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## SCHEDULE 1

(introduced by section 2)

### HOUSING RENEWAL AREAS: PROCEDURE

#### *Consultation*

- 1 (1) Where a local authority proposes to designate any locality in its area as an HRA, it must give notice of that fact—
  - (a) to the owner and occupier of each house in the proposed HRA,
  - (b) where the proposed HRA includes any building which falls within paragraph 4, the planning authority (where the planning authority is not the local authority),
  - (c) in at least two newspapers circulating in the local authority's area (at least one of which must, if practicable, be a local newspaper), and
  - (d) in such other manner as the local authority thinks fit.
- (2) The notice must—
  - (a) name a place where and specify the times at which a copy of a draft of the proposed HRA designation order (the “draft order”) may be inspected free of charge,
  - (b) describe, by reference to the statement made available by the local authority in pursuance of section 72, the assistance which the authority proposes to provide under Part 2 (scheme of assistance) in relation to the implementation of the HRA action plan included in the draft order, and
  - (c) specify the period (of not less than 3 months from the date on which the notice is given) during which representations concerning the draft order may be made to the local authority.
- (3) The local authority must, [<sup>F1</sup> consider ]any representations made during the period specified in the notice [<sup>F2</sup> before deciding whether to make the HRA designation order.]—
  - <sup>F3</sup>(a) .....
  - <sup>F3</sup>(b) .....
- (4) The local authority may, before it makes its decision, modify the draft order in such manner as it thinks fit.
- (5) Such a modification may not extend the proposed HRA.
- [<sup>F4</sup>(5A) Before making such a modification, the local authority must—
  - (a) give notice describing the general effect of the proposed modification to—
    - (i) any owner and occupier of a house, and any other person, who it considers likely to be significantly affected by the modification, and
    - (ii) where it considers that a building which falls within paragraph 4 is likely to be significantly affected by the modification, the planning authority (where the planning authority is not the local authority), and
  - (b) consider any representations made by such persons.]
- <sup>F5</sup>(6) .....

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#### Textual Amendments

- F1** Word in Sch. 1 para. 1(3) substituted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(a)(i)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)
- F2** Words in Sch. 1 para. 1(3) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(a)(ii)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)
- F3** Sch. 1 para. 1(3)(a)(b) repealed (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(a)(iii)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#); [S.S.I. 2011/96, art. 2, Sch.](#)
- F4** Sch. 1 para. 1(5A) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(b)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)
- F5** Sch. 1 para. 1(6) repealed (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(c)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)

#### Commencement Information

- I1** Sch. 1 para. 1 in force at 1.4.2009 by [S.S.I. 2009/122, art. 3](#)

### *Consideration by Scottish Ministers*

**F6** .....

#### Textual Amendments

- F6** Sch. 1 para. 2 repealed (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(d)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)

### *Notice of <sup>F7</sup>decision*

#### Textual Amendments

- F7** Sch. 1 para. 3 heading: word substituted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 149(3)(e)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)

- 3 (1) The local authority must, as soon as practicable after making an HRA designation order, give notice of that fact—
- (a) to the owner and occupier of each house in the HRA,
  - (b) in at least two newspapers circulating in the local authority's area (at least one of which must, if practicable, be a local newspaper), and
  - (c) in such other manner as the local authority thinks fit.
- (2) The notice must—
- (a) describe the general effect of the HRA designation order,
  - (b) describe, by reference to the statement made available by the local authority in pursuance of section 72, the assistance which the authority proposes to provide under Part 2 (scheme of assistance) in relation to the implementation of the HRA action plan included in the order, and
  - (c) specify the places where, and the times at which, a copy of the order is to be made available under section 7.

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- [<sup>F8</sup>(3) Where the local authority decides not to make an HRA designation order proposed under paragraph 1(1), they must give notice of that fact to the persons, and in the manner, mentioned in that provision. ]

#### Textual Amendments

- F8** Sch. 1 para. 3(3) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), ss. **149(3)(f)**, 166(2); [S.S.I. 2011/96](#), art. 2, Sch.

#### Commencement Information

- I2** Sch. 1 para. 3 in force at 1.4.2009 by [S.S.I. 2009/122](#), art. 3

#### *Listed buildings etc.*

- 4 A building falls within this paragraph if it is—
- (a) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) (“the 1997 Act”),
  - (b) subject to a building preservation notice under section 3 of the 1997 Act, or
  - (c) one to which section 66 of the 1997 Act (control of demolition in conservation areas) applies.

#### Commencement Information

- I3** Sch. 1 para. 4 in force at 1.4.2009 by [S.S.I. 2009/122](#), art. 3

## SCHEDULE 2

*(introduced by section 22)*

### [<sup>F9</sup>THE FIRST-TIER TRIBUNAL]: PROCEDURE ETC.

#### Textual Amendments

- F9** Words in Sch. 2 heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(20)(a)** (with sch. 1)

#### *Notification of referral*

- 1 (1) [<sup>F10</sup>On receipt of a referral of a tenant’s application under section 23(1) the First-tier Tribunal] must, as soon as practicable after receiving the reference, serve notice on the landlord and the tenant—
- (a) setting out the detail of the application in such manner as the [<sup>F11</sup>First-tier Tribunal thinks] fit,
  - [<sup>F12</sup>(b) stating that the Chamber President has referred the application to be heard by the First-tier Tribunal, and]

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- (c) specifying the day by which any—
  - (i) written representations, or
  - (ii) request to make oral representations,
 must be made.
- (2) The day so specified—
  - (a) must be at least 14 days after the day on which the notice is served, and
  - (b) may, at the request of [<sup>F13</sup>the landlord or the tenant] , be changed to such later day as the [<sup>F14</sup>First-tier Tribunal thinks] fit.
- (3) The [<sup>F15</sup>First-tier Tribunal] must notify [<sup>F16</sup>the landlord and the tenant] of any change under sub-paragraph (2)(b).
- [<sup>F17</sup>(4) In the case of an application under section 22(1A), the [<sup>F18</sup>First-tier Tribunal] must, in addition to carrying out the matters mentioned in sub-paragraphs (1) to (3)—
  - (a) serve on the third party applicant a notice containing the matters mentioned in sub-paragraph (1)(a) to (c),
  - (b) if the [<sup>F18</sup>First-tier Tribunal] thinks fit following a request of the third party applicant, change the day specified for the purposes of sub-paragraph (1)(c),
  - (c) notify—
    - (i) the third party applicant of any change under sub-paragraph (2)(b),
    - (ii) the landlord and the tenant of any change under paragraph (b).]

