

Tenants' Rights, Etc. (Scotland) Act 1980

CHAPTER 52

ARRANGEMENT OF SECTIONS

PART I

RIGHTS OF PUBLIC SECTOR TENANTS TO PURCHASE THE DWELLING-HOUSES WHICH THEY OCCUPY

Section

1. Secure tenant's right to purchase.
2. Procedure.
3. Refusal of applications.
4. Conditions of sale.
5. Loans.
6. Recovery of discount on early re-sale.
7. Duties of landlords.
8. Removal of restrictions on powers of local authorities to sell houses.
9. Removal of restrictions on powers of registered housing associations to sell houses.

PART II

RIGHTS OF PUBLIC SECTOR TENANTS TO SECURITY OF TENURE ETC.

Security of tenure

10. Secure tenancies.
11. Special provision for housing associations.
12. Security of tenure.
13. Succession to secure tenancy.
14. Proceedings for possession.
15. Powers of sheriff in proceedings.

Leases

16. Tenant's right to written lease.
17. Variation of terms of secure tenancies.

Abandonment of secure tenancy

18. Rights of landlord where secure tenancy appears to have been abandoned.
19. Re-possession.
20. Tenant's right of recourse to sheriff.

Subletting

Section

- 21. Subletting.
- 22. Rent payable by subtenants.

Alterations etc to dwelling-house

- 23. Landlord's consent to work.
- 24. Reimbursement of cost of work.
- 25. Effect of works on rent.

PART III

MISCELLANEOUS MATTERS RELATING TO PUBLIC SECTOR
HOUSING AUTHORITIES*Allocation*

- 26. Restriction on residential requirements.
- 27. Publication of rules.

Abolition of reserve powers to limit rents

- 28. Repeal of provisions of Housing Rents and Subsidies (Scotland) Act 1975.

Home Loans

- 29. Amendments relating to home loans by local authorities.
- 30. Local authority home loan interest rates.
- 31. Local authority and Housing Corporation indemnities for building societies etc.

*Exchequer contributions in respect of
expenditure on amenities*

- 32. Variation of exchequer contribution.

PART IV

PROVISIONS RELATING TO PRIVATE SECTOR TENANCIES

Interpretation

- 33. Interpretation of Part IV.

Short tenancies

- 34. Short tenancies.
- 35. Effect of tenancy being short tenancy.
- 36. Conditions applying to landlord's right to recovery of possession.

Limits on rent increases

- 37. Limits on rent increases.
- 38. Amendments to provisions relating to rent limits for dwelling-houses let by housing associations and the Housing Corporation.

Reserve and Auxiliary Forces (Protection of Civil Interests)

Section

39. Amendment of Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

Crown Tenants of Crown Estate Commissioners etc.

40. Extension of Rent (Scotland) Act 1971 to Crown tenants of Crown Estate Commissioners etc.

Miscellaneous amendments of enactments relating to private sector tenancies

41. Amendment of enactments relating to housing associations.
 42. Prohibition of eviction without due process of law to apply to Part VII contracts.
 43. Amendment of sections 1 and 86 of the 1971 Act.
 44. Modifications of section 5A of the 1971 Act.
 45. Resident landlords.
 46. Conversion of all remaining controlled tenancies.
 47. Determination of fair rent.
 48. Effect of registration of rent.
 49. Repeal of provisions relating to increase of recoverable rent on account of improvements.
 50. Cancellation of registration.
 51. Cancellation of entries in register relating to Part VII contracts at instance of landlord.
 52. Transfer of functions of rent tribunals to rent assessment committees.
 53. Furnished lettings by certain bodies not to be Part VII contracts.
 54. Apportionment of rateable values for Part VII contracts.
 55. Notice to quit relating to Part VII contracts entered into after the commencement of Part IV.
 56. Succession to statutory tenancy.
 57. Returnable deposits not premiums.
 58. Extent of operation of section 119A of 1971 Act.
 59. Consent of tenant to carrying out of works.
 60. Landlord's consent to work.
 61. Amendment of section 21(2)(b) of the 1971 Act.
 62. Publication by local authorities of information as to rights.
 63. Recovery of possession of dwelling-house subject to regulated tenancy.
 64. Pensions etc. for Rent Assessment Panel.
 65. Increases in penalties for offences relating to houses in multiple occupation.

PART V

MISCELLANEOUS

Improvement grants

66. Availability of improvement grants.
 67. Conditions for approval of applications for improvement grants.

Section

68. Maximum approved expense for repair works associated with improvement.
69. Availability for long term use.
70. Abolition of power of Secretary of State to specify requirements in relation to repairs grants.
71. Grants for provision of fixed bath or shower.
72. Abolition of control over improvement orders.
73. Amendment of definition of "prescribed" in Housing (Scotland) Act 1974.
74. Discretion of court in cases relating to instalment purchase agreements.

Abolition of Scottish Housing Advisory Committee

75. Abolition of Scottish Housing Advisory Committee.
76. Amendment of sections 17 and 145 of Housing (Scotland) Act 1966.
77. Duty of local authority to have regard to amenities of locality etc.
78. Extension of rent allowances.
79. Board excluded in calculating rent allowances.
80. Extension of rent allowance scheme.
81. Agreements for exercise by housing co-operatives of local authority housing functions.

PART VI

SUPPLEMENTARY

82. Interpretation of Parts I to III.
83. Service of notices.
84. Repeals.
85. Public money.
86. Citation, commencement and extent.

SCHEDULES:

Schedule 1—Tenancies which are not secure tenancies.

Schedule 2—Grounds for recovery of possession of dwelling-houses let under secure tenancies.

Part I—Grounds on which court may order recovery of possession.

Part II—Suitability of accommodation.

Schedule 3—Terms of secure tenancy relating to sub-letting etc.

Schedule 4—Terms of secure tenancy relating to alterations etc. to dwelling-house.

Schedule 5—Repeals.



Tenants' Rights, Etc. (Scotland) Act 1980

1980 CHAPTER 52

An Act to make provision for Scotland, in relation to dwelling-houses let by islands and district councils and by certain other bodies, for a tenant's right to purchase the dwelling-house which he occupies; to make provision, in relation to dwelling-houses let by islands and district councils and by certain other bodies, for a tenant's right to security of tenure and to a written lease; in relation to private sector tenancies, to make provision for a new category of short tenancies; and to make other provision in relation to housing, rents and connected matters. [8th August 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

RIGHTS OF PUBLIC SECTOR TENANTS TO PURCHASE THE DWELLING-HOUSES WHICH THEY OCCUPY

1.—(1) Notwithstanding anything contained in any tenancy agreement, a tenant of a dwelling-house to which this section applies (or such one or more of joint tenants as may be agreed between them) shall, subject to this Part of this Act, have the right to purchase the dwelling-house at a price fixed under subsection (5) below. Secure tenant's right to purchase.

(2) Where the spouse of a tenant or, where there is a joint tenancy, the spouse of a joint tenant, occupies the dwelling-house as his only or principal home but is not himself a joint tenant, the right to purchase the dwelling-house under subsection

PART I

(1) above shall not be exercised without the consent of such spouse.

(3) Subject to subsection (11) below, this section applies to every dwelling-house let under a secure tenancy where the landlord is a body mentioned in any of paragraphs (a), (b), (c) or (f) of section 10(2) of this Act and, immediately prior to the relevant date, the tenant or, where there are joint tenants, any one of them has been for not less than 3 years in occupation of a dwelling-house or of a succession of dwelling-houses provided by any persons mentioned in subsection (10) below.

(4) A tenant may exercise his right to purchase, if he so wishes, together with one or more members of his family acting as joint purchasers, provided—

(a) that such members are over the age of 18 years and at the relevant date the dwelling-house has been their only or principal home for a continuous period of 6 months, and their residence in the dwelling-house is not a breach of any obligation of the tenancy; or

(b) where the requirements of paragraph (a) above are not satisfied, the landlord has consented.

(5) Subject to subsection (7) below, the price at which a tenant shall be entitled to purchase a dwelling-house under this section shall be fixed by subtracting from the market value of the dwelling-house (determined in accordance with paragraph (a) below) a discount calculated in accordance with paragraph (b) below—

(a) the market value for the purposes of this subsection shall be determined by—

(i) a qualified valuer nominated by the landlord and accepted by the tenant; or

(ii) the district valuer,

as if the dwelling-house were available for sale on the open market with vacant possession at the relevant date;

(b) the discount for the purposes of this subsection shall be—

(i) 33 per cent of the market value determined under paragraph (a) above; together with

(ii) an additional one per cent of the said market value for every year beyond 3 of continuous occupation by the tenant or by any one of the joint tenants or by his spouse, immediately preceding the relevant date, of a dwelling-house or of a succession of dwelling-houses provided by any persons mentioned in subsection (10) below,

up to a maximum discount of 50 per cent of the said market value.

(6) For the purposes of subsection (5)(a) above, no account shall be taken of any element in the market value of the house which reflects an increase in value as a result of work the cost of which would qualify for a reimbursement under section 24 of this Act.

(7) Where the dwelling-house was first let under a secure tenancy (or under a tenancy which, if Part II of this Act had then been in force, would have been a secure tenancy) after 15 May 1975, the price fixed under subsection (5) above shall not be less than—

- (a) the outstanding debt incurred in providing the dwelling-house ; or
- (b) the market value of the dwelling-house determined under subsection (5)(a) above,

whichever is the lesser except in such cases as the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, with the consent of the Treasury, prescribe.

(8) In subsection (7) above, “outstanding debt” means any undischarged debt arising from—

- (a) the cost of the erection or acquisition of the dwelling-house ; together with
- (b) the cost of acquisition of the site of the dwelling-house ; and
- (c) the cost of works of improvement, alteration, or major structural repair ; and
- (d) administrative costs attributable to the matters mentioned in paragraphs (a) to (c) above.

(9) Where at the date of service of an offer to sell under section 2 of this Act any of the costs referred to in subsection (8) above are not known, the landlord shall make an estimate of such unknown costs for the purposes of the said subsection.

(10) The persons referred to in subsection (3) above (right of purchase) and in subsection (5)(b)(ii) above (discount) are—

- (a) a regional, district or islands council in Scotland ; any local authority in England and Wales or in Northern Ireland ; and the statutory predecessors of any such council or authority, or the common good of any such council, or any trust under the control of any such council ;
- (b) the Commission for the New Towns ;
- (c) a development corporation established under an order made, or having effect as if made under the New Towns (Scotland) Act 1968 ; any development corporation established under corresponding legislation in England and Wales or in Northern Ireland ; and the statutory

- PART I
- predecessors of any such authority ;
- (d) the Scottish Special Housing Association ;
- 1975 c. 28. (e) a housing co-operative within the meaning of section 5
1975 c. 6. of the Housing Rents and Subsidies (Scotland) Act
1975 or of paragraph 9 of Schedule 1 to the Housing
Rents and Subsidies Act 1975 ;
- (f) the Development Board for Rural Wales ;
- (g) the Northern Ireland Housing Executive or any statu-
tory predecessor ;
- 1967 c. 77. (h) a police authority in Scotland within the meaning of
section 2(1) or section 19(9)(b) of the Police (Scot-
land) Act 1967 ; any police authority constituted under
corresponding legislation in England and Wales or in
Northern Ireland ; and the statutory predecessors of
any such authority ;
- (i) a fire authority in the United Kingdom for the purposes
of the Fire Services Acts 1947 to 1959 ; and the statu-
tory predecessors of any such authority ;
- 1973 c. 65. (j) a water authority in Scotland as constituted under sec-
tion 148 of the Local Government (Scotland) Act
1973 ; any water authority constituted under corre-
sponding legislation in England and Wales or in
Northern Ireland ; and the statutory predecessors of
any such authority ;
- (k) the Secretary of State, where the dwelling-house was at
the material time used for the purposes of the Scottish
Prison Service or of a prison service for which the
Home Office or the Northern Ireland Office have re-
sponsibility ;
- (l) the Crown, in relation to accommodation provided in
connection with service by the tenant or occupier as
a member of the regular armed forces of the Crown ;
- 1978 c. 29. (m) the Secretary of State, where the dwelling-house was at
the material time used for the purposes of a health
board constituted under section 2 of the National
Health Services (Scotland) Act 1978 or for the purposes
of a corresponding board in England and Wales, or
for the purposes of the statutory predecessors of any
such board ; or the Department of Health and Social
Services for Northern Ireland, where the house was
at the material time used for the purposes of a Health
and Personal Services Board in Northern Ireland, or
for the purposes of the statutory predecessors of any
such board ;
- (n) the Secretary of State, or the Minister of Agriculture,
Fisheries and Food, where the dwelling-house was at
the material time used for the purposes of the Forestry
Commission.

PART I

(11) This section does not apply—

- (a) where a landlord mentioned in any of paragraphs (a), (b) or (c) of section 10(2) of this Act is not the heritable proprietor of a dwelling-house ;
- (b) where a landlord of a dwelling-house is a housing co-operative within the meaning of section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 and neither it nor a body mentioned in the said paragraph (a) of section 10(2) of this Act is the heritable proprietor of the dwelling-house ; nor
- (c) where a dwelling-house is one of a group which has been provided with facilities (including a call system and the services of a warden) specially designed or adapted for the needs of elderly or disabled persons.

