94 of this Act,
  - (c) the Scottish Ministers are satisfied that it is appropriate for RSL 1 to authorise another registered social landlord to exercise any of RSL 1's housing management functions if RSL 1 is to manage its houses in a manner which is consistent with the spirit of any notice served on tenants for the purposes of paragraph 3(2) or (3) of schedule 9 in relation to the disposal, and
  - (d) less than 5 years have passed since this section came into force.
- (2) Where subsection (1) applies, the Scottish Ministers may direct RSL 1 to authorise another registered social landlord (“RSL 2”) to exercise such of RSL 1's housing management functions as may be specified in the direction in place of RSL 1 on such terms, if any, as may be so specified; and both RSL 1 and RSL 2 must comply with the direction.
- (3) RSL 1 may not, while a direction under subsection (2) remains in force, authorise any person other than RSL 2 to exercise any functions specified in the direction.
- (4) A direction made under subsection (2) must be published in such manner as the Scottish Ministers think fit.
- (5) Any authorisation given in pursuance of a direction made under subsection (2) continues to have effect for so long as the direction has effect.
- (6) A direction made under subsection (2) continues to have effect notwithstanding the fact that the power to make that direction has expired by virtue of subsection (1)(d).
- (7) In this section “housing management functions” means functions relating to the management of houses.”.

## **178 Registered social landlords: permissible purposes**

In section 58(3) (permissible purposes of registered social landlords) of the Housing (Scotland) Act 2001 (asp 10)—

- (a) in paragraph (a), for the words “, either exclusively or together with other persons” substitute “ (or for its residents and other persons together) ”,
- (b) after paragraph (f) insert—
  - “(g) promoting or improving the economic, social or environmental well-being of—
    - (i) its residents (or its residents and other persons together), or
    - (ii) the area in which the houses or hostels it provides are situated.”.

## **<sup>F1</sup>179 Strategy for improving home energy efficiency**

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#### Textual Amendments

- F1** S. 179 repealed (31.10.2009) by [Climate Change \(Scotland\) Act 2009 \(asp 12\)](#), s. 100(2), [Sch. 2 para. 7](#) (with s. 95); S.S.I. 2009/341, art. 2(2)(c)

### **180 Amendment of Housing (Scotland) Act 1988**

After subsection (6) of section 18 (orders for possession of a house let on an assured tenancy) of the Housing (Scotland) Act 1988 (c. 43), insert—

“(6A) Nothing in subsection (6) above affects the sheriff’s power to make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, where the ground for possession is Ground 15 in Part II of Schedule 5 to this Act.”.

**Changes to legislation:**

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