#### Textual Amendments

- F10** Words in sch. 2 para. 1(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(b\)\(i\)\(aa\)](#), (with sch. 1)
- F11** Words in sch. 2 para. 1(1)(a) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), sch. 2 para. 6(20)(b)(i)(bb), (with sch. 1)
- F12** Sch. 2 para. 1(1)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), [sch. 2 para. 2\(18\)\(a\)](#) (with sch. 1 para. 5)
- F13** Words in sch. 2 para. 1(2) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(1\)\(b\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F14** Words in sch. 2 para. 1(2)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(b\)\(ii\)](#) (with sch. 1)
- F15** Words in sch. 2 para. 1(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(b\)\(iii\)](#) (with sch. 1)
- F16** Words in sch. 2 para. 1(3) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(1\)\(c\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F17** Sch. 2 para. 1(4) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(1\)\(d\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F18** Words in sch. 2 para. 1(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(b\)\(iv\)](#) (with sch. 1)

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### *Inquiries*

- 2 (1) The [F19First-tier Tribunal] may, in considering an application, make such inquiries as [F20it thinks] fit for the purposes of determining whether the landlord has complied with the duty imposed by section 14(1)(b) in relation to the house concerned.
- (2) Inquiries may be made about matters other than those to which the application relates.
- (3) Inquiries must include—
- (a) consideration of any timeous written representation made by or on behalf of the landlord [F21, the tenant or, as the case may be, third party applicant] ,
  - (b) where the [F22First-tier Tribunal] receives a timeous request to make an oral representation, hearing any such representation made by or on behalf of the landlord [F23, tenant or, as the case may be, third party applicant] who made the request, and
  - (c) consideration of any report about the state of repair of the house concerned which the [F22First-tier Tribunal] requests a third party to prepare.
- (4) A representation or request is timeous if it is received—
- (a) by the day specified [F24in accordance with] paragraph 1(1)(c), or
  - (b) where a later day is specified [F25in accordance with paragraph 1(2)(b) or (4)(b)] , by that later day.

#### **Textual Amendments**

- F19** Words in sch. 2 para. 2(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(c\)\(i\)\(aa\)](#) (with sch. 1)
- F20** Words in sch. 2 para. 2(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(c\)\(i\)\(bb\)](#) (with sch. 1)
- F21** Words in sch. 2 para. 2(3)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(a\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, sch.
- F22** Words in sch. 2 para. 2(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(c\)\(ii\)](#) (with sch. 1)
- F23** Words in sch. 2 para. 2(3)(b) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(b\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, sch.
- F24** Words in sch. 2 para. 2(4)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(c\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, sch.
- F25** Words in sch. 2 para. 2(4)(b) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(d\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, sch.

### *Evidence*

- 3 (1) The [F26First-tier Tribunal] may, for the purposes of making inquiries, require the landlord, the tenant [F27, third party applicant] or any other person—
- (a) to attend a hearing of the [F26First-tier Tribunal] , at such time and place as the [F26First-tier Tribunal] may specify, for the purposes of giving evidence,

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- (b) to give the [<sup>F26</sup>First-tier Tribunal], by such day as [<sup>F28</sup>it] may specify, such documents or information as [<sup>F28</sup>it] may reasonably require.

<sup>F29</sup>(2) .....

<sup>F29</sup>(3) .....

<sup>F29</sup>(4) .....

#### Textual Amendments

- F26** Words in sch. 2 para. 3(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)](#), (d)(i)(aa) (with sch. 1)
- F27** Words in sch. 2 para. 3(1) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(3)**, 104(3); S.S.I. 2015/272, art. 2, Sch.
- F28** Word in sch. 2 para. 3(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)](#), (d)(i)(bb) (with sch. 1)
- F29** Sch. 2 para. 3(2)-(4) omitted (1.12.2016) by virtue of [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(d\)\(ii\)](#) (with sch. 1)

#### *Duty to consult on provision for detecting fires*

- 4 The [<sup>F30</sup>First-tier Tribunal] must, where the application relates to the standard of repair mentioned in section 13(1)(f), consult the chief officer of the [<sup>F31</sup>Scottish Fire and Rescue Service].

#### Textual Amendments

- F30** Words in sch. 2 para. 4 substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(e\)](#) (with sch. 1)
- F31** Words in Sch. 2 para. 4 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 70](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### *Expenses*

- 5 (1) The Scottish Ministers may pay to any person such allowances and expenses as they may determine in respect of—
- (a) the person's attendance at a hearing of [<sup>F32</sup>the First-tier Tribunal] ,
  - (b) the disclosure of anything required or requested by [<sup>F33</sup>the First-tier Tribunal] (including any report about the state of repair of a house which the [<sup>F33</sup>First-tier Tribunal] requests the person to prepare),
  - (c) anything else which the person was required or requested to do for the purposes of or in connection with inquiries made by [<sup>F34</sup>the First-tier Tribunal] .
- (2) No such payments may be made to—

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- (a) the landlord,
- (b) the tenant, or
- <sup>F35</sup>(ba) the third party applicant,]
- (c) a representative of the landlord [<sup>F36</sup>, tenant or third party applicant] ,  
other than payments of reasonable travelling expenses in respect of attendance at a hearing of [<sup>F37</sup>the First-tier Tribunal] .

#### Textual Amendments

- F32** Words in sch. 2 para. 5(1)(a) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(f\)\(i\)\(aa\)](#) (with sch. 1)
- F33** Words in sch. 2 para. 5(1)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2) sch. 2 para. 6(20)(f)(i)(bb) (with sch. 1)
- F34** Words in sch. 2 para. 5(1)(c) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(f\)\(i\)\(cc\)](#) (with sch. 1)
- F35** Sch. 2 para. 5(2)(ba) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(4\)\(a\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F36** Words in sch. 2 para. 5(2)(c) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(4\)\(b\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F37** Words in sch. 2 para. 5(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(f\)\(ii\)](#) (with sch. 1)

#### *Recording and notification of decisions*

- 6 (1) This paragraph applies to any decision of [<sup>F38</sup>the First-tier Tribunal] —
- (a) under section 24(1) (decision on [<sup>F39</sup>an] application),
  - (b) to vary or revoke a repairing standard enforcement order (see section 25),
  - (c) that a landlord has failed to comply with a repairing standard enforcement order (see section 26(1)),
  - (d) to make or not to make a rent relief order (see section 26(2)(b)),
  - (e) to revoke a rent relief order (see section 27(4)),
  - (f) to consent under section 28(6) to the landlord entering into a tenancy or occupancy arrangement,
  - (g) to grant, or to refuse to grant, a certificate under section 60.
- (2) A decision to which this paragraph applies—
- (a) may be reached by majority, and
  - (b) must be recorded in a document which—
    - (i) contains a full statement of the facts found by the [<sup>F40</sup>the First-tier Tribunal and the reasons for its] decision,
    - (ii) explains the procedure, if any, for appealing the decision, and
    - (iii) narrates the effect of section 63 (which sets the date from which the decision, and any order made or varied in pursuance of it, has effect).