(12) In this section—

“ occupation ” of a dwelling-house means occupation—

- (i) as a tenant or as a person to whom a dwelling-house is provided rent-free ; or
- (ii) as the spouse of a person mentioned in paragraph (i) above ; or
- (iii) in the discretion of the landlord, as the child of a person mentioned in paragraph (i) above who has succeeded to the rights of that person in a dwelling-house occupation of which would be reckonable for the purposes of this section, but only in relation to any period when the child is over the age of 16 years ; and

any interruption in occupation of 12 months or less shall, and any interruption in occupation of more than 12 months and less than 24 months may at the discretion of the landlord, be disregarded and, for the purposes of subsection (5)(b)(ii), “ dwelling-house ” includes accommodation provided in connection with service by the tenant or occupier as a member of the regular armed forces of the Crown ;

“ regular armed forces of the Crown ” has the same meaning as in section 1 of the House of Commons Disqualification Act 1975 ; and

“ relevant date ” means—

- (a) in the case where an application to purchase is served within 6 months of the date of the commencement of this section, that date ; and
- (b) in any other case the date of service of an application to purchase under section 2(1) of this Act.

PART I
Procedure.

2.—(1) A tenant who seeks to exercise a right to purchase a dwelling-house under section 1 of this Act shall serve on the landlord a notice (referred to in this Part of this Act as an “application to purchase”) which shall be in such form as the Secretary of State shall by order made by statutory instrument prescribe, and shall contain—

- (a) notice that the tenant seeks to exercise the right to purchase ;
- (b) a statement of any period of occupancy of a dwelling-house on which the tenant intends to rely for the purposes of section 1 of this Act ; and
- (c) the name of any joint purchaser: provided that any reference in this section to a joint purchaser is a reference to a joint purchaser within the meaning of section 1(4) of this Act.

(2) Where an application to purchase is served on a landlord, and the landlord does not serve a notice of refusal under section 3 of this Act, it shall, within 3 months where the application is made during the first year after the commencement of this section, or, in any other case, within 2 months after service of the application to purchase serve on the tenant a notice (referred to in this Part of this Act as an “offer to sell”) containing—

- (a) the market value of the dwelling-house determined under section 1(5)(a) of this Act ;
- (b) the discount calculated under section 1(5)(b) of this Act ;
- (c) the price fixed under section 1(5) of this Act ;
- (d) any conditions which the landlord intends to impose under section 4 of this Act ; and
- (e) an offer to sell the dwelling-house to the tenant and any joint purchaser named in the application to purchase at the price referred to in paragraph (c) above and under the conditions referred to in paragraph (d) above.

(3) Where an offer to sell is served on a tenant and he wishes to exercise his right to purchase, but—

- (a) he considers that a condition contained in the offer to sell is unreasonable ; or
- (b) he wishes to have a new condition included in it ; or
- (c) he has not previously notified the landlord of his intention to exercise that right together with a joint purchaser, but now wishes to do so ; or
- (d) he has previously notified the landlord of his intention to exercise that right together with any joint purchaser but now wishes to exercise the right without that joint purchaser,

PART I

he may request the landlord to strike out or vary the condition, or to include the new condition, or to make the offer to sell to the tenant and the joint purchaser, or to withdraw the offer to sell in respect of the joint purchaser, as the case may be, by serving on the landlord within one month after service of the offer to sell a notice in writing setting out his request; and if the landlord agrees, it shall accordingly serve an amended offer to sell on the tenant within one month of service of the said notice setting out the request.

(4) A tenant who is aggrieved by the refusal of the landlord to agree to strike out or vary a condition, or to include a new condition or to make the offer to sell to the tenant and the joint purchaser, or to withdraw the offer to sell in respect of any joint purchaser under subsection (3) above, or by his failure timeously to serve an amended offer to sell under the said subsection, may, within one month or, with the consent of the landlord given in writing before the expiry of the said period of one month, within two months of the refusal or failure, refer the matter to the Lands Tribunal for Scotland for determination.

(5) In proceedings under subsection (4) above, the Lands Tribunal for Scotland may, as it thinks fit, uphold the condition or strike it out or vary it, or insert the new condition or order that the offer to sell be made to the tenant and the joint purchaser, or order that the offer to sell be withdrawn in respect of any joint purchaser, and where its determination results in a variation of the terms of the offer to sell, it shall order the landlord to serve on the tenant an amended offer to sell accordingly within 2 months thereafter.

(6) Where an offer to sell is served on a tenant and he wishes to exercise his right to purchase and—

(a) he does not dispute the terms of the offer to sell by timeously serving a notice setting out a request under subsection (3) above; or

(b) any such dispute has been determined by agreement between the landlord and the tenant or by determination by the Lands Tribunal for Scotland;

the tenant shall serve a notice of acceptance on the landlord within two months of whichever is the latest of—

(i) the service on him of the offer to sell;

(ii) the service on him of an amended offer to sell (or if there is more than one, of the latest amended offer to sell);

(iii) a determination by the Lands Tribunal for Scotland under subsection (5) above which does not require service of an amended offer to sell;

PART I

(iv) where a loan application under section 5 of this Act has been served on the landlord, the service of a relative offer of loan ; or

(v) where section 5(7) of this Act is invoked, the decision of the court.

(7) Where an offer to sell (or an amended offer to sell) has been served on the tenant and a relative notice of acceptance has been duly served on the landlord, a contract of sale of the dwelling-house shall be constituted between the landlord and the tenant on the terms contained in the offer (or amended offer) to sell.

(8) Where an offer to sell (or an amended offer to sell) is served on a tenant, but he is unable by reason of the application of regulations made under section 5(3) of this Act to obtain a loan of the amount for which he has applied, he may, within 2 months of service on him of an offer of loan, or (as the case may be) of the date of a declarator by the sheriff under section 5(7) of this Act, whichever is the later, serve on the landlord a notice to the effect that he wishes to have a fixed price option, which notice shall be accompanied by a payment to the landlord of £100, and in that event he shall be entitled to serve a notice of acceptance on the landlord at any time within 2 years of the service of the application to purchase.

(9) The payment of £100 mentioned in subsection (8) above shall be recoverable—

- (a) by the tenant, when he purchases the dwelling-house in accordance with that subsection or, if he does not, at the expiry of the period of 2 years mentioned therein ;
- (b) by the tenant, when the landlord recovers possession of the dwelling-house under subsection (11) below ; or
- (c) by his personal representatives, if he dies without purchasing the dwelling-house in accordance with that subsection.

(10) Where a tenant has made an application to purchase under subsection (1) above, he shall not be entitled to make an application to purchase under this Part of this Act again until 12 months after the last date on which he would be entitled to serve a notice of acceptance under subsection (6) or (8) above.

(11) The existence of a fixed price option under subsection (8) above shall not prevent the landlord from recovering possession of the property in any manner which may be lawful, and in that event the option shall be terminated.

3.—(1) Where a landlord on which an application to purchase has been served disputes the tenant's right to purchase a dwelling-house under section 1 of this Act, it shall by notice (referred to in this Part of this Act as a "notice of refusal") served within one month after service of the application to purchase—

PART I
Refusal of applications.

- (a) refuse the application ; or
- (b) offer to sell the dwelling-house to the tenant under section 8 of this Act or under any other power which the landlord has to sell the dwelling-house.

(2) Where a landlord on which an application to purchase has been served, after reasonable enquiry (which shall include reasonable opportunity for the tenant to amend his application), is of the opinion that information contained in the application is incorrect in a material respect it shall issue a notice of refusal within 2 months of the application to purchase.

(3) A notice of refusal shall specify the grounds on which the landlord disputes the tenant's right to purchase or, as the case may be, the accuracy of the information.

(4) Where a landlord serves a notice of refusal on a tenant under this section, the tenant may within one month thereafter apply to the Lands Tribunal for Scotland for a finding that he has a right to purchase the dwelling-house under section 1 of this Act on such terms as it may determine.

4.—(1) An offer to sell under section 2(2) of this Act shall contain such conditions as are reasonable, provided that—

Conditions of sale.

- (a) the conditions shall have the effect of ensuring that the tenant has as full enjoyment and use of the dwelling-house as owner as he has had as tenant ;
- (b) the conditions shall secure to the tenant such additional rights as are necessary for his reasonable enjoyment and use of the dwelling-house as owner (including, without prejudice to the foregoing generality, common rights in any part of the building of which the dwelling-house forms part) and shall impose on the tenant any necessary duties relative to rights so secured ; and
- (c) the conditions shall include such terms as are necessary to entitle the tenant to receive a good and marketable title to the dwelling-house.

(2) A condition which imposes a new charge or an increase of an existing charge for the provision of a service in relation to the dwelling-house shall provide for the charge to be in reasonable proportion to the cost to the landlord of providing the service.

PART I

(3) No condition shall be imposed under this section which has the effect of requiring the tenant to pay any expenses of the landlord incurred in connection with the sale of the dwelling-house.

(4) Subject to subsection (6) below, no condition shall be imposed under this section which has the effect of requiring the tenant or any of his successors in title to offer to the landlord, or to any other person, an option to purchase the dwelling-house in advance of its sale to a third party, except in the case of a dwelling-house which has facilities which are substantially different from those of an ordinary dwelling-house and which has been designed or adapted for occupation by an elderly or disabled person whose special needs require accommodation of the kind provided by the dwelling-house.

(5) Where an option to purchase permitted under subsection (4) above is exercised, the price to be paid for the dwelling-house shall be determined by the district valuer who shall have regard to the market value of the dwelling-house at the time of the purchase and to any amount due to the landlord under section 6 of this Act (recovery of discount on early re-sale).

(6) Subsection (4) above shall not apply to dwelling-houses in an area which is designated a rural area by the islands or district council within whose area it is situated where the Secretary of State, on the application of the islands or district council concerned, makes an order, which shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, to that effect.

(7) An order under subsection (6) above may be made where—

- (a) within the said rural area more than one-third of the number of dwelling-houses of which the council concerned is the landlord at the date of commencement of this Part of this Act have been sold ; and
- (b) the Secretary of State is satisfied that an unreasonable proportion of the houses sold have been resold and are not being used as the only or principal home of the owner.

(8) A condition imposed by virtue of subsection (6) above shall not have effect in relation to any dwelling-house for more than 10 years from the date of its conveyance to a tenant in pursuance of his right to purchase under this Part of this Act and subsection (5) above shall apply to any option to purchase exercised under such a condition.

Loans.

5.—(1) A tenant who seeks to exercise his right to purchase a dwelling-house under section 1 of this Act and who has received an offer to sell (or, as the case may be, an amended

offer to sell) from the landlord shall be entitled, together with any joint purchaser under subsection (4) of the said section 1 (and the said tenant and any joint purchaser are referred to in this section as "the applicant") to apply—

PART I

(a) in the case where the landlord is a development corporation established by an order made, or having effect as if made, under the New Towns (Scotland) Act 1968, 1968 c. 16. or the Scottish Special Housing Association, to that body; or

(b) in any other case, to the islands or district council for the area in which the dwelling-house is situated, for a loan of an amount not exceeding the price fixed under section 1(5) of this Act to assist him to purchase the dwelling-house.

(2) An application under this section (referred to in this Part of this Act as a "loan application")—

(a) must be served on the landlord or other body within one month after service on the tenant of the offer to sell (or, where there has been service of one or more amended offers to sell or there has been a determination by the Lands Tribunal for Scotland under section 2(5) of this Act which does not require the issue of an amended offer to sell, of the latest of these);

(b) shall be in such form as the Secretary of State shall by order made by statutory instrument prescribe, and shall contain—

(i) the amount of the loan which the applicant seeks;

(ii) the applicant's annual gross income and his net income after payment of income tax and national insurance contributions;

(iii) any liabilities in respect of credit sales or other fixed outgoings of the applicant; and

(iv) a statement that the applicant has applied for and been unable to obtain a sufficient building society loan; and

(c) shall be accompanied by evidence of the matters referred to in sub-paragraphs (ii) to (iv) of paragraph (b) above.

(3) Subject to such requirements as the Secretary of State may by order made by statutory instrument impose, a landlord or other body which receives an application under subsection (1) above shall, where it is satisfied on reasonable inquiry (which shall include reasonable opportunity for the applicant to amend his application) that the information contained in the loan application is correct, serve on the applicant an offer of loan, which shall specify a maximum amount of loan calculated in accordance with regulations made by order made by statutory instrument by the Secretary of State.

PART I

(4) A landlord or other body to which application has been made under subsection (1) above shall complete its inquiries and either—

- (a) issue the offer of loan under subsection (3) above ; or
- (b) refuse the application on the ground that information contained in the loan application is incorrect in a material respect,

within 2 months of the date of service of the loan application.

(5) An applicant who wishes to accept an offer of loan shall do so along with his notice of acceptance under section 2(6) of this Act.

(6) An offer of loan under subsection (3) above together with an acceptance under subsection (5) above shall constitute an agreement by the landlord or other body, subject to such requirements as the Secretary of State may by order made by statutory instrument impose, to lend to the applicant for the purpose of purchasing the dwelling-house—

- (a) the maximum amount of loan mentioned in subsection (3) above ; or
- (b) the amount of loan sought by the applicant,

whichever is the lesser, on the execution by the applicant of a standard security over the dwelling-house.