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- (3) The [F41First-tier Tribunal] must, as soon as reasonably practicable after making a decision to which this paragraph applies, serve notice of the decision on—
- (a) the landlord,
  - (b) the tenant,
  - (c) where the [F41First-tier Tribunal] is aware of the name and address of a person who acts for the tenant in relation to the tenant's application, that person, F42 ...
  - [F43](d) in the case of an application under section 22(1A), the third party applicant, and
  - (e) the local authority (unless the local authority is the third party applicant in relation to the decision).]
- (4) Such a notice must be accompanied by a copy of—
- (a) the document mentioned in sub-paragraph (2)(b),
  - (b) any order made or varied, or certificate granted, in pursuance of the decision, and
  - (c) any report which the [F44First-tier Tribunal] considered before making the decision.
- (5) The local authority is entitled to disclose any notice and any copy document, order, certificate or report it receives under this paragraph to—
- (a) an authority administering housing benefit [F45or universal credit],
  - (b) a person providing services relating to housing benefit [F45or universal credit] to, or authorised to discharge any function relating to housing benefit [F45or universal credit] of—
    - (i) a local authority, or
    - (ii) an authority administering housing benefit [F45or universal credit].

#### Textual Amendments

- F38** Words in sch. 2 para. 6(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(g\)\(i\)](#) (with sch. 1)
- F39** Word in sch. 2 para. 6(1)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(5\)\(a\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.
- F40** Words in sch. 2 para. 6(2)(b)(i) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(g\)\(ii\)](#) (with sch. 1)
- F41** Words in sch. 2 para. 6(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(g\)\(iii\)](#) (with sch. 1)
- F42** Word in sch. 2 para. 6(3)(c) repealed (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(5\)\(b\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.
- F43** Sch. 2 para. 6(3)(d)(e) substituted for sch. 2 para. 6(3)(d) (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(5\)\(c\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.
- F44** Words in sch. 2 para. 6(4)(c) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(g\)\(iv\)](#) (with sch. 1)
- F45** Words in Sch. 2 para. 6(5) inserted (29.4.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 2\) Regulations 2013 \(S.S.I. 2013/137\)](#), regs. 1, 7



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### *Withdrawal of application*

- 7 (1) A tenant may withdraw an application under section 22(1) at any time (and the tenant is to be treated as having withdrawn it if the tenancy concerned is lawfully terminated).
- [<sup>F46</sup>(1A) A third party applicant may withdraw an application under section 22(1A) at any time.]
- (2) Where an application is withdrawn before the [<sup>F47</sup>Chamber President has referred] the case to [<sup>F48</sup>the First-tier Tribunal] , the [<sup>F49</sup>Chamber President] may—
- (a) abandon the application, or
  - (b) despite the withdrawal, continue to refer the case to [<sup>F48</sup>the First-tier Tribunal] .
- (3) Where an application is withdrawn after it has been referred to [<sup>F50</sup>the First-tier Tribunal, the First-tier Tribunal] may—
- (a) abandon [<sup>F51</sup>its] consideration of the application, or
  - (b) despite the withdrawal—
    - (i) continue to determine the application, and
    - (ii) if [<sup>F52</sup>it does] so by deciding that the landlord has failed to comply with the duty imposed by section 14(1), make and enforce a repairing standard enforcement order.

#### **Textual Amendments**

- F46** Sch. 2 para. 7(1A) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), ss. 26(6), 104(3); S.S.I. 2015/272, art. 2, sch.
- F47** Words in sch. 2 para. 7(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), sch. 2 para. 2(18)(b)(i) (with sch. 1 para. 5)
- F48** Words in sch. 2 para. 7(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(20)(h)(i) (with sch. 1)
- F49** Words in sch. 2 para. 7(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), sch. 2 para. 2(18)(b)(ii) (with sch. 1 para. 5)
- F50** Words in sch. 2 para. 7(3) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(20), (h)(ii)(aa) (with sch. 1)
- F51** Word in sch. 2 para. 7(3)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(20), (h)(ii)(bb) (with sch. 1)
- F52** Words in sch. 2 para. 7(3)(b)(ii) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(20), (h)(ii)(cc) (with sch. 1)

### *Procedure: further provision.*

- 8 (1) The Scottish Ministers may by regulations make further provision about the making or determination of applications under section 22(1) [<sup>F53</sup>and 22(1A)]

**Changes to legislation:** *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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*

- (2) Those regulations may, in particular, provide that matters which are preliminary or incidental to the determination of such an application may be dealt with by any individual member of <sup>F54</sup> ... [<sup>F55</sup>the First-tier Tribunal] alone.

#### Textual Amendments

- F53** Words in sch. 2 para. 8(1) inserted (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(7), 104(3)**; [S.S.I. 2014/264](#), art. 2, sch.
- F54** Words in sch. 2 para. 8(2) repealed (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(18)(c)** (with sch. 1 para. 5)
- F55** Words in sch. 2 para. 8(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(20)(i)** (with sch. 1)

#### Commencement Information

- I4** Sch. 2 para. 8 not in force at Royal Assent see s. 195(3); Sch. 2 para. 8 in force for certain purposes at 4.12.2006 by [S.S.I. 2006/569](#), **art. 2**; Sch. 2 para. 8 in force at 3.9.2007 by [S.S.I. 2007/270](#), {art. 3 Table}

### SCHEDULE 3

*(introduced by section 111(3))*

#### PENALTY CHARGE NOTICES UNDER SECTION 111

- 1 A penalty charge notice given to a person under section 111 by an authorised officer of an enforcement authority must—
- (a) state the officer's belief that that person has committed a breach of duty,
  - (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty,
  - (c) require that person, within a period specified in the notice—
    - (i) to pay a penalty charge specified in the notice, or
    - (ii) to give notice to the enforcement authority that that person wishes the authority to review the notice,
  - (d) state the effect of paragraph 8,
  - (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made, and
  - (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).

#### Commencement Information

- I5** [Sch. 3 para. 1](#) in force at 1.12.2008 by [S.S.I. 2008/308](#), **art. 3**

- 2 The penalty charge specified in the notice must be the amount (not exceeding £500) prescribed for the time being by regulations made by the Scottish Ministers.

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#### Commencement Information

- I6** Sch. 3 para. 2 partly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 195(3); Sch. 3 para. 2 in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, art. 2
- I7** Sch. 3 para. 2 in force at 1.12.2008 in so far as not already in force by S.S.I. 2008/308, art. 3

- 3 (1) The period specified under paragraph 1(c) must—
- not be less than 28 days, and
  - begin with the day after that on which the penalty charge notice was given.
- (2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if it considers it appropriate to do so.

#### Commencement Information

- I8** Sch. 3 para. 3 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 4 (1) If, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority must—
- consider any representations made by the recipient and all other circumstances of the case,
  - decide whether to confirm or withdraw the notice, and
  - serve notice of their decision on the recipient.
- (2) A notice under sub-paragraph (1)(c) confirming the penalty charge notice must also state the effect of paragraphs 5(1) to (4) and 7.
- (3) The enforcement authority—
- must withdraw the penalty charge notice if satisfied, following a review or at any other time—
    - that the recipient did not commit the breach of duty specified in the notice, or
    - that the notice was not given within the time allowed by section 111(2) or did not comply with the other requirements imposed by or under this schedule,
  - may otherwise withdraw the penalty charge notice if satisfied, following a review or at any other time, that the recipient is unlikely to commit a further breach of the duty specified in the notice.

#### Commencement Information

- I9** Sch. 3 para. 4 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 5 (1) If after a review the penalty charge notice is confirmed by the enforcement authority, the recipient may appeal by summary application to the sheriff against the penalty charge notice.
- (2) An appeal against a penalty charge notice must be made within the period 28 days beginning with service of the notice under paragraph 4(1)(c).

**Changes to legislation:** *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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*

- (3) But the sheriff may on cause shown hear an appeal made after the deadline set by sub-paragraph (2).
- (4) An appeal against a penalty charge notice must be on one (or both) of the following grounds—
  - (a) that the recipient did not commit the breach of duty specified in the penalty charge notice, or
  - (b) that the notice was not given within the time allowed by section 111(2) or does not comply with any other requirement imposed by or under this schedule.
- (5) The sheriff must determine an appeal against a penalty charge notice by upholding or quashing the notice.
- (6) The recipient or the enforcement authority may, on point of law only, appeal to the sheriff principal against the sheriff's determination.
- (7) In this paragraph “sheriff” means the sheriff of the sheriffdom in which the house is situated.

**Commencement Information**

**I10** Sch. 3 para. 5 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 6 If the penalty charge notice is withdrawn or quashed, the authority must repay any amount previously paid as a penalty charge in pursuance of the notice.

**Commencement Information**

**I11** Sch. 3 para. 6 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 7 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the authority unless—
- (a) the notice has been withdrawn or quashed, or
  - (b) the charge has been paid.
- (2) Proceedings for the recovery of the penalty charge may not be commenced—
- (a) before the end of the period mentioned in paragraph 4(1), or
  - (b) where within that period the recipient of the penalty charge notice gives notice to the authority that the recipient wishes the authority to review the penalty charge notice—
    - (i) before the end of the period mentioned in paragraph 5(2), or
    - (ii) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is abandoned or determined by the sheriff.

**Commencement Information**

**I12** Sch. 3 para. 7 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 8 In proceedings for the recovery of the penalty charge, a certificate which—

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- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority, and
  - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate,
- is sufficient evidence of the facts stated.

**Commencement Information**

**I13** [Sch. 3 para. 8](#) in force at 1.12.2008 by [S.S.I. 2008/308](#), [art. 3](#)

SCHEDULE 4

*(introduced by section 129)*

APPLICATIONS FOR HMO LICENCES: PROCEDURE

*Content of application*

- 1 (1) An application for an HMO licence must be written in such form as the local authority may reasonably require.
- (2) Such an application must set out—
- (a) the address of the living accommodation concerned,
  - (b) in the case of an application by an individual, the name and address of the applicant,
  - (c) in the case of an application by a body, the information set out in sub-paragraph (3),
  - (d) if the applicant wishes the HMO licence to authorise an agent to act for the applicant in relation to the occupation of the living accommodation—
    - (i) where the agent is an individual, the name and address of the agent, or
    - (ii) where the agent is a body, the information set out in sub-paragraph (3),
  - (e) any other information which the Scottish Ministers may by order require to be set out in such an application, and
  - (f) any other information which the local authority may reasonably require.
- (3) The information referred to in sub-paragraph (2)(c) and (d)(ii) is—
- (a) the name of the body,
  - (b) the body's principal office, and
  - (c) the name and address of each of the directors, partners or other persons concerned in the management of the body.
- (4) The application must be—
- (a) signed by or on behalf of the applicant, and
  - (b) accompanied by the application fee (see section 161).

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### Commencement Information

**I14** Sch. 4 para. 1 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

#### *Notice of application*

- 2 (1) A “notice of HMO application” is a notice which—
- (a) states that an application for an HMO licence has been made in respect of living accommodation,
  - (b) sets out the information described in paragraph 1(2) and (3) (excluding the information described in sub-paragraph (3)(c) of that provision),
  - (c) states the date of the notice,
  - (d) explains the procedure for making written representations about the application to the local authority.
- (2) The applicant must cause a notice of HMO application to be displayed on or near to the living accommodation concerned for 21 days from the date on which the application is made.
- (3) The applicant must ensure that the notice of HMO application is designed and displayed so that it can be conveniently read by the public.
- (4) The removal, obscuring or defacement of a notice of HMO application does not affect compliance with sub-paragraphs (2) and (3) if the applicant—
- (a) took reasonable steps to prevent (and did not cause) the removal, obscuring or defacement, and
  - (b) on becoming aware of such an event, replaced the notice.
- (5) An applicant who considers that sub-paragraphs (2) and (3) have been complied with must certify that fact to the local authority.
- (6) Where—
- (a) a notice of HMO application is removed, obscured or defaced during the period for which it must be displayed, but
  - (b) the applicant considers that compliance with sub-paragraphs (2) and (3) is, because of sub-paragraph (4), unaffected,
- the certificate must state the relevant circumstances.
- (7) If the local authority is satisfied that sub-paragraph (2) or (3) has not been complied with in the manner certified by the applicant, it may require the applicant to cause a notice of HMO application to be displayed on or near the living accommodation concerned for 21 days from such date as the authority may specify.
- (8) Sub-paragraphs (3) to (7) apply in relation to a duty under sub-paragraph (7) as they apply in relation to a duty under sub-paragraph (2).
- (9) On receiving an application for an HMO licence, the local authority—
- (a) must send a copy of the application to the chief officer of the [F56 enforcing authority]<sup>F56</sup> authority and the chief constable, and
  - (b) may give a notice of HMO application in a newspaper circulating in its area.