(7) An applicant who is aggrieved by a refusal under subsection (4)(b) above, or by a failure to comply with the said subsection, or by the calculation of maximum amount of loan mentioned in subsection (3) above may, within 2 months of the date of the refusal or failure or of the offer of loan, as the case may be, raise proceedings by way of summary application in the sheriff court for the district in which the dwelling-house is situated for declarator that he is entitled to a loan in accordance with subsection (3) above.

(8) Where in proceedings under subsection (7) above the sheriff grants declarator that the applicant is entitled to a loan, such declarator shall have effect as if it were an offer of loan of the amount specified in the declarator duly issued under this section by the landlord or other body.

(9) A statutory instrument made under subsection (3) or (6) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Recovery of discount on early re-sale.

6.—(1) A person who has purchased a dwelling-house in exercise of a right to purchase under section 1 of this Act, or any of his successors in title, who sells or otherwise disposes of the dwelling-house (otherwise than in the capacity of executor of the deceased owner or as a result of an order for compulsory purchase) before the expiry of 5 years from the date of service of

a notice of acceptance by the tenant under section 2(6) of this Act shall be liable to repay to the landlord a proportion of the discount under section 1(5)(b) of this Act in accordance with subsection (3) below.

(2) Subsection (1) above applies to the disposal of part of a dwelling-house except in a case where—

- (a) it is a disposal by one of the parties to the original sale to one of the other parties; or
- (b) the remainder of the dwelling-house continues to be the only or principal home of the person disposing of the part.

(3) The proportion of the said discount which shall be paid to the landlord shall be 100 per cent where the said disposal occurs within the first year after the said date of service of notice, 80 per cent. where it occurs in the second such year, and so on, reducing by 20 per cent. each year until the end of the 5 year period.

(4) Where there is more than one disposal within the period mentioned in subsection (1) above, this section applies only in relation to the first disposal.

(5) Where a landlord secures the liability to repay a proportion of discount under this section the security shall, notwithstanding section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970, have priority immediately after—

- (a) a standard security granted in security of a loan for the purchase of the dwelling-house and any interest present or future due thereon (including any such interest which has accrued or may accrue) and any expenses or outlays (including interest thereon) which may be, or may have been, reasonably incurred in the exercise of any power conferred on the lender by the deed expressing the said standard security; and
- (b) if the landlord consents, a standard security over the dwelling-house granted in security of any further loan, and in relation thereto any such interest, expenses or outlays as aforesaid.

(6) The liability to repay a proportion of discount under this section shall not be imposed as a real burden in a disposition of any interest in the dwelling-house.

7.—(1) It shall be the duty of every landlord under a secure tenancy of a dwelling-house to which this Part of this Act applies to make provision for the progression of applications under this Part of this Act in such manner as may be necessary to enable any tenant who wishes to exercise his rights under this Part of Duties of landlords.

PART I

this Act to do so, and to comply with any regulations which may be made by order made by statutory instrument by the Secretary of State in that regard.

- (2) (a) Where a landlord who has been duly served with an application to purchase fails to issue timeously either an offer to sell or a notice of refusal ; or
- (b) where the Lands Tribunal for Scotland has made a determination under section 2(5) of this Act (variation of terms of offer to sell), and the landlord has failed to issue an amended offer to sell within 2 months thereafter ; or
- (c) where the Lands Tribunal for Scotland has made a finding under section 3(4) of this Act (refusal of right to purchase) and the landlord has not duly progressed the application to purchase in accordance with the said finding, within 2 months thereafter,

the tenant (together with any joint purchaser) may refer the matter to the Lands Tribunal for Scotland by serving on the clerk to that body a copy of any notice served and of any finding or determination made under this Part of this Act, together with a statement of his grievance.

(3) Where a matter has been referred to the Lands Tribunal for Scotland under subsection (2) above, the Lands Tribunal for Scotland shall consider whether in its opinion any of paragraphs (a) to (c) of that subsection apply, and if it so finds it may issue such notices and undertake such other steps as may be required to complete the procedure provided for in section 2 of this Act ; and anything done under this subsection shall have effect as if it had been duly done by the landlord under the relevant provision of the said section 2.

(4) Nothing in this section shall affect the operation of the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

8.—(1) Notwithstanding anything contained in any enactment, a local authority may sell any house to which this section applies without the consent of the Secretary of State.

(2) This section applies to a house provided for the purposes of Part VII of the Housing (Scotland) Act 1966, where—

- (a) the house is being sold to a tenant or to members of his family who normally reside with him (or to a tenant together with such members of his family, as joint purchasers) ; or

Removal of restrictions on powers of local authorities to sell houses. 1966 c. 49.

(b) the house is unoccupied and—

PART I

(i) it is not held on the housing revenue account maintained in terms of section 23 of the Housing (Financial Provisions) (Scotland) Act 1972; or 1972 c. 46.

(ii) it is held on the housing revenue account and it is, in the opinion of the local authority, either surplus to its requirements or difficult to let, because it has been continuously vacant for a period of not less than 3 months immediately prior to the date of the sale and during that period it has been on unrestricted offer to any applicant on the local authority's housing list (within the meaning of section 26 of this Act (allocation)).

(3) Section 145 of the Housing (Scotland) Act 1966 (powers to deal with land acquired for the purposes of Part VII) shall be amended as follows— 1966 c. 49.

(a) in subsection (1)(d), for the words from "paid" to the end substitute "secured by standard security over the subjects sold.";

(b) paragraph (b) of subsection (5) is repealed;

(c) after subsection (6) insert the following subsection—

"(6A) subsection (6) above shall not apply where—

(a) the house is being sold to a tenant or to a member of his family who normally resides with him (or to a tenant together with members of his family, as joint purchasers); or

(b) the requirements of section 8(2)(b) of the Tenants' Rights, Etc. (Scotland) Act 1980 are satisfied."

(4) Expressions used in this section and in the said Part VII have the same meaning in this section as in that Part.

9.—(1) After the commencement of this section, any provision contained in the rules of a body to which this section applies which prevents it from selling or leasing any dwelling-house (where such a disposal would otherwise be lawful) shall cease to have effect. Removal of restrictions on powers of registered housing associations to sell houses.

(2) This section applies to every body which is a housing association within the meaning of section 208(1) of the Housing (Scotland) Act 1966 and which is registered in the register of housing associations established under section 13 of the Housing Act 1974. 1974 c. 44.

(3) Nothing in this section shall affect the operation of section 2 of the Housing Act 1974 (control by the Housing Corporation).

PART II

RIGHTS OF PUBLIC SECTOR TENANTS TO SECURITY OF TENURE
ETC.*Security of tenure*Secure
tenancies.

10.—(1) From the commencement of this Part of this Act, subject to subsection (4) below and to sections 11 and 13(6) of this Act, a tenancy (whether created before or after the commencement of this section) of a dwelling-house shall be a secure tenancy if—

- (a) the dwelling-house is let as a separate dwelling ;
- (b) the tenant is an individual and the dwelling-house is his only or principal home ; and
- (c) the landlord is one of the bodies mentioned in subsection (2) below.

(2) The bodies referred to in subsection (1)(c) above are—

- (a) an islands or district council, or a joint board or joint committee of an islands or district council or the common good of an islands or district council, or any trust under the control of an islands or district council ;
- (b) a development corporation established by an order made, or having effect as if made, under the New Towns (Scotland) Act 1968 ;
- (c) the Scottish Special Housing Association ;
- (d) the Housing Corporation ;
- (e) a registered housing association within the meaning of the Housing Act 1974 ;
- (f) a housing co-operative within the meaning of section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 ; and
- (g) any housing trust which was in existence on 13th November 1953 or any authorised society within the meaning of the Housing Act 1914.

1968 c. 16.

1974 c. 44.

1975 c. 28.

1914 c. 31.

(3) Where a tenancy of a dwelling-house is held jointly by two or more individuals, the requirements of subsection (1)(b) above shall be deemed to be satisfied if all the joint tenants are individuals and at least one of the joint tenants occupies the dwelling-house as his only or principal residence.

(4)(a) A tenancy shall not be a secure tenancy if it is a tenancy of a kind mentioned in Schedule 1 to this Act.

(b) Where the tenancy of a dwelling-house is excluded from being a secure tenancy by reason only of the operation of paragraph 2 of the said Schedule 1, sections 16, 17 and 21 to 25 of this Act shall nevertheless apply to that tenancy as if it were a secure tenancy.

PART II

(5) A tenancy which has become a secure tenancy shall continue to be a secure tenancy notwithstanding that the requirements of subsection (1)(b) above may have ceased to be fulfilled.

(6) Where a tenant under a secure tenancy is accommodated temporarily in another dwelling-house of which the landlord is a body mentioned in subsection (2) above, while the dwelling-house which he normally occupies is not available for occupation, the other dwelling-house shall be deemed for the purposes of this Part of this Act, except sections 12 and 14, to be the dwelling-house which he normally occupies.

11.—(1) In this section—

“registered association” means a registered housing association within the meaning of the Housing Act 1974; and

Special provision for housing associations. 1974 c. 44.

“registered society” means a housing association which is a registered society within the meaning of section 74 of the Industrial and Provident Societies Act 1965 and whose rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the granting or assigning of tenancies to persons other than members.

1965 c. 12

(2) A tenancy shall not be a secure tenancy at any time when the interest of the landlord belongs to a housing association which is both a registered association and a registered society.

(3) Part II of this Act with the exception of sections 16, 17 and 21 to 25 shall apply to a tenancy at any time when the interest of the landlord belongs to a housing association which is a registered society but is not a registered association.

(4) If a housing association which is a registered society has been a registered association but ceases to be a registered association, it shall notify those of its tenants who become secure tenants on its ceasing to be a registered association that they have become secure tenants in terms of subsection (3) above.

(5) Notice under subsection (4) above shall be given in writing to each tenant concerned, within the period of 21 days beginning with the date on which the association ceases to be a registered association.

12.—(1) Notwithstanding any provision contained in the Security of tenancy agreement, a secure tenancy may not be brought to an end except—

(a) by the death of the tenant (or, where there is more than one, of any of them), where there is no qualified person within the meaning of section 13 of this Act;

PART II

- (b) by operation of section 13(4) or (5) of this Act ;
- (c) by written agreement between the landlord and the tenant ;
- (d) by operation of section 19(2) of this Act ;
- (e) by an order for recovery of possession under section 15(2) of this Act ; or
- (f) by 4 weeks notice given by the tenant to the landlord.

(2) If while the dwelling-house which the tenant under a secure tenancy normally occupies is not available for occupation, the tenant is accommodated temporarily in another dwelling-house of which the landlord is a body mentioned in section 10(2) of this Act, either—

- (a) by agreement ; or
- (b) following an order under section 15(2) of this Act (in a case where an order has also been made under subsection (5) of that section),

the landlord shall not be entitled to bring the tenant's occupation of the other dwelling-house to an end before the dwelling-house which he normally occupies is available for occupation unless the secure tenancy has been brought to an end.

Succession to secure tenancy. 13.—(1) On the death of a tenant under a secure tenancy, the tenancy shall pass by operation of law to a qualified person, unless—

- (a) there is no qualified person, or the qualified person declines the tenancy under subsection (4) below ; or
- (b) the tenancy is terminated by operation of subsection (5) below.

(2) For the purposes of this section, a qualified person is—

- (a) the tenant's spouse where the dwelling-house was his only or principal home at the time of the tenant's death ;
- (b) where the tenancy was held jointly by two or more individuals, a surviving tenant where the dwelling-house was his only or principal home at the time of the tenant's death ;
- (c) where there is no person falling within paragraph (a) or (b) above, a member of the tenant's family over the age of 16 years where the dwelling-house was his only or principal home throughout the period of 12 months immediately preceding the tenant's death.

(3) Where there is more than one qualified person, the benefit of the provisions of subsection (1) above or, as the case may be, of subsection (6) below shall accrue—

(a) to such qualified person ; or

(b) to such two or more qualified persons as joint tenants, as may be decided by agreement between all the qualified persons or, failing agreement within four weeks of the death of the tenant, as the landlord shall decide.

(4) A qualified person who is entitled to the benefit of subsection (1) above may decline the tenancy by giving the landlord notice in writing within 4 weeks of the tenant's death, and—

(a) he shall vacate the dwelling-house within 3 months thereafter ;

(b) he shall be liable to pay rent which becomes due after the said death only in respect of any rental period (that is to say, a period in respect of which an instalment of rent falls to be paid) during any part of which he has occupied the dwelling-house after the said death.

(5) A secure tenancy which has passed under subsection (1) above to a qualified person shall not, on the death of a tenant (or one of joint tenants) so pass on a second occasion, and accordingly, the secure tenancy shall be terminated when such a death occurs ; but the provisions of this subsection shall not operate so as to terminate the secure tenancy of any tenant under a joint tenancy where such a joint tenant continues to use the dwelling-house as his only or principal home.

(6) Where a secure tenancy is terminated by operation of subsection (5) above, and there is a qualified person, he shall be entitled to continue as tenant for a period not exceeding 6 months, but the tenancy shall cease to be a secure tenancy.

(7) Where a tenant gives up a secure tenancy in order to occupy another dwelling-house which is subject to a secure tenancy, whether by agreement or following termination of the first tenancy by an order under section 15(2)(b) of this Act, for the purposes of subsections (2) and (5) above those tenancies shall be treated as being a single secure tenancy.

14.—(1) The landlord under a secure tenancy may raise proceedings for recovery of possession of the dwelling-house by way of summary cause in the sheriff court of the district in which it is situated.