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#### Textual Amendments

**F56** Words in Sch. 4 para. 2(9)(a) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2(1), Sch. 1 para. 17(2)(3)(e)

#### Commencement Information

**I15** Sch. 4 para. 2 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

#### Notices: exceptions

- 3 (1) This paragraph applies where the local authority considers, on the submission of any applicant—
- (a) that the applicant has been unable to comply with paragraph 2(2) or (3) because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or
  - (b) that complying with paragraph 2(2) or (3) is likely to jeopardise—
    - (i) the safety or welfare of any persons, or
    - (ii) the security of any premises.
- (2) Where this paragraph applies the local authority must—
- (a) disapply paragraph 2(2) to (8) in relation to the application concerned by serving notice of the disapplication to the applicant, and
  - (b) serve, or require the applicant to serve, notice of HMO application on the occupiers of such premises in the vicinity of the living accommodation concerned as the authority thinks fit.
- (3) The local authority must give notice under paragraph 2(9)(b) where this paragraph applies because of sub-paragraph (1)(a) of this paragraph.
- (4) The local authority must not give notice under paragraph 2(9)(b) where this paragraph applies because of sub-paragraph (1)(b) of this paragraph.
- (5) The Scottish Ministers may give directions to local authorities about circumstances in which authorities must consider that compliance with paragraph 2(2) or (3) is likely to jeopardise—
- (a) the safety or welfare of persons, or
  - (b) the security of premises.
- (6) Directions given under sub-paragraph 5 may be varied or revoked at any time.

#### Commencement Information

**I16** Sch. 4 para. 3 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

#### Representations

- 4 (1) A written representation about an application for an HMO licence is valid only if it—
- (a) sets out the name and address of the respondent,
  - (b) is signed by or on behalf of the respondent, and
  - (c) is made on or before the deadline for making written representations.



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- (2) The deadline for making written representations is—
- (a) where one or more notices of HMO application has or have been—
    - (i) displayed in pursuance of paragraph 2(2) or (7), or
    - (ii) served under paragraph 2(9)(b) or 3(2)(b),
 the latest date specified in any such notice as the date by which written representations must be made, or
  - (b) where no such notice is given, the date which is 21 days after the date on which the application is made.

**Commencement Information**

**I17** Sch. 4 para. 4 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Inquiries*

- 5 (1) The local authority may make such inquiries about the application as the authority thinks fit.
- (2) The local authority must make a report of any matter arising from any such inquiries which the local authority considers relevant to the determination of the application.

**Commencement Information**

**I18** Sch. 4 para. 5 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Applicant's opportunity to respond*

- 6 (1) The local authority must give the applicant a copy of—
- (a) any valid written representation,
  - (b) any late written representation which the authority intends to consider, and
  - (c) any report made under paragraph 5(2).
- (2) A copy representation or report given under sub-paragraph (1) must be accompanied by a notice specifying the period (of not less than 7 days from the date on which the notice is given) during which the applicant may give a written response to the local authority on any matter set out in the copy representation or report.

**Commencement Information**

**I19** Sch. 4 para. 6 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Hearings*

- 7 (1) The local authority may decide to hear oral representations about the application.
- (2) If the local authority decides to hold such a hearing, it must invite—
- (a) the applicant,
  - (b) each respondent who has made a valid written representation or a late written representation which the authority intends to consider, and

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- (c) any other person it thinks fit,  
to make oral representations.
- (3) An invitation under sub-paragraph (1) must be given not less than 7 days before the proposed hearing.

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**Commencement Information**

**I20** Sch. 4 para. 7 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Consideration of application*

- 8 (1) Before determining an application for an HMO licence, the local authority must consider any—
- (a) valid written representations (unless withdrawn),
  - (b) reports made under paragraph 5(2),
  - (c) written responses given by the applicant in pursuance of paragraph 6(2) (within the period specified in that paragraph), and
  - (d) oral representations made in pursuance of paragraph 7.
- (2) The local authority must not consider any written representation which is invalidated by paragraph (a) or (b) of paragraph 4(1).
- (3) But the local authority may consider a late written representation if it is satisfied that it was reasonable for the respondent to make the representation after the deadline for doing so.

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**Commencement Information**

**I21** Sch. 4 para. 8 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Time limit for determining application*

- 9 (1) The local authority must decide whether to grant or refuse an application for an HMO licence within 12 months of it receiving the application.
- (2) The period mentioned in sub-paragraph (1) may be extended by the sheriff, on summary application by the local authority, by such period as the sheriff thinks fit.
- (3) The sheriff may not extend a period unless the local authority applies for the extension before the period expires.
- (4) The applicant is entitled to be a party to any proceedings on such a summary application.
- (5) The sheriff's decision on such an application is final.
- (6) If the local authority does not determine an application for an HMO licence within the period mentioned in sub-paragraph (1) (or that period as extended), the authority is to be treated as having decided to grant the HMO licence unconditionally.
- (7) Sub-paragraph (6) does not affect the local authority's power to vary or revoke an HMO licence granted in pursuance of that sub-paragraph.

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**Modifications etc. (not altering text)**

- C1** Sch. 4 para. 9(2) power to disapply conferred (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 20\(2\)\(a\)\(iii\)](#), 104(3); S.S.I. 2014/264, art. 2, Sch.

**Commencement Information**

- I22** Sch. 4 para. 9 in force at 31.8.2011 by [S.S.I. 2010/159](#), art. 3

## SCHEDULE 5

*(introduced by section 150)*

### HMO AMENITY NOTICES: ENFORCEMENT ETC.

#### *Carrying out of work by local authority*

- 1 (1) If the owner of living accommodation fails to comply with an HMO amenity notice, the local authority may carry out the work required by the notice.
- (2) The local authority may not carry out any work authorised by sub-paragraph (1) unless—
- (a) the period within which the work requires to be carried out has ended, or
  - (b) the owner has given notice to the local authority—
    - (i) of being unable to comply with the HMO amenity notice because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or
    - (ii) stating that the owner considers that carrying out the work required is likely to endanger any person.

**Commencement Information**

- I23** Sch. 5 para. 1 in force at 31.8.2011 by [S.S.I. 2010/159](#), art. 3

#### *Evacuation*

- 2 (1) Where the local authority—
- (a) is authorised by this schedule to carry out work in living accommodation, and
  - (b) considers that doing so is likely to endanger the occupant of any land or premises,
- it must require that occupant to move from the land or premises.
- (2) A requirement under sub-paragraph (1) must be made by serving a notice on the occupant specifying—
- (a) by reference to the work which the local authority is authorised to carry out, the reason why the occupant is required to move, and
  - (b) the period, beginning not less than 14 days after the date on which the notice is served, within which the occupant must move.
- (3) A requirement under sub-paragraph (1) ceases to have effect if—

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- (a) the sheriff refuses to grant a warrant under paragraph 3(4) in relation to it, or
- (b) the work concerned is completed.

**Commencement Information**

**I24** Sch. 5 para. 2 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Warrants for ejection*

- 3 (1) Where an occupant has not complied with a requirement under paragraph 2, the local authority may, by summary application, apply to the sheriff for a warrant for the ejection of the occupant from the land or premises in question.
- (2) No such application may be made before the expiry of the period specified in the notice served under paragraph 2(2).
- (3) On such an application, the sheriff may require the service of a further notice on the occupant.
- (4) The sheriff may, if satisfied that the occupant is likely to be endangered by the carrying out of the work concerned, grant a warrant of ejection requiring the occupant to move from the land or premises in question, within such period as the sheriff may determine, until the work is completed.
- (5) Such a warrant—
- (a) may be made subject to such other conditions (including conditions with respect to payment of rent) as the sheriff thinks just and equitable, but
  - (b) where a further notice is served under sub-paragraph (3), may not require the occupant to move before the day which is 14 days after service of that notice.
- (6) No such warrant may require a person to move from any living accommodation which is that person's only or main residence unless the sheriff is satisfied that suitable alternative living accommodation on reasonable terms will be available to that person.
- (7) The reference in sub-paragraph (6) to suitable alternative living accommodation is a reference to accommodation which is suitable for occupation by the resident and any other person whose only or main residence would, but for the location of that other person's place of work or of any educational institution which the person attends, be the accommodation concerned.
- (8) The sheriff's decision on the application is final.
- (9) Refusal by the sheriff to grant any warrant sought under this paragraph does not affect the validity of the HMO amenity notice in relation to which the warrant was sought.
- (10) Nothing in [F57 an enactment mentioned in sub-paragraph (11)] restricts the power of a local authority to apply for, or the power of the sheriff to grant, a warrant under sub-paragraph (4).
- [F58 (11) The enactments referred to in sub-paragraph (10) are—
- (a) the Rent (Scotland) Act 1984,
  - (b) Part 2 of the Housing (Scotland) Act 1988,
  - (c) the Private Housing (Tenancies) (Scotland) Act 2016.]

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#### Textual Amendments

- F57** Words in sch. 5 para. 3(10) substituted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), **sch. 4 para. 9(3)(a)**; S.S.I. 2017/346, reg. 2, sch.
- F58** Sch. 5 para. 3(11) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), **sch. 4 para. 9(3)(b)**; S.S.I. 2017/346, reg. 2, sch.

#### Modifications etc. (not altering text)

- C2** Sch. 5 para. 3(1) power to disapply conferred (20.11.2014) by [Housing \(Scotland\) Act 2014](#) (asp 14), **ss. 20(2)(a)(iv)**, 104(3); S.S.I. 2014/264, art. 2, Sch.

#### Commencement Information

- I25** Sch. 5 para. 3 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

#### *Unlawful occupation etc.*

- 4 (1) A person commits an offence if the person, knowing that a requirement under paragraph 2(1) has effect in relation to any land or premises—
- (a) occupies it or them, or
  - (b) permits such occupation.
- (2) A person guilty of an offence under sub-paragraph (1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.
- (3) It is not an offence under sub-paragraph (1)—
- (a) for a person to continue to occupy any land or premises which that person occupied on the day on which the requirement under paragraph 2(1) is made, or
  - (b) to permit such a person to continue occupation.

#### Commencement Information

- I26** Sch. 5 para. 4 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

#### *Listed buildings etc.*

- 5 (1) This paragraph applies to a building which is—
- (a) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) (“the 1997 Act”),
  - (b) subject to a building preservation notice under section 3 of the 1997 Act, or
  - (c) one to which section 66 of the 1997 Act (control of demolition in conservation areas) applies.
- (2) The local authority must, before it carries out any work in any living accommodation which is, or which forms part of, a building to which this paragraph applies in pursuance of paragraph 1, consult—
- [<sup>F59</sup>(a) Historic Environment Scotland,]

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**Changes to legislation:** *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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*

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- (b) the planning authority (where the planning authority is not the local authority), and
  - (c) such other persons as the local authority thinks fit.
- (3) Any requirement under section 146(2) to carry out work in or in relation to a building to which this paragraph applies has effect only in so far as it is not inconsistent with any provision of the 1997 Act.

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**Textual Amendments**

**F59** Sch. 5 para. 5(2)(a) substituted (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Ancillary Provision\) Order 2015 \(S.S.I. 2015/271\)](#), arts. 1, **6(1)** (with art. 6(2))

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**Commencement Information**

**I27** Sch. 5 para. 5 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

*Recovery of expenses etc.*

- 6
- (1) The local authority may recover any expenses it incurs in carrying out any work authorised by this schedule from the owner of the living accommodation concerned.
  - (2) Sub-paragraph (1) entitles the local authority to recover—
    - (a) any administrative expenses incurred by it in connection with the act to which the expenses relate or, as the case may be, with the making of the payment, and
    - (b) interest, at such reasonable rate as it may determine, from the date when a demand for payment is served until the whole amount is paid.
  - (3) Notice of any decision to demand recovery of expenses under this paragraph must be given in accordance with section 158.
  - (4) That notice may include, in addition to the matters specified in section 158(12)(a) and (b), a declaration by the local authority that any sums recoverable under this paragraph are to be payable by instalments.

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**Commencement Information**

**I28** Sch. 5 para. 6 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

*Certification*

- 7
- (1) A person who is required to carry out work by an HMO amenity notice may apply to the local authority for certification that the work has been completed.
  - (2) An application under this paragraph is not competent unless the applicant has paid any expenses demanded by the local authority under paragraph 6 in relation to that work.
  - (3) The local authority must grant the certificate applied for if satisfied that the work required by the notice has been completed.
  - (4) Notice of any decision to refuse such an application must be given in accordance with section 158.

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**Commencement Information**

**I29** Sch. 5 para. 7 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Registration*

- 8 The local authority must keep a written record of each HMO amenity notice which relates to living accommodation which is not a building.