(2) Proceedings for recovery of possession of a dwelling-house subject to a secure tenancy may not be raised unless—

(a) the landlord has served on the tenant a notice complying with subsection (3) below ;

PART II

- (b) the proceedings are raised after the date specified in the said notice ; and
- (c) the notice is in force at the time when the proceedings are raised.

(3) A notice under this section shall be in a form prescribed by the Secretary of State by statutory instrument, and shall specify—

- (a) the ground, being a ground set out in Part I of Schedule 2 to this Act, on which proceedings for recovery of possession are to be raised ; and
- (b) a date, not earlier than 4 weeks from the date of service of the notice or the date on which the tenancy could have been brought to an end by a notice to quit had it not been a secure tenancy, whichever is later, on or after which the landlord may raise proceedings for recovery of possession.

(4) A notice under this section shall cease to be in force 6 months after the date specified in it in accordance with subsection (3)(b) above, or when it is withdrawn by the landlord, whichever is earlier.

Powers of sheriff in proceedings.

15.—(1) The court may, as it thinks fit, adjourn proceedings under section 14 of this Act on a ground set out in any of paragraphs 1 to 6 of Part I of Schedule 2 to this Act for a period or periods, with or without imposing conditions as to payment of outstanding rent or other conditions.

(2) Subject to subsection (1) above, in proceedings under the said section 14 the court shall make an order for recovery of possession—

- (a) if it appears to the court that the landlord has a ground for recovery of possession, being a ground set out in any of paragraphs 1 to 7 of the said Part I and specified in the notice required by the said section 14 and that it is reasonable to make the order ; or
- (b) where a ground for recovery of possession set out in any of paragraphs 8 to 14 of the said Part I is specified in the said notice, if it appears to the court that other suitable accommodation will be available for the tenant when the order takes effect.

(3) Part II of Schedule 2 to this Act shall have effect to determine whether accommodation is suitable for the purposes of subsection (2)(b) above.

(4) An order under subsection (2) above shall appoint a date for recovery of possession and shall have the effect of—

- (a) terminating the tenancy ; and
- (b) giving the landlord the right to recover possession of the dwelling-house,

at that date.

(5) Where, in proceedings under section 14 of this Act on the ground set out in paragraph 10 of Part I of Schedule 2 to this Act, it appears to the court that it is the intention of the landlord—

- (a) that substantial work will be carried out on the building (or a part of the building) which comprises or includes the dwelling-house ; and
- (b) that the tenant should return to the dwelling-house after the work is completed,

the court shall make an order that the tenant shall be entitled to return to the dwelling-house after the work is completed ; and subsection (4)(a) above shall not apply in such a case.

Leases

16.—(1) Every secure tenancy created after the commencement of this section shall be constituted by writing which shall be probative or holograph of the parties. Tenant's right to written lease.

(2) It shall be the duty of the landlord under every secure tenancy which is in existence at the commencement of this section to embody the existing terms of the tenancy (so far as not implied by law or already contained in a lease which complies with this subsection or in a lease which has been declared binding by the sheriff under subsection (5) below) in a written lease which shall be probative or holograph of the parties.

(3) It shall be the duty of the landlord under a secure tenancy to draw up the documents required to comply with subsection (1) or (2) above, to ensure that they are duly executed—

- (a) in the case of subsection (1) above, before the commencement of the tenancy ; and
- (b) in the case of subsection (2) above, within 2 years after the commencement of this section,

and to supply a copy of the documents to the tenant.

(4) (a) A tenant (or any one of joint tenants) under a secure tenancy who considers that a lease drawn up by the landlord for the purposes of subsection (2) above does not fairly reflect the existing terms of the tenancy ; or

PART II

(b) a landlord, in a case where a tenant refuses or fails duly to execute a document for the purposes of this section, may raise proceedings by way of summary application in the sheriff court of the district in which the dwelling-house is situated.

(5) In proceedings under subsection (4) above the sheriff shall—

(a) where it appears to him that the lease does not fairly reflect the existing terms of the tenancy, adjust the terms of the lease so that they do so ; and

(b) in any case make an order declaring that the lease (or, as the case may be, the lease as adjusted by him) fairly reflects the terms of the tenancy, and the said lease shall then have effect as if it had been duly executed by the parties.

(6) A tenant shall not be required to pay any fees in respect of anything done under subsection (3) above.

Variation of
terms of
secure
tenancies.

17.—(1) Notwithstanding anything contained in the tenancy agreement, the terms of a secure tenancy may not be varied, except—

(a) by agreement between the landlord and the tenant ;
or

(b) under subsection (2) or (4) below.

(2) The rent or any other charge payable under a secure tenancy may, without the tenancy being terminated, be increased with effect from the beginning of any rental period (that is to say, a period in respect of which an instalment of rent falls to be paid) by a written notice of increase given by the landlord to the tenant not less than 4 weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

(3)(a) Where a landlord wishes to vary the terms or conditions of a secure tenancy, but the tenant refuses or fails to agree the variation ; or

(b) where a tenant wishes to vary any term of a secure tenancy which restricts his use or enjoyment of the dwelling-house, on the ground that—

(i) by reason of changes in the character of the dwelling-house or of the neighbourhood or other circumstances which the sheriff may deem material, the term is or has become unreasonable or inappropriate ; or

(ii) the term is unduly burdensome compared with any benefit which would result from its performance ;
or

(iii) the existence of the term impedes some reasonable use of the dwelling-house,

but the landlord refuses or fails to agree the variation, the landlord or, as the case may be, the tenant may raise proceedings by way of summary application in the sheriff court of the district in which the dwelling-house is situated.

(4) In proceedings under subsection (3) above, the sheriff may make such order varying any term of the tenancy (other than a term relating to the amount of rent or of any other charge payable by the tenant) as he thinks it reasonable to make in all the circumstances, having particular regard to the safety of any person and to any likelihood of damage to the dwelling-house or to any premises of which it forms part, including if the sheriff thinks fit an order that the tenant shall pay to the landlord such sum as the sheriff thinks just to compensate him for any patrimonial loss occasioned by the variation; and such an order shall not have the effect of terminating the tenancy.

(5) At any time before he grants an order in proceedings under subsection (3)(b) above the sheriff may order the tenant to serve a copy of his application on any person who, in the capacity of owner or tenant of any land,—

- (a) appears to the sheriff to benefit from the term of which variation is sought; or
- (b) appears to him to be adversely affected by the proposed variation.

(6) An agreement under subsection (1)(a) above shall be in writing which is probative or holograph of the parties, and it shall be the duty of the landlord to draw up the said writing and to ensure that it is duly executed.

(7) Section 62 of the Housing (Scotland) Act 1969 shall be 1969 c. 34. amended as follows—

- (a) in subsection (1), for “(2) and (3)” substitute “(2), (3) and (8)”;
- (b) in the same subsection, after the first “rent”, insert “or any other charge”; and
- (c) add at the end a new subsection as follows—

“ (8) This section does not apply in relation to a tenancy which is a secure tenancy within the meaning of section 10 of the Tenants' Rights, Etc. (Scotland) Act 1980.”

PART II

Abandonment of secure tenancy

Rights of
landlord where a
secure tenancy
appears to
have been
abandoned.

18.—(1) This section shall have effect where a landlord under a secure tenancy has reasonable grounds for believing that—

- (a) the dwelling-house is unoccupied ; and
- (b) the tenant does not intend to occupy it as his home.

(2) The landlord shall be entitled to enter the dwelling-house at any time, for the purpose of securing the dwelling-house and any fittings, fixtures or furniture against vandalism.

(3) For the purposes of subsection (2) above the landlord and its servants or agents may open, by force if necessary, doors and lockfast places.

(4) The landlord may take possession of the dwelling-house in accordance with section 19 of this Act.

Re-possession.

19.—(1) A landlord wishing to take possession of a dwelling-house under section 18(4) of this Act shall serve on the tenant a notice—

- (a) stating that the landlord has reason to believe that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home ;
- (b) requiring the tenant to inform the landlord in writing within 4 weeks of service of the notice if he intends to occupy the dwelling-house as his home ; and
- (c) informing the tenant that, if it appears to the landlord at the end of the said period of 4 weeks that the tenant does not intend so to occupy the dwelling-house, the secure tenancy will be terminated forthwith.

(2) Where the landlord has—

- (a) served on the tenant a notice which complies with subsection (1) above ; and
- (b) made such inquiries as may be necessary to satisfy the landlord that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home,

and at the end of the period of 4 weeks mentioned in the said subsection (1) is so satisfied, it may serve a further notice on the tenant bringing the tenancy to an end forthwith.

(3) Where a tenancy has been terminated in accordance with this section the landlord shall be entitled to take possession of the dwelling-house forthwith without any further proceedings.

(4) The Secretary of State may by order made by statutory instrument make provision for the landlord to secure the safe custody and delivery to the tenant of any property which is found in a dwelling-house to which this section applies; and in particular—

- (a) for requiring charges to be paid in respect of such property before it is delivered to the tenant; and
- (b) for authorising the disposal of such property, if the tenant has not arranged for its delivery to him before the expiry of such period as the order may specify and the application of any proceeds towards any costs incurred by the landlord and any rent due but unpaid by the tenant to the landlord.

20.—(1) A tenant under a secure tenancy who is aggrieved by termination of the tenancy by the landlord under section 19(2) of this Act may raise proceedings by summary application within 6 months after the date of the said termination in the sheriff court of the district in which the dwelling-house is situated. Tenant's right of recourse to sheriff.

(2) Where in proceedings under this section it appears to the sheriff that—

- (a) the landlord has failed to comply with any provision of section 19 of this Act; or
- (b) the landlord did not have reasonable grounds for finding that the dwelling-house was unoccupied, or did not have reasonable grounds for finding that the tenant did not intend to occupy it as his home; or
- (c) the landlord was in error in finding that the tenant did not intend to occupy the dwelling-house as his home, and the tenant had reasonable cause, by reason of illness or otherwise, for failing to notify the landlord of his intention so to occupy it,

he shall—

- (i) where the dwelling-house has not been let to a new tenant, make an order that the secure tenancy shall continue; or
- (ii) in any other case, direct the landlord to make other suitable accommodation available to the tenant.

(3) Part II of Schedule 2 to this Act shall have effect to determine whether accommodation is suitable for the purposes of subsection (2)(ii) above.

Subletting

21.—(1) It shall be a term of every secure tenancy that the tenant shall not assign, sublet or otherwise give up to another person possession of the dwelling-house or any part thereof or Subletting.

PART II take in a lodger except with the consent in writing of the landlord, which shall not be unreasonably withheld.

(2) The landlord may refuse consent under this section if it appears to it that a payment other than—

- (a) a rent which is in its opinion a reasonable rent ; or
- (b) a deposit returnable at the termination of the assignation, sublet or other transaction given as security for the subtenant's obligations for accounts for supplies of gas, electricity, telephone or other domestic supplies and for damage to the dwelling-house or contents, which in its opinion is reasonable,

has been or is to be received by the tenant in consideration of the assignation, subletting or other transaction.

(3) This section shall not apply to any assignation, subletting or other transaction entered into before the commencement of this section provided that the consent of the landlord to the transaction and to the rent which is being charged has been obtained.

1971 c. 28.

(4) An assignation, subletting or other transaction to which this section applies shall not be a protected tenancy or a statutory tenancy within the meaning of the Rent (Scotland) Act 1971, nor shall Part VII of that Act apply to such an assignation, sublet or other transaction.

1966 c. 49.

(5) Section 151(6) of the Housing (Scotland) Act 1966 is repealed.

(6) In this section and in section 22 of this Act "subtenant" means a person entitled to possession of a dwelling-house or any part thereof under an assignation, subletting or other transaction to which this section applies, and includes a lodger.

(7) The provisions of Schedule 3 to this Act shall have effect as terms of every secure tenancy.

Rent payable
by subtenants.

22.—(1) (a) Where a landlord under a secure tenancy has given consent to an assignation, subletting or other transaction under section 21 of this Act, this section shall apply to the rent payable by the subtenant at the commencement of the assignation, subletting or other transaction ;

- (b) where, before the commencement of this Act, a landlord under a tenancy which has become a secure tenancy by virtue of this Act gave consent to an assignation, sublet or other transaction under section 151(6) of the Housing (Scotland) Act 1966, this section shall apply to the latest rent payable by the subtenant before the commencement of this Act provided that it is a reasonable rent within the meaning of paragraph (b) of the said section 151(6).

(2) It shall be a term of every secure tenancy—

PART II

- (a) that the tenant shall notify the landlord of any proposed increase in a rent to which this section applies ; and
- (b) that no increase shall be made in a rent to which this section applies if the landlord objects.

Alterations etc. to dwelling-house

23.—(1) It shall be a term of every secure tenancy that the Landlord's tenant shall not carry out work, other than interior decoration, in relation to the dwelling-house without the consent in writing of the landlord, which shall not be unreasonably withheld. ^{consent to work.}

(2) In this section and in Schedule 4 to this Act "work" means—

- (a) alteration, improvement or enlargement of the dwelling-house or of any fittings or fixtures ;
- (b) addition of new fittings or fixtures ;
- (c) erection of a garage, shed or other structure,

but does not include repairs or maintenance of any of these.

(3) The provisions of Schedule 4 to this Act shall have effect as terms of every secure tenancy.

24.—(1) On the termination of a secure tenancy, the landlord shall have the power (in addition to any other power which it has to make such payments) to make any payment to the tenant which it considers to be appropriate in respect of any work carried out by him (or by any predecessor of his as tenant under the same secure tenancy) before the commencement of section 23 of this Act or with the consent of the landlord which has materially added to the price which the dwelling-house might be expected to fetch if sold on the open market. ^{Reimbursement of cost of work.}

(2) The amount of any payment under subsection (1) above shall not exceed the cost of the work in respect of which it is made, after deduction of the amount of any grant paid or payable under Part I of the Housing (Scotland) Act 1974. 1974 c. 45.

(3) Where a secure tenancy has been terminated (under section 12(1)(a) of this Act) by the death of the tenant, a payment under subsection (1) above may be made to the tenant's personal representatives.

PART II
 Effect of works on rent. **25.** No account shall be taken at any time in the assessment of rent to be payable under a secure tenancy by a tenant who has carried out work on the dwelling-house or by a person who has succeeded him in the tenancy or by the spouse of such a person of any improvement in the value or amenities of the dwelling-house resulting from the work carried out by the tenant.

PART III

MISCELLANEOUS MATTERS RELATING TO PUBLIC SECTOR HOUSING AUTHORITIES

Allocation

Restriction on residential requirements. **26.—(1)** In considering whether an applicant for local authority housing is entitled to be admitted to a housing list, an islands or district council shall take no account of the age of the applicant provided that he is over the age of 18 years.

(2) In the allocation of local authority housing, an islands or district council shall take no account of the length of time for which an applicant has resided in its area nor of the age of the applicant provided that he is over the age of 18 years, nor of the income of the applicant and his family.

(3) Where an applicant—

- (a) is employed in the area of the local authority ; or
- (b) has been offered employment in the area of the local authority ; or
- (c) wishes to move into the area of the local authority and the local authority is satisfied that his purpose in doing so is to seek employment ; or
- (d) is over 60 years of age and wishes to move into the area of the local authority to be near a younger relative ; or
- (e) has special social or medical reasons for requiring to be housed within the area of the local authority,

admission to a housing list shall not depend on the fact that the applicant is resident in the area.

(4) Where a local authority has rules which give priority to applicants on its housing list it shall apply those rules to an applicant to whom subsection (3) above applies no less favourably than it applies them to a tenant of the local authority whose housing needs are similar to those of the applicant and who is seeking a transfer to another dwelling-house belonging to the local authority.

(5) In the allocation of local authority housing, an islands or district council shall not impose a requirement that an application must have remained in force for a minimum period before the applicant is eligible for the allocation of housing.

(6) In considering an application for admission to a housing list and in the allocation of local authority housing an islands or district council shall take no account of any outstanding liability (for payment of rent or otherwise) attributable to the tenancy of any dwelling-house of which the applicant is not, and was not when the liability accrued, a tenant.

(7) In this section and in section 27 of this Act "housing list" means a list of applicants for local authority housing which is kept by an islands or district council in connection with allocation of housing.

27.—(1) It shall be the duty of every islands and district council, the Scottish Special Housing Association and Development Corporations established under an order made, or having effect as if made, under the New Towns (Scotland) Act 1968, to publish in accordance with subsection (2) below, within 6 months of the commencement of this section and within 6 months of any alteration of the rules any rules which it may have governing—

- (a) admission of applicants to any housing list ;
- (b) priority of allocation of dwelling-houses ;
- (c) transfer of tenants from dwelling-houses owned by it to dwelling-houses owned by other bodies ;
- (d) exchanges of dwelling-houses.

(2) The rules to be published by a body in accordance with subsection (1) above shall be—

- (a) available for perusal ; and
- (b) on sale at a reasonable price ; and
- (c) available in summary form on request to members of the public,

at all reasonable times at its principal offices and its housing department offices.

(3) An applicant for housing provided by a body mentioned in subsection (1) above shall be entitled on request to inspect any record kept by that body of information furnished by him to it in connection with his application.

Abolition of reserve powers to limit rents

28.—(1) Section 1(5) of the Housing Rents and Subsidies (Scotland) Act 1975 (no provision to be made for surplus in housing revenue account) is repealed.

Repeal of provisions of Housing Rents and Subsidies (Scotland) Act 1975.
1975 c. 28.

PART III
1972 c. 46.

(2) For sub-paragraph 11(1) of Schedule 4 to the Housing (Financial Provisions) (Scotland) Act 1972 there shall be substituted the following sub-paragraph—

1973 c. 65.

“ 11.—(1) If at any time a credit balance is shown in the housing revenue account, the whole or part of it may be made available for any purpose for which the general fund of the local authority maintained under section 93 of the Local Government (Scotland) Act 1973 may lawfully be applied.”

1975 c. 28.

(3) Section 2 of the Housing Rents and Subsidies (Scotland) Act 1975 (reserve powers to limit rents) is repealed.

Home loans

Amendments
relating to
home loans by
local
authorities.
1968 c. 31.

29.—(1) Section 49 of the Housing (Financial Provisions) (Scotland) Act 1968 shall be amended as follows—

(a) in subsection (1), the words “ subject to such conditions as may be approved by the Secretary of State ” are repealed ; and

(b) after subsection (1) insert a new subsection as follows—

“ (1A) In determining whether to advance money under subsection (1) above, the local authority shall have regard to any advice which may be given from time to time by the Secretary of State.”

1974 c. 45.

(2) In section 24 of the Housing (Scotland) Act 1974 there shall be substituted for subsection (6) the following subsection—

“ (6) The rate of interest payable on a loan under this section shall be a variable rate calculated under section 30 of the Tenants' Rights, Etc. (Scotland) Act 1980.”

Local
authority home
loan interest
rates.

30.—(1) Subject to subsections (2) and (3) below, from the commencement of this section—

(a) any advance of money under a power conferred by section 49 of the Housing (Financial Provisions) (Scotland) Act 1968 (advances to increase housing accommodation), or under any other power to make loans for the like purposes ; and

(b) any sum secured under any arrangement by which the price or part of the price of a dwelling-house sold by an islands or district council is secured by a standard security ; and

(c) any sum secured under any security which is taken over by an islands or district council under a power conferred by section 31 of this Act (local authority indemnities for building societies etc.),

is a variable interest home loan for the purposes of this section.

(2) This section does not apply to an advance made before the commencement of this section, or to a sum secured in respect of the price of a dwelling-house agreed to be sold before the said commencement, or (where paragraph 1(c) above applies) to a security granted before the said commencement.

(3) This section shall not apply to an advance made in implementation of a contract constituted by an offer of advance made before the commencement of this section and an unqualified acceptance of the said offer after the said commencement.

(4) Islands and district councils shall, in respect of their variable interest home loans, charge a rate of interest which shall be equal to whichever is the higher of the following—

- (a) the standard rate for the time being, as declared by the Secretary of State in accordance with subsection (5) below ;
- (b) the locally determined rate calculated in accordance with subsection (6) below.

(5) In considering what rate to declare as the standard rate for the purposes of subsection (4) above, the Secretary of State shall take into account interest rates charged by building societies in the United Kingdom and any movement in those rates, and the standard rate shall be effective from the date when it is declared by the Secretary of State.

(6) The locally determined rate for the purposes of this section shall be the rate which is necessary to service loan charges (within the meaning of the Housing (Financial Provisions) (Scotland) Act 1968) on money which is to be applied to making variable interest home loans during the relevant period of six months (referred to in subsection (7) below), together with the addition of one quarter per cent. to cover the administrative cost of making and managing variable interest home loans. 1968 c. 31.

(7) The locally determined rate, for the purposes of this section, shall be determined by each islands or district council for the period of 6 months—

- (a) beginning at the commencement of this section ; and
- (b) thereafter, beginning immediately after the expiry of every relevant period,

not less than one month before the beginning of the relevant period.

(8) Where, by reason of the declaration of a new standard rate or, as the case may be, of a new locally determined rate, the rate of interest being charged by an islands or district council in respect of its variable interest home loans no longer complies with this section, it shall, within 2 months of the said declara-

PART III

tion, serve on all borrowers of variable interest home loans a notice which shall, as from one month after the service of the said notice—

- (a) vary the rate of interest payable by the borrower ; and
- (b) where as the result of the variation, the amount outstanding under the advance or security would increase if the periodic repayments were not increased, increase the amount of the periodic repayments to such an amount as will ensure that the said outstanding amount will not increase.

(9) Notwithstanding anything contained in subsections (1) to (8) above, but subject to subsections (11) and (12) below, the Secretary of State may, where he considers that the interest rate charged by an islands or district council does not satisfy the requirements of subsection (4) above, direct an islands or district council—

- (a) to charge an interest rate specified in the direction ; and
- (b) to vary the rate in accordance with the provisions of subsection (8) above.

1978 c. 27.

(10) Nothing in this section shall affect the operation of section 1(4)(b) of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (under which a part of certain loans may be free of interest for up to 5 years).

(11) Notwithstanding any other provision of this section, an islands or district council may, where the conditions set out in subsection (12) below are satisfied, give assistance to a person acquiring a house in need of repair or improvement by making provision for waiving or reducing, for a period ending not later than five years after the date of an advance of money of the kind mentioned in subsection (1)(a) above or of the granting of a security under an arrangement of the kind mentioned in subsection (1)(b) above, the interest payable on the sum advanced or remaining outstanding under the security, as the case may be.

(12) The conditions mentioned in subsection (11) above are that—

- (a) the assistance is given in accordance with a scheme which has been approved by the Secretary of State or which conforms with such requirements as may be specified by the Secretary of State by order made by statutory instrument with the consent of the Treasury ; and
- (b) the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, works of repair or improvement therein specified.

31.—(1) An islands or district council or the Housing Corporation may, with the approval of the Secretary of State, enter into an agreement with a building society (within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967) under which the council or, as the case may be, the Housing Corporation binds itself to indemnify the building society in respect of—

- (a) the whole or part of any outstanding indebtedness of a borrower ; and
 (b) loss or expense to the building society resulting from the failure of the borrower duly to perform any obligation imposed on him by the standard security.

PART III
Local
authority
and Housing
Corporation
indemnities
for building
societies etc.

1962 c. 37.

1967 c. 31.

(N.I.).

(2) The agreement may also, where the borrower is made party to it, enable or require the council, or as the case may be, the Housing Corporation in specified circumstances to take an assignation of the rights and liabilities of the building society under the standard security.

(3) Approval of the Secretary of State under subsection (1) above may be given generally in relation to agreements which satisfy specified requirements, or in relation to individual agreements, and with or without conditions, as he thinks fit, and such approval may be withdrawn at any time on one month's notice.

(4) Before issuing any general approval under subsection (1) above the Secretary of State shall consult with such bodies as appear to him to be representative of islands and district councils, and of building societies, and also with the Housing Corporation and with the Chief Registrar of Friendly Societies.

(5) Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply association to members) shall not apply to recommendations made to building societies about the making of agreements under this section provided that the recommendations are made with the approval of the Secretary of State.

(6) Section 50 of the Housing (Financial Provisions) (Scotland) Act 1968 is repealed.

(7) Schedule 3 to the Building Societies Act 1962 shall be amended as follows—

- (a) in paragraph 3(2)(b), after "Scotland" insert the words "and section 31 of the Tenants' Rights, Etc. (Scotland) Act 1980"; and

- (b) at the end add the following paragraph—

"15. An agreement under section 31 of the Tenants' Rights, Etc. (Scotland) Act 1980 (agreement by local authority or the Housing Corporation to indemnify building society in respect of borrower's default)."

PART III

(8) Schedule 3 to the Building Societies Act (Northern Ireland) 1967 shall be amended as follows—

(a) in paragraph 3(2)(c) after “ Scotland ” insert “ section 31 of the Tenants' Rights, Etc. (Scotland) Act 1980, ” ; and

(b) at the end add the following paragraph—

“15. An agreement under section 31 of the Tenants' Rights, Etc. (Scotland) Act 1980 (local authority indemnities for building societies, etc.) ”

Exchequer contributions in respect of expenditure on amenities

Variation of
exchequer
contribution.
1969 c. 34.

32. In section 59(3) of the Housing (Scotland) Act 1969 for the words from “ one-half ” to the end there shall be substituted the words “ such percentage of the expenditure approved for the purposes of this section as the Secretary of State shall, with the consent of the Treasury, prescribe by order made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”.

PART IV

PROVISIONS RELATING TO PRIVATE SECTOR TENANCIES

Interpretation

Interpretation
of Part IV.
1971 c. 28.
1972 c. 46.
1975 c. 28.

33.—(1) In this Part of this Act—

“ the 1971 Act ” means the Rent (Scotland) Act 1971 ;

“ the 1972 Act ” means the Housing (Financial Provisions) (Scotland) Act 1972 ;

“ the 1975 Act ” means the Housing Rents and Subsidies (Scotland) Act 1975 ; and

“ short tenancy ” has the meaning assigned to it in section 34 of this Act.

(2) This Part of this Act shall be construed along with the Rent (Scotland) Acts 1971 to 1975.

Short tenancies

Short
tenancies.