**Commencement Information**

**I30** Sch. 5 para. 8 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

SCHEDULE 6

*(introduced by section 192(1))*

CONSEQUENTIAL CHANGES

PART 1

MODIFICATION OF ACTS

*References to “standard amenities”*

- 1 A reference in any previous enactment to “standard amenities” within the meaning of—
- (a) section 39 of the Housing (Financial Provision) (Scotland) Act 1968 (c. 31),
  - (b) section 7 of the Housing (Scotland) Act 1974 (c. 45), or
  - (c) section 244 of the 1987 Act,
- is a reference to standard amenities within the meaning of section 73(6).

**Commencement Information**

**I31** Sch. 6 para. 1 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

*Crofters Holdings (Scotland) Act 1886 (c. 29)*

- 2 For paragraph 1A of the Schedule to the Crofters Holdings (Scotland) Act 1886, substitute—
- “1A Work carried out in implementation of an HRA action plan included in an HRA designation order made under section 1 of the Housing (Scotland) Act 2006 (asp 1).”.



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#### Commencement Information

**I32** Sch. 6 para. 2 in force at 1.4.2009 by S.S.I. 2009/122, art. 3 (with art. 7)

#### *Land Compensation (Scotland) Act 1973 (c. 56)*

- 3 In section 27(7) of the Land Compensation (Scotland) Act 1973—
- (a) in paragraph (a), for the words “an order under section 88 of that Act” substitute “ an HRA designation order under section 1 of the Housing (Scotland) Act 2006 (asp 1) ”,
  - (b) in each of paragraphs (b) and (c), at the end insert “ of 1987 ”,
  - (c) for paragraph (d), substitute—
    - “(d) a work notice under section 30 of the said Act of 2006.”.

#### Commencement Information

**I33** Sch. 6 para. 3 in force at 1.4.2009 by S.S.I. 2009/122, art. 3 (with art. 7)

#### *Rent (Scotland) Act 1984 (c. 58)*

- 4 The Rent (Scotland) Act 1984 is amended as follows.
- 5 For “rent assessment”, in each place where those words appear in—
- (a) sections 44, 46(6), 48(1), 49(2), 50(4), 53(1), 60(2), 65(1) and (2), 66(1) and (5), 66A(2) and (3), 67(1), 68, 70(1) and (4), 71(1), 72(1), 74(1), 77, 80(1), 81(1) (in the definition of “register”), 85(1)(b) and 115(2),
  - (b) paragraphs 1, 5 to 7 and 11 of Schedule 4,
  - (c) paragraphs 6, 7(1), 8(1), 11(3), 12 and 13(1) of Schedule 5,
  - (d) paragraphs 2(1) and (2), 5, 6(1), 7(1) and (2) and 9(b) of Schedule 6,
  - (e) the titles of sections 44, 65, 66, 71, 72 and 77 and the title of Schedule 4,
  - (f) the cross-headings before paragraphs 8 and 13 of Schedule 5,
- substitute “ private rented housing ”.
- 6 In section 106—
- (a) in subsection (1), for the words “Part XIII of the Housing (Scotland) Act 1987” substitute “ a grant or loan under Part 2 of the Housing (Scotland) Act 2006 (asp 1) ”,
  - (b) in subsection (2), for the words “section 241(2) of the Act of 1987” substitute “ section 75(7) of the said Act of 2006 ”,
  - (c) for subsection (5), substitute—
    - “(5) In this section—
      - “standard amenities” has the meaning given by section 73(6) of the said Act of 2006; and
      - “tolerable standard” has the meaning given by section 86 of the Housing (Scotland) Act 1987 (c. 26).”.

*Changes to legislation: Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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*

**Commencement Information**

**I34** Sch. 6 para. 6 in force at 1.4.2009 by S.S.I. 2009/122, art. 3 (with art. 7)

7 In section 115(1), for the definition of “rent assessment committee” substitute—  
 ““private rented housing committee” has the meaning assigned to it by section 44 above;”.

8 In paragraph 5 of Schedule 4, the words “to act for any registration areas” are repealed.

*Housing (Scotland) Act 1987 (c. 26)*

9 The 1987 Act is amended as follows.

**Commencement Information**

**I35** Sch. 6 para. 9 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

10 In section 107, after “amenities”, where it first occurs, insert “ (within the meaning given by section 73(6) of the Housing (Scotland) Act 2006 (asp 1)) ”.

**Commencement Information**

**I36** Sch. 6 para. 10 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

11 In section 308(1), for the words from “sections” to “8” substitute “ section 121 ”.

**Commencement Information**

**I37** Sch. 6 para. 11 in force at 1.4.2010 by S.S.I. 2009/122, art. 3

12 In section 311(1), for paragraph (b) substitute—  
 “(b) if the house is in a housing renewal area (within the meaning of the Housing (Scotland) Act 2006 (asp 1)), the date on which the order designating it was made under section 1 of that Act of 2006 and the authority which made it;”.

**Commencement Information**

**I38** Sch. 6 para. 12 in force at 1.4.2009 by S.S.I. 2009/122, art. 3 (with art. 7)

PROSPECTIVE

13 In section 313(3), for the words from “may,” to the end substitute “ may treat the failure as a failure to carry out work required by a work notice (within the meaning of the Housing (Scotland) Act 2006 (asp 1)) and the provisions of that Act which relate to the enforcement of such notices by local authorities shall apply with such modifications as may be necessary. ”.

**Changes to legislation:** Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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

- 14 In section 338(1), for the definition of “disabled person” substitute—  
““disabled person” has the same meaning as in the Disability Discrimination Act 1995 (c. 50),”.

**Commencement Information**

**I39** Sch. 6 para. 14 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

PROSPECTIVE

- 15 In paragraph 1 of Schedule 9, for “sections 108(3), 131(2) and 164(4)” substitute “section 131(2)”.

*Housing (Scotland) Act 1988 (c. 43)*

- 16 In the Housing (Scotland) Act 1988, for “rent assessment”, in each place where those words appear in—  
(a) sections 17(3) to (5), (7) and (8), 24(3), 25(1) and (4) to (7), 25A(4), 25B(1) and (3), 34(1), (3) and (4), 44(3), 48(1) and (2), 48A, 49(1) and (2) and 68,  
(b) the titles of sections 25, 25B, 34, 35 and 48,  
substitute “ private rented housing ”.

*Tribunals and Inquiries Act 1992 (c. 53)*

- 17 In paragraph 59 of Schedule 1 to the Tribunals and Inquiries Act 1992, for “rent assessment” substitute “ private rented housing ”.