34.—(1) A protected tenancy (within the meaning of section 1 of the 1971 Act) created after the commencement of this Act is a short tenancy for the purposes of this Part of this Act where—

(a) immediately before the creation of the tenancy the tenant was not a protected or statutory tenant of the dwelling-house, except where he was then a tenant under a short tenancy or a statutory tenant following on the expiry of a short tenancy ;

(b) the tenancy is for a period specified in the tenancy agreement of not less than one year nor more than 5 years ;

PART IV

- (c) the tenancy agreement does not contain any provision whereby the landlord may terminate the tenancy before the expiry of the said specified period other than for non-payment of rent or for breach of any other obligation of the tenancy ;
- (d) before the creation of the tenancy the landlord has served on the tenant notice in writing informing him that the tenancy will be a short tenancy for the purposes of this Part of this Act ; and
- (e) either—
- (i) there is, at the commencement of the tenancy, a rent registered for the dwelling-house which is the subject of the tenancy in the register of rents kept for the purposes of Part IV of the 1971 Act, or
 - (ii) the landlord has applied for and been granted a certificate of fair rent under section 41 of the 1971 Act and has, within 14 days after the commencement of the tenancy, made an application for that fair rent to be registered under subsection (4) of that section.

(2) Where a short tenancy has been created in a case to which sub-paragraph (e)(ii) of subsection (1) above applies, the application referred to in that sub-paragraph may not be withdrawn and, notwithstanding the provisions of section 44(1) and (4) of the 1971 Act, the rent registered for the dwelling-house shall take effect from the commencement of the tenancy.

(3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament dispense with the requirements of subsection (1)(e) above in relation to any registration area within the meaning of section 37 of the 1971 Act.

(4) The Secretary of State may by order made by statutory instrument prescribe the form of notice required under subsection (1)(d) above.

35.—(1) At the expiry of the period of a short tenancy as specified in the tenancy agreement, the landlord shall, subject to section 36 of this Act, be entitled to recover possession of the dwelling-house. Effect of tenancy being short tenancy.

(2) The tenant under a short tenancy may terminate it by giving to the landlord—

- (a) where the period of the tenancy specified in the tenancy agreement is 2 years or less, one month's notice ;
- (b) in any other case, 3 months' notice.

PART IV

(3) Notwithstanding anything contained in any enactment or rule of law, but subject to subsection (5) below, a landlord under a short tenancy who becomes entitled to recover possession of the dwelling-house which is the subject of the short tenancy shall be entitled to enforce his right to recover possession against any assignee or sub-tenant or against any statutory tenant who has succeeded to the tenancy.

(4) Notwithstanding anything contained in the tenancy agreement, a tenant under a short tenancy shall not be liable to pay to the landlord on termination of the tenancy any sum greater than the outstanding rent (if any) together with any sum due by the tenant to the landlord in respect of damage to the dwelling-house or its contents or in respect of any household accounts incurred by the tenant for which the landlord is or has become responsible.

1971 c. 28.

(5)(a) Where a short tenancy is terminated by the death of the tenant before the expiry of the period specified in the tenancy agreement any statutory tenant by succession within the meaning of Schedule 1 to the Rent (Scotland) Act 1971 shall be entitled to retain possession of the premises until the expiry of that period only.

(b) Where a short tenancy is terminated for any reason before the expiry of the period specified in the tenancy agreement, any subtenant of the dwelling-house shall be entitled to retain possession of the premises until the expiry of that period only.

(6) For the purposes of subsection (5) above "subtenant" means any person deriving title from the original tenant or from a subtenant, provided that his title has not been granted in contravention of the tenancy agreement.

Conditions applying to landlord's right to recovery of possession.

36.—(1) A landlord under a short tenancy who seeks recovery of possession of the dwelling-house on or after termination of the tenancy, subject to subsection (2) below, may recover possession of the dwelling-house in accordance with Case 11D of Schedule 3 to the 1971 Act.

(2) A landlord who at any time seeks an order under the said Case 11D shall, either before or not later than 3 months after the expiry of the period specified in the tenancy agreement, or, in a case to which subsection (4) below applies, not later than 3 months after the expiry of any period of 12 months for which the tenancy is continued under that subsection, serve on the tenant a notice in writing of his intention to apply for the order, and the relative application shall be made not less than 3 nor more than 6 months after service of the said notice.

(3) In Part II of Schedule 3 to the 1971 Act (cases in which the court must order possession of a dwelling-house subject to a regulated tenancy) the following Case shall be inserted after Case 11C—

PART IV

“ Case 11D

Where—

- (a) the dwelling-house was let on a short tenancy within the meaning of section 34 of the Tenants' Rights, Etc. (Scotland) Act 1980 ; or
- (b) in the opinion of the Court it is just and equitable that the tenancy should be treated as a short tenancy within the meaning of the said section 34, notwithstanding that a requirement of subsection (1)(d) or (e) of that section has not been complied with,

and the short tenancy has terminated :

Provided that, where a further tenancy has been created by agreement between the landlord and the tenant no application for an order for possession under this Case shall be made before the end of the period of that tenancy.”.

(4) Where a landlord fails timeously to serve a notice in compliance with subsection (2) above, the tenancy shall be continued as a short tenancy for a period of 12 months beginning with the expiry of the period specified in the tenancy agreement or with the expiry of any period of 12 months for which the tenancy is continued under this subsection.

Limits on rent increases

37.—(1) Subject to subsection (5) below, sections 7 to 9 of the 1975 Act and Schedule 2 to that Act are repealed.

Limits
on rent
increases.

(2) The Secretary of State shall by order make the following provision in relation to regulated tenancies in respect of which there are registered rents which are registered after the commencement of this section under Part IV of the 1971 Act, that is to say he shall—

- (a) specify the maximum amount by which the total of the rent payable under a tenancy to which this subsection applies in any period of 12 months beginning with the relevant date for the purposes of sections 40 and 41 of that Act or with any subsequent anniversary of that date may be increased ;
- (b) restrict the total additional rental income which may be recovered by a landlord under such a tenancy in any period of 12 months beginning with the relevant date

PART IV

for the purposes of sections 40 and 41 of that Act or with any subsequent anniversary of that date to such amount as is specified in the order.

(3) An order made under subsection (2) above shall be made by statutory instrument subject to annulment in pursuance of a resolution by either House of Parliament, and may contain such supplementary and incidental provisions as the Secretary of State thinks fit.

(4) For the purposes of subsection (2) above "rent" and "rental income" do not include sums paid to the landlord in respect of the provision of any services.

(5) Where a rent registered for a dwelling-house under a regulated tenancy under Part IV of the 1971 Act was registered before the commencement of this section, but the full registered rent has not yet become payable by reason of the operation of section 7 of the 1975 Act, the said section 7 and Schedule 2 shall continue to have effect so as to allow increase of rent to take place under the said section 7.

(6) The 1971 Act shall be amended in sections 19(2), 21(2)(b), 31(1), 31(4), and 43(3)(a) by substituting for every reference to any of sections 7 to 9 of the 1975 Act a reference to section 37 of the Tenants' Rights, Etc. (Scotland) Act 1980.

(7) In Schedule 6 to the 1971 Act (applications for registrations of rents) in paragraph 15 after the word "1975" there shall be inserted the words "or of an order made under section 37 of the Tenants' Rights, Etc. (Scotland) Act 1980".

Amendments to provisions relating to rent limits for dwelling-houses let by housing associations and the Housing Corporation.

38.—(1) Section 42(3)(bb) of the 1972 Act shall be amended by substituting for the words from "the rent" to the end the words "may be limited under section 37 of the Tenants' Rights, Etc. (Scotland) Act 1980".

(2) Section 60(b) of the 1972 Act shall be amended by inserting after "for" the words "section 1(1)(a) or";

(3) Section 61(2) of the 1972 Act shall be amended by inserting after "thereof" the words ", section 44(2)".

Reserve and Auxiliary Forces (Protection of Civil Interests)

Amendment of Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.
1951 c. 65.

39.—(1) The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 shall be amended in accordance with this section.

(2) In section 15 (protection of tenure of certain premises), after subsection (1) insert the following subsection—

"(1A) This section does not apply in relation to any tenancy entered into after the commencement of section 55 of the Tenants' Rights, Etc. (Scotland) Act 1980."

(3) In section 16 (protection of tenure of premises not falling under section 15)—

- (i) in subsection (2)(c) the words from “and” to the end are repealed;
- (ii) for subsections (3) to (8) substitute the following subsections—

“ (3) The rent for any rental period (that is to say, a period in respect of which an instalment of rent falls to be paid) shall be the amount payable for the last rental period before the end of the tenancy, but subject to adjustment from time to time in accordance with section 22 or 23 of the Rent (Scotland) Act 1971 (adjustment, with respect to rates, services and furniture, of recoverable rent for statutory periods before registration).

(4) Subsection (3) above has effect subject to any agreement between the parties for the payment of a lower rent; and where a lower rent is agreed it shall not be increased in accordance with the said section 22 or 23 but may, notwithstanding anything in any other enactment, be increased by agreement in writing between the parties up to an amount not exceeding the amount of rent provided for in subsection (3) above.”.

(4) In section 17(2)(b) (provisions supplementary to section 16 where the accommodation is shared other than with the landlord) for “(5) to (8)” substitute “(3) and (4)”.

(5) In section 18(2) (protection of tenure in connection with employment, under a licence or a rent-free letting) for “(5) to (8)” substitute “(3) and (4)”.

(6) Section 19(5) (limitation on application of Rent Acts—heritable securities) is repealed.

Crown Tenants of Crown Estate Commissioners etc.

40.—(1) Section 4 of the 1971 Act shall be amended as follows—

(a) in subsection (1)—

(i) before “A tenancy” insert “Subject to subsection (3) below”; and

(ii) the words “or of the Duchy of Lancaster; or to the Duchy of Cornwall” are repealed;

(b) after subsection (2) add a new subsection—

“ (3) An interest belonging to Her Majesty in right of the Crown shall not prevent a tenancy from being a protected tenancy or a person

Extension of Rent (Scotland) Act 1971 to Crown tenants of Crown Estate Commissioners etc.

PART IV

from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.

(2) Section 6(3) of the 1971 Act shall be amended by inserting after paragraph (a) a new paragraph—

“ (aa) in relation to any dwelling-house of which a tenancy granted before the commencement of section 40 of the Tenants' Rights, Etc. (Scotland) Act 1980 becomes, or would but for its low rent become, a protected tenancy by virtue of that section, means the date of commencement of that section.”.

(3) Section 85 of the 1971 Act shall be amended as follows—

(a) in subsection (3)—

(i) before “ This Part ” insert “ Subject to subsection (3A) below ”; and

(ii) in paragraph (a) the words “ or of the Duchy of Lancaster or to the Duchy of Cornwall ” are repealed ;

(b) after subsection (3) insert a new subsection—

“ (3A) An interest belonging to Her Majesty in right of the Crown shall not prevent this Part of this Act from applying to a contract if the interest is under the management of the Crown Estate Commissioners.”.

(4) Schedule 3 to the 1971 Act shall be amended as follows—

(a) in Case 5 after “ 1965 ” insert “ or, in the case of a tenancy which became a regulated tenancy by virtue of section 40 of the Tenants' Rights, Etc. (Scotland) Act 1980, after the commencement of that section ”; and

(b) in Part III, in paragraph 2 at the end add a new paragraph—

“ (aaa) in the case of a tenancy which becomes a regulated tenancy by virtue of section 40 of the Tenants' Rights, Etc. (Scotland) Act 1980, the relevant date means the date falling six months after the passing of that Act ; and ”.

(5) Section 134 of the 1971 Act shall be amended by adding the following new subsections—

“ (3) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, for the purposes of this Act the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.

(4) Where an interest belongs to the Duchy of Cornwall, for the purposes of this Act the Secretary of the Duchy of Cornwall shall be deemed to be the owner of the interest.”.

Miscellaneous amendments of enactments relating to private sector tenancies PART IV

41.—(1) Section 5 of the Rent (Scotland) Act 1971 shall be amended as follows— Amendment of enactments relating to housing associations. 1971 c. 28.

- (a) in subsection (4) the words from the beginning to “fulfilled,” are repealed; and
- (b) subsection (5) is repealed.

(2) Sections 64 and 65 of the Housing (Financial Provisions) (Scotland) Act 1972 are repealed. 1972 c. 44.

(3) Section 66 of the said Act of 1972 shall be amended by substituting for the words “to (4)” the words “, (2) and (4)”.

(4) Section 18 of the Housing Act 1974 shall be amended as follows— 1974 c. 44.

- (a) in subsection (2) the words “in such form as may be prescribed” are repealed; and
- (b) subsection (5) is repealed.

42. Section 32(1) of the Rent Act 1965 (which prohibits eviction of tenants without due process of law) shall apply to contracts to which Part VII of the 1971 Act applies created before or after the commencement of this section, and accordingly the said section 32(1) shall be amended as follows— Prohibition of eviction without due process of law to apply to Part VII contracts. 1965 c. 75.

- (a) after the first “Part of this Act” there shall be inserted “or a right of a kind to which Part VII of the Rent (Scotland) Act 1971 applies to use a dwelling-house has been granted before or after the date of commencement of section 42 of the Tenants' Rights, Etc. (Scotland) Act 1980”; and
- (b) in paragraph (a) after “tenancy” there shall be inserted “or, as the case may be, the right to use”.

43. The Rent (Scotland) Act 1971 shall be amended as follows— Amendment of sections 1 and 86 of the 1971 Act.

- (a) in sections 1 (protected tenancies) and 86 (dwelling-houses to which Part VII applies) by adding after subsection (1) in each section the following subsection—

“ (1A) In relation to dwelling-houses comprising or forming part of lands and heritages for which a rateable value is or was first shown on the valuation roll on or after 1st April 1978, the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament increase the said sum of £200 in subsection (1) above, and he may make different provision for different classes of cases.”;

PART IV

- (b) in section 86(3) by leaving out the words " this section " and inserting the words " subsection (2) above " ;
- (c) in section 86(4) by leaving out the words " this section " and by inserting the words " subsection (2) above " .

Modifications of section 5A of the 1971 Act.

44. Section 5A of the 1971 Act (no protected tenancy where landlord's interest belongs to resident landlord) shall, in relation to a tenancy granted before or after the commencement of this section, be amended as follows—

- (a) in subsection (3)(a) for " 14 " there shall be substituted " 28 " ;
- (b) in subsection (3)(e) for " 12 " there shall be substituted " 24 " ; and
- (c) in subsection (4), after " (3) " there shall be inserted " (a) or (b) " .

Resident landlords.

45. In relation to tenancies granted after the commencement of this section, section 5A(1) of the 1971 Act (no protected tenancy where landlord's interest belongs to resident landlord) shall have effect subject to the substitution for paragraphs (a) to (c) of the following paragraphs—

- " (a) the dwelling-house (not being a whole flat in a purpose built block of flats) forms part only of a building ; and
- (b) subject to subsection (2) below, the tenancy was granted by a person who, at the time when he granted it, occupied as his residence another dwelling-house which also forms part of the building ; and
- (c) subject to subsection (3) below, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which also formed part of the building."

Conversion of all remaining controlled tenancies.

46.—(1) Every controlled tenancy for the purposes of the 1971 Act in existence at the date of commencement of this section shall then cease to be a controlled tenancy and shall become a regulated tenancy for the purposes of the 1971 Act.

(2) Where a part of premises which include a dwelling-house is used as a shop or office or for business, trade or professional purposes, and the premises were let immediately before the commencement of this section under a controlled tenancy, section 9 of the 1971 Act shall not prevent that tenancy becoming a regulated tenancy under subsection (1) above nor shall it prevent a new tenancy granted to the tenant or to any person who is entitled to succeed him as a statutory tenant from becoming a regulated tenancy.

(3) In section 36(1) of the 1972 Act (conversion of controlled tenancies), after paragraph (c), there shall be added a new paragraph as follows—

“; or

(d) section 46(1) of the Tenants' Rights, Etc. (Scotland) Act 1980 (conversion of all remaining controlled tenancies),”.

(4) In case 8 of Schedule 3 to the 1971 Act for the words “if the dwelling-house is let on or subject to a controlled tenancy after 7th November 1956” there shall be substituted the words “if the dwelling-house was on 7th November 1956 let on or subject to a controlled tenancy, after the last-mentioned date.”.

47. Section 42 of the 1971 Act (determination of fair rent) shall be amended by substituting for subsection (1) the following subsection—

Determination of fair rent.

“ (1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the rent assessment committee, subject to the provisions of this section, to have regard to all the circumstances (other than personal circumstances), and in particular to apply their knowledge and experience of current rents of comparable property in the area, as well as having regard to the age, character and locality of the dwelling-house in question and to its state of repair and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture.”.

48.—(1) For section 44 of the 1971 Act (effect of registration of rent) there shall be substituted the following section—

Effect of registration of rent.

“ Effect of registration of rent.

44.—(1) Subject to subsection (2) below, the registration of a rent for a dwelling-house takes effect if the rent was determined by the rent officer, from the date when it was registered.

(2) If (by virtue of section 40(3A) of this Act) an application for registration of rent is made before the expiry of the period of 3 years referred to in subsection (3) of that section, the registration of a rent for the dwelling-house does not take effect before the end of that period.

(3) If, on application for the registration of a different rent, the rent officer confirms the rent for the time being registered, the confirmation of that rent takes effect from the date when it is noted in the register.

PART IV

(4) If the rent for a dwelling-house is determined by a rent assessment committee, the registration of that rent takes effect from the date when the committee make their decision.

(5) The date from which the registration or confirmation of a rent takes effect shall be entered in the register.

(6) As from the date on which the registration of a rent takes effect any previous registration of a rent for the dwelling-house ceases to have effect.

(7) Where a valid notice of increase under any provision of Part III of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.”.

(2) In section 21(3) of the 1971 Act (limit of rent during statutory periods) for the words “on which the rent was registered” there shall be substituted the words “from which the registration of the rent took effect”.

(3) For section 40(4) of the 1971 Act (meaning of a “relevant date” in relation to applications for registration of rent) there shall be substituted the following subsections—

“ (4) In this section and section 41 of this Act, “relevant date”, in relation to a rent which has been registered under this Part of this Act, means the date from which the registration took effect or, in the case of a registered rent which has been confirmed by the rent officer, the date from which the confirmation (or, where there have been two or more confirmations, the last of them) took effect.

(4A) For the purposes of subsection (4) above, where a rent is registered as a result of a decision of a rent assessment committee the date from which that registration took effect shall be taken to be the date on which the rent determined by the rent officer was registered or, as the case may be, the confirmation of the registered rent by the rent officer was noted.”.

(4) In paragraph 9(2) of Schedule 6 to the 1971 Act (procedure on application for registration of rent), for the word “accordingly” there shall be substituted the words “of their decision and, in the case of the determination of a rent, of the date on which their decision was made.”.

49.—(1) Subject to subsection (2) below, sections 24, 29 and 30 of the 1971 Act, all of which relate to increase of recoverable rent on account of improvements, shall cease to have effect. PART IV
Repeal of provisions relating to increase of recoverable rent on account of improvements.

(2) Where a notice of increase has been served by the landlord under subsection (2) of the said section 24 before the commencement of this section, the said sections 24, 29 and 30 shall continue to apply in relation to the rent increase to which the notice relates as they applied before the said commencement.

(3) The 1971 Act is amended as follows—

(i) in section 21(4) for “ to 24 ” there shall be substituted “ and 23 ”;

(ii) in section 25(1)—

(a) after “ 21(2) ” insert “ or ”; and

(b) the words “ section 24(2) ” shall cease to have effect.

50. After section 44A of the 1971 Act there shall be inserted the following new section—

Cancellation of registration.

“ Cancellation of registered rent at instance of landlord.

44B.—(1) Where the rent for a dwelling-house has been registered but the dwelling-house has ceased to be let under a regulated tenancy, an application to the rent officer may be made by the landlord in accordance with this section for the cancellation of the registration, and the provisions of section 44A (2) to (4), (7) and (8) of this Act shall apply, with any necessary modifications, to an application made under this section as they apply to an application made under the said section 44A.”

51. After section 91 of the 1971 Act there shall be inserted the following section—

Cancellation of entries in register relating to Part VII contracts at instance of landlord.

“ Cancellation of entries in register on termination of Part VII contracts.

91A.—(1) Where a rent has been registered under section 89 of this Act but the dwelling-house has ceased to be subject to a Part VII contract, an application to a rent assessment committee may be made by the landlord in accordance with this section for the cancellation of the registration.

(2) An application under this section shall not be entertained before the expiry of three years from the date when the registration of the rent takes effect in accordance with section 89 of this Act.

(3) On an application under subsection (1) above the rent assessment committee shall, where subsections (1) and (2) above are complied with, cancel

PART IV

the registration, and shall make an entry in the register noting the cancellation and the date from which the cancellation takes effect.

(4) The president of the panel set up under Schedule 5 to this Act may, if he thinks fit, direct that in considering applications made under subsection (1) above, the chairman sitting alone may exercise the functions of a rent assessment committee.

(5) An application under this section shall be in the prescribed form and contain the prescribed particulars.

(6) The rent assessment committee shall notify the applicant of its decision to grant or to refuse any application under this section and, where it grants the application, of the date from which the cancellation takes effect.”

Transfer of functions of rent tribunals to rent assessment committees.

52.—(1) At the commencement of this section the rent tribunals provided for in section 84 of the 1971 Act shall cease to exist, and their functions shall be transferred to the rent assessment committees provided for in section 38 of that Act.

(2) Any reference in any enactment to a rent tribunal shall have effect as if it were a reference to a rent assessment committee within the meaning of section 38 of the 1971 Act.

Furnished lettings by certain bodies not to be Part VII contracts.

53.—(1) After the commencement of this section, Part VII of the 1971 Act shall not apply to a contract where the landlord is a body mentioned in subsection (2) of section 10 of this Act, and accordingly in section 85(3) of the 1971 Act, after paragraph (a), there shall be added a new paragraph as follows—

“ (aa) to a contract entered into after the commencement of section 53 of the Tenants' Rights, Etc. (Scotland) Act 1980, where the interest of the lessor belongs to a body mentioned in subsection (2) of section 10 of that Act ; nor ”.

(2) Section 16(3) of the 1972 Act shall be amended by adding, after “ 85(3) ”, “ (aa) or ”.

Apportionment of rateable values for Part VII contracts.

54. In section 86 of the 1971 Act (dwelling-houses to which Part VII applies), at the end there shall be added a new subsection as follows—

“ (5) For the purposes of this section, in relation to a dwelling-house which is not separately rated, “ rateable value ” means such proportion of the rateable value of the premises of which the dwelling-house forms part as may

be determined to reflect the relationship between the value of the dwelling-house and the value of the said premises—

PART IV

- (a) by agreement in writing between the lessor and lessee ; or
- (b) failing such agreement, by the sheriff, on a summary application by either party.”.

55. The following section shall be inserted after section 95A of the 1971 Act—

Notice to quit relating to Part VII contracts entered into after the commencement of Part IV.

“ Notice to quit relating to post 1980 Act Part VII contracts.

95B.—(1) This section applies to Part VII contracts entered into after the commencement of section 55 of the Tenants' Rights, Etc. (Scotland) Act 1980.

(2) Where this section applies, sections 92 to 95A of this Act shall not apply, but in any proceedings for possession the sheriff may, if he thinks fit, postpone the date of possession for a period, which shall not exceed three months.

(3) A postponement under subsection (2) above may be made subject to such conditions regarding payment of outstanding rent or other conditions as the sheriff thinks fit.”.

56.—(1) In Schedule 1 to the 1971 Act—

Succession to statutory tenancy.

(a) for paragraph 2 there shall be substituted the following paragraph—

“ 2. The original tenant's spouse where the dwelling-house was his only or principal home at the time of the tenant's death shall be the statutory tenant so long as the said spouse retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.” ; and

(b) for paragraph 6 there shall be substituted the following paragraph—

“ 6. The first successor's spouse, where the dwelling-house was his only or principal home at the time of the tenant's death, shall be the statutory tenant so long as the said spouse retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.”.

57. Section 109 of the 1971 Act (Interpretation of Part VIII) shall be amended by adding a new subsection as follows—

Returnable deposits not premiums.

“ (3) For the avoidance of doubt, it is hereby declared that a deposit returnable at the termination of a tenancy or of a Part VII contract given as security for the tenant's obligations for accounts for supplies of gas, electricity, tele-

PART IV

phone or other domestic supplies and for damage to the dwelling-house or contents is not a premium for the purposes of this Part of this Act provided that it does not exceed the amount of two months' rent payable under the tenancy or under the Part VII contract, as the case may be."

Extent of operation of section 119A of 1971 Act.

58. For the avoidance of doubt, it is hereby declared that a contract to which section 119A of the 1971 Act applies (a contract which would be a protected tenancy but for section 5A of the 1971 Act) shall be treated for all purposes as if it were a contract to which Part VII of the 1971 Act applies, and accordingly—

- (a) in the said section 119A, in subsection (1), for the words from "for the purposes" to "applies" there shall be substituted the words "for all purposes as a contract to which Part VII of this Act applies"; and
- (b) in section 16(3) of the 1972 Act, in the parenthesis, at the end there shall be added the words "and a person who is a tenant under a contract which is to be treated as a Part VII contract under section 119A(1) of that Act".

Consent of tenant to carrying out of works.

59. Section 80 of the 1971 Act shall be amended as follows—

- (a) in subsection (2) the words "(whether a controlled or a regulated tenancy)" shall cease to have effect;
- (b) at the end there shall be added the following subsection—

"(5) For the purposes of this section a dwelling-house satisfies the qualifying conditions if it is provided with all the standard amenities, it is in good repair having regard to its age, character and locality and disregarding internal decorative repair, and it meets the tolerable standard."

Landlord's consent to work.

60. The following section shall be inserted after section 121 of the 1971 Act—

"Alterations etc. to dwelling-house"

Landlord's consent to work.

121A.—(1) It shall be a term of every protected or statutory tenancy (unless express provision is made to the contrary in the tenancy agreement) that the tenant shall not carry out work, other than interior decoration, in relation to the dwelling-house without the consent in writing of the landlord, which shall not be unreasonably withheld.

(2) In this section and in Schedule 4 to the Tenants' Rights, Etc. (Scotland) Act 1980 as it applies to a protected or statutory tenancy "work" means—

- (a) alteration, improvement or enlargement of the dwelling-house or of any fittings or fixtures ;
- (b) addition of new fittings or fixtures (including wireless or television aerials) ;
- (c) erection of a garage, shed or other structure, but does not include repairs or maintenance of any of these.

(3) The provisions of Schedule 4 to the Tenants' Rights, Etc. (Scotland) Act 1980 shall have effect as terms of every protected or statutory tenancy as they have effect as terms of secure tenancies".

61. Section 21(2)(b) of the 1971 Act shall be amended by substituting for the words "section 7 of the Housing Rents and Subsidies (Scotland) Act 1975" the words "section 37 of the Tenants' Rights, Etc. (Scotland) Act 1980" and by adding after the words "the date" the words "(which may be any date during a rental period)". Amendment of section 21(2)(b) of the 1971 Act.

62. The powers of local authorities to publish information for the assistance of landlords and tenants as to their rights and duties shall be extended so as to include all such obligations under the Rent (Scotland) Acts 1971 to 1980 ; and accordingly, in section 125 of the 1971 Act, for the words "the provisions of this Act and Part V" there shall be substituted the words "the Rent (Scotland) Acts 1971 to 1980 and under". Publication by local authorities of information as to rights.

63.—(1) In Part II of Schedule 3 to the 1971 Act (cases in which court must order possession of dwelling-house subject to regulated tenancy)— Recovery of possession of dwelling-house subject to regulated tenancy.

- (a) in Case 11, in paragraph (a), after "Case", insert " (notwithstanding, in the case of a notice given under this paragraph before the commencement of section 63 of the Tenants' Rights, Etc. (Scotland) Act 1980, that the notice may not have referred to any of subparagraphs (ii) to (v) of paragraph (c)) "; and in paragraph (c) after "that" insert "(i)", and at the end insert " ; or

(iA) the owner-occupier has died, and the dwelling-house is required as a residence for a member of his family who was residing with him at the time of his death ; or

PART IV

(ii) the owner-occupier has died, and the dwelling-house is required as a residence by a person inheriting the dwelling-house under the will of the owner-occupier or on his intestacy ; or

(iii) the owner-occupier has died and his personal representatives wish to dispose of the dwelling-house with vacant possession ; or

(iv) the dwelling-house is not reasonably suitable to the needs of the owner-occupier, having regard to his place of work, and he requires it for the purpose of disposing of it with vacant possession and of using the proceeds of that disposal in acquiring as his residence a dwelling-house which is more suitable to those needs ; or

(v) the dwelling-house is subject to a heritable security, granted before the creation of the tenancy, and as the result of a default by the debtor the creditor is entitled to sell the dwelling-house and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement.” ;

- (b) in Case 11A in paragraph (a), after “ Case ”, insert “ (notwithstanding, in the case of a notice given under this paragraph before the commencement of section 63 of the Tenants' Rights, Etc. (Scotland) Act 1980, that the notice may not have referred to any of subparagraphs (iii) to (v) of paragraph (c) ” ; and in paragraph (c) leave out “ either ” and insert “ (i) ”, after “ or ” insert “ (ii) ” and at the end insert—

“ or for a person inheriting the dwelling-house under the will of the owner or on his intestacy ; or

(iii) that the owner has died and his personal representatives wish to dispose of the dwelling-house with vacant possession ; or

(iv) that the dwelling-house is subject to a heritable security, granted before the creation of the tenancy, and as the result of a default by the debtor the creditor is entitled to sell the dwelling-house and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement ; or

(v) that the dwelling-house is no longer reasonably suitable to the needs of the owner on his retirement, and he requires it for the purpose of disposing of it with vacant possession and of using the proceeds of that disposal in acquiring for his retirement a dwelling-house which is more suitable to those needs.”.

(2) The following Cases shall be inserted after Case 15 of the said Part II—

PART IV

“ Case 16

Where a dwelling-house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the dwelling-house and—

- (a) there is no longer a person with such special needs occupying the dwelling-house ; and
- (b) the court is satisfied that the landlord requires it for occupation (whether alone or with other members of his family) by a person who has such special needs.”.

Case 17

Where the dwelling-house is let by a person (in this Case referred to as “ the owner ”) at any time after the commencement of section 63 of the Tenants' Rights, Etc. (Scotland) Act 1980 and—

- (a) at the time when the owner acquired the dwelling-house he was a member of the regular armed forces of the Crown ;
- (b) at the relevant date the owner was a member of the regular armed forces of the Crown ;
- (c) not later than the relevant date the owner gave notice in writing to the tenant that possession might be recovered under this Case ;
- (d) the dwelling-house has not, since the commencement of section 63 of the said Act of 1980, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (c) above was not satisfied ; and
- (e) the court is of the opinion that—
 - (i) the dwelling-house is required as a residence for the owner ; or
 - (ii) of the conditions set out in paragraph (c) of Case 11 of this Schedule one of those in subparagraphs (ii) to (vi) would be satisfied if the owner of the dwelling-house concerned was the owner occupier.

Provided that if the court is of the opinion that, notwithstanding that the condition in paragraph (c) or paragraph (d) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of these paragraphs, as the case may require.

PART IV

In this Case "regular armed forces of the Crown" has the same meaning as in section 1 of the House of Commons Disqualification Act 1975.

Pensions etc.
for Rent
Assessment
Panel.

64.—(1) The Secretary of State may pay or make provision for paying—

- (a) to or in respect of any member of the panel set up by section 38 of the 1971 Act, such sums by way of pensions, superannuation allowances and gratuities; and
- (b) to any member of the said panel who ceases to be a member other than on the expiry of his term of office, where it appears to the Secretary of State that there are special circumstances which make it unjust for the member not to receive compensation, such sum by way of compensation,

as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

(2) Schedule 5 to the 1971 Act shall be amended as follows—

(a) after paragraph 8 there shall be inserted—

"8A. There shall be paid to or in respect of members of a panel, such sums by way of pensions, superannuation allowances and gratuities as the Secretary of State may, with the approval of the Minister of the Civil Service, determine.

8B. There shall be paid to any member of a panel who ceases to be a member otherwise than on the expiry of his term of office where it appears to the Secretary of State that there are special circumstances such sum as the Secretary of State may, with approval of the Minister for the Civil Service, determine."

(b) for paragraph 10(a) there shall be substituted—

"10 (a) the remuneration and allowances of members of a panel; the pensions, superannuation allowances, and gratuities payable to or in respect of members of a panel; any compensation payable to a member of a panel."

Increases in
penalties for
offences
relating to
houses in
multiple
occupation.
1966 c. 49.

65.—(1) The Housing (Scotland) Act 1966 shall be amended as follows—

- (a) in section 100(3) for "ten pounds" substitute "fifty pounds";
- (b) in section 102(3) for "ten pounds" substitute "fifty pounds";

- (c) in section 103(4) for paragraphs (a) and (b) substitute " to a fine not exceeding £200 " ;
- (d) in section 110(1)(b) leave out the words from the second " or " to the end of the paragraph ;
- (e) in section 111(5) for paragraphs (a) and (b) substitute " to a fine not exceeding five hundred pounds " ;
- (f) in section 112(5) for " twenty pounds " substitute " fifty pounds " ;
- (g) in section 185(2) after " offence ", insert " and shall be liable on summary conviction to a fine not exceeding £200 " .

PART IV

(2) Schedule 7C to the Criminal Procedure (Scotland) Act 1975 c. 21. 1975 shall be amended by deleting from the first column of the entry relating to the Housing (Scotland) Act 1966 the words from " where " to the end of the column.

PART V

MISCELLANEOUS

Improvement grants

66.—(1) For paragraph (a) of section 2(3) of the Housing (Scotland) Act 1974 there shall be substituted the following paragraph—

Availability of improvement grants.

" (a) unless they are satisfied that the owner of every parcel of land on which the improvement works are to be or are being carried out, other than land proposed to be sold or leased under section 145(4) of the Housing (Scotland) Act 1966, has consented in writing to the application and to being bound by any conditions imposed by or under section 9 of this Act ; " and after subsection (3) of that section there shall be inserted the following subsection—

1974 c. 45.

" (3A) Section 11(5) of this Act shall not apply where an applicant for an improvement grant is not the owner of the land to which the application relates."

(2) In section 7 of the said Act of 1974 after subsection (6) there shall be inserted a new subsection as follows—

" (7) The Secretary of State may by order—

(a) vary the requirements of subsection (1)(a) and (b) above ;

(b) vary the amount specified in subsection (4) above, so as to provide for different amounts of grant to apply for different classes of cases."

(3) In section 49(3) of the said Act of 1974, in the definition of " owner " the words " but in Part I includes such a lessee as

PART V

is mentioned in section 2(3)(a) of this Act" shall cease to have effect.

(4) The Housing (Scotland) Act 1974 shall be amended as follows—

- (a) insert in section 4(1), after the word "applicant", the words "and where appropriate, the owner";
- (b) in section 7(1) leave out the words "by the owner" in both places where they appear;
- (c) in section 8—
 - (i) in subsection (1) the words "and in subsection (2) below" are repealed;
 - (ii) subsection (2) is repealed;
- (d) in section 9—
 - (i) in subsection (5) in paragraph (b) the words "by a member of the agricultural population" is repealed;
 - (ii) in subsection (9) for the words "owner of the house" in the second place where they appear, substitute the word "applicant";
- (e) in section 10A(3) substitute for the word "applicant" the word "owner".

Conditions
for approval
of applications
for improve-
ment grants.
1974 c. 45.

67. In section 3 of the Housing (Scotland) Act 1974 (conditions for approval of applications for improvement grants)—

(a) for paragraph (c) of subsection (2) there shall be substituted the following paragraph—

"(c) if, subject to subsections (3) to (5) below, it is made by the owner of the house to which the application relates or by a member of his family and the house or any part thereof is to be occupied by the said owner or by a member of his family after completion of the works and—

- (i) the rateable value of the occupied premises exceeds the prescribed limit; or
- (ii) if it is to be provided by the conversion of two or more houses, the aggregate of the rateable values of those houses exceeds the prescribed limit:

Provided that where sub-paragraph (i) above applies, a local authority may approve such an application if it is made in relation to a part of the house which after completion of the works will be self-contained and is not to be occupied by the owner or by a member of his family"; and

(b) for subsection (3) there shall be substituted the following subsections—

“ (3) Paragraph (c) of subsection (2) above shall not apply—

(a) where the house to which the application relates is in a housing action area for improvement declared under section 16 of this Act and is listed in the final resolution under section 18(4)(b) or (c) of this Act as requiring improvement or integration ;

(b) where the house to which the application relates is subject to an improvement order made under section 14A(1) of this Act.

(3A) In paragraph (c) of subsection (2) above—

“ prescribed limit ” means such limit of rateable value as the Secretary of State with the consent of the Treasury may prescribe ; and different limits may be so prescribed for different cases and for different classes of cases ; and

“ rateable value ” means the rateable value entered in the valuation roll and in force on the date of the application.

(3B) The Secretary of State may by order made in a statutory instrument vary the provisions of paragraph (c) of subsection (2) above.”.

68.—Section 5 of the Housing (Scotland) Act 1974 shall be amended as follows—

(a) by substituting for paragraph (a) of subsection (3) the following paragraph—

“ (a) where an application for an improvement grant relates wholly or partly to the provision of any or all of the standard amenities and—

(i) on completion of the works the house is in the opinion of the local authority likely to be available for use as a house for a period of at least 10 years, a maximum approved expense not exceeding £2,000 or such other amount as may be prescribed, or 50 per cent. or such other percentage as may be prescribed of the approved expense of executing the improvement works, whichever is the greater ; or

(ii) on completion of the works the house is in the opinion of the local authority likely to be available for use as a house for a period of less than 10 years, a maximum approved expense not exceeding £200 (or such other amount

Maximum approved expense for repair works associated with improvement. 1974 c. 45.

PART V

as may be prescribed) for each standard amenity provided, but subject to a maximum of £800 or such other amount as may be prescribed ;”;

(b) by adding after the said subsection (3) a new subsection—

“ (3A) The power to prescribe amounts and percentages for the purposes of subsection (3) above includes power to prescribe different amounts and percentages for different cases and classes of cases.”.

69. Section 7 of the Housing (Scotland) Act 1974 shall be amended as follows—

(a) after paragraph (1) (a) insert the word “ and ”;

(b) subsection (1)(c) and the word “ and ” which precedes it are repealed ; and

(c) after subsection (1A) insert a new subsection as follows—

“ (1B) Paragraph (a) of subsection (1) above shall not apply where the house in respect of which application for a grant is made is not likely to be available for use as a house for a period of at least 10 years.”.

70. In section 10A(2) of the Housing (Scotland) Act 1974 for the words from “ such period ” to the end there shall be substituted the words “ as they consider reasonable ”.

71. In section 14A of the Housing (Scotland) Act 1974, after subsection (1) there shall be inserted the following subsection—

“ (1A) In subsection (1) above, reference to a house which does not meet the tolerable standard includes a reference to a house which does not have a fixed bath or shower and reference to executing works to bring it up to the tolerable standard includes reference to installing a fixed bath or shower.”.

72. Section 14A(2) of the Housing (Scotland) Act 1974 is repealed.

Availability
for long
term use.
1974 c. 45.

Abolition
of power of
Secretary
of State to
specify
requirements
in relation
to repairs
grants.

Grants for
provision of
fixed bath
or shower.

Abolition of
control over
improvement
orders.

1974 c. 45.

73. The definition of "prescribed" in section 49(3) of the Housing (Scotland) Act 1974 shall be amended by inserting before "in relation to" the words "means prescribed by the Secretary of State and".

PART V