*Home Energy Conservation Act 1995 (c. 10)*

- 18 In section 1 of the Home Energy Conservation Act 1995, in paragraph (aa)(ii) of the definition of “residential accommodation”, for the words from “a” to “1987” substitute “ an HMO (within the meaning of the Housing (Scotland) Act 2006 (asp 1)) which requires to be licensed under Part 5 of that Act ”.

**Commencement Information**

**I40** Sch. 6 para. 18 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

*Scottish Public Services Ombudsman Act 2002 (asp 11)*

- 19 In paragraph 5 of schedule 3 to the Scottish Public Services Ombudsman Act 2002, for “rent assessment” substitute “ private rented housing ”.

*Building (Scotland) Act 2003 (asp 8)*

- 20 Section 24 (duty to keep building standards register) of the Building (Scotland) Act 2003 is amended as follows.

**Changes to legislation:** Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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

#### Commencement Information

**I41** Sch. 6 para. 20 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

- 21 In subsection (1)—
- (a) the word “and” which follows paragraph (b) is repealed,
  - (b) after paragraph (c) insert “, and
  - (d) work notices served under section 30, demolition notices served under section 33, and HMO amenity notices (insofar as they relate to buildings) served under section 146, of the Housing (Scotland) Act 2006 (asp 1)”.

#### Commencement Information

**I42** Sch. 6 para. 21 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

- 22 In subsection 2(a), for “(c)” substitute “ (d) ”.

#### Commencement Information

**I43** Sch. 6 para. 22 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

#### *Fire (Scotland) Act 2005 (asp 5)*

- 23 In section 78(5)(a) of the Fire (Scotland) Act 2005, for the words from “as” to “required” substitute “ which requires to be licensed under Part 5 of the Housing (Scotland) Act 2006 (asp 1) ”.

#### Commencement Information

**I44** Sch. 6 para. 23 in force at 31.8.2011 by S.S.I. 2010/159, art. 3 (with art. 6)

## PART 2

### REVOCATION OF SUBORDINATE LEGISLATION

#### *The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Orders*

- 24 The following orders are revoked—
- (a) the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 (S.S.I. 2000/177),
  - (b) the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Amendment Order 2002 (S.S.I. 2002/161), and
  - (c) the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Amendment Order 2003 (S.S.I. 2003/463).

**Changes to legislation:** Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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

#### Commencement Information

**I45** Sch. 6 para. 24 in force at 31.8.2011 by S.S.I. 2010/159, art. 3 (with art. 6)

### SCHEDULE 7

(introduced by section 192(2))

#### REPEALS

#### Commencement Information

- I46** Sch. 7 not in force at Royal Assent see s. 195; Sch. 7 in force for specified purposes at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table} (with arts. 4-6)
- I47** Sch. 7 in force at 1.4.2009 for specified purposes by S.S.I. 2009/122, art. 3
- I48** Sch. 7 in force at 1.4.2010 for specified purposes by S.S.I. 2009/122, art. 3 (with arts. 4-6)
- I49** Sch. 7 in force at 31.8.2011 for specified purposes by S.S.I. 2010/159, art. 3

<i>Enactment</i>	<i>Extent of repeal</i>
Caravan Sites and Control of Development Act 1960 (c. 62)	In schedule 1, paragraph 11A.
Land Compensation (Scotland) Act 1973 (c. 56)	In section 34(2), the words “and paragraph 12 of Schedule 8 to”. In section 36(4)(b), the words “or section 214 of the Housing (Scotland) Act 1987”.
Civic Government (Scotland) Act 1982 (c. 45)	Section 87(5).
Housing (Scotland) Act 1987 (c. 26)	Sections 85(3), 88 to 106, 108 to 113, 120(6) and 124(4). Part 8. Sections 214, 215, 217, 218 and 219(1)(a). Part 13. In sections 309(1) and 310, the word “88,”. Section 311(1)(e). Section 313(4). In Section 319(1), in paragraph (a), the words from second “any” to “Part V or”; the words from “or” which follows paragraph (a) to the end of paragraph (c); and the words from “or, in a case falling under paragraph (c)” to the end. In section 338(1), the definitions of “disabled occupant”, “housing action area”, “improvement”, “improvement grant”, “repairs grant” and “standard amenities”. Schedules 7, 8, 10, 11 and 17 to 19. In schedule 23, paragraph 1.
Housing (Scotland) Act 1988 (c. 43)	Section 2(8) and (9).

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**Changes to legislation:** *Housing (Scotland) Act 2006 is up to date with all changes known to be in force on or before 27 April 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*

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	In schedule 7, paragraphs 10 to 16. In schedule 8, paragraphs 6 and 7. In schedule 9, paragraph 12.
Local Government Act 1988 (c. 9)	Sections 24 to 26.
Local Government and Housing Act 1989 (c. 42)	In schedule 11, paragraph 95.
Agricultural Holdings (Scotland) Act 1991 (c. 55)	In paragraph 18 of Part 2 of Schedule 5, the words from second “and” to the end of that paragraph. In schedule 11, paragraph 54.
Clean Air Act 1993 (c. 11)	Section 62(2)(c).
Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)	Section 157(4).
Abolition of Feudal Tenure etc. (Scotland) act 2000 (asp 5)	In schedule 12, paragraph 48(6) to (12) and (16).
Housing (Scotland) Act 2001 (asp 10)	Section 92(3) and (6). In section 93(1) and (3), the words “or (3)”. Part 6. In schedule 10, paragraph 13(23) to (35) and (41)(c).
Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)	Sections 81(3)(d) and 83(6)(c).
Housing Act 2004 (c. 34)	Sections 209 to 211.
Fire (Scotland) Act 2005 (asp 5)	Section 78(5)(f).

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**Changes to legislation:**

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[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 12(1)(c)-(e) omitted by [S.S.I. 2019/61 reg. 2\(2\)](#)
- s. 21(3) transfer of functions by [S.S.I. 2016/337 reg. 3\(1\)](#) (This amendment not applied to legislation.gov.uk. S. 21 omitted (1.12.2016) by virtue of The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(2) (with sch. 1))
- s. 21(3) transfer of functions by [S.S.I. 2016/338 reg. 3\(1\)](#) (This amendment not applied to legislation.gov.uk. S. 21 omitted (1.12.2016) by virtue of The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(2) (with sch. 1))
- s. 22 title word inserted by [2011 asp 14 s. 35\(3\)](#)
- s. 64(7) words substituted by [2014 asp 14 sch. 1 para. 53\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 64(7) was substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), sch. 2 para. 6(14)(d) (with sch. 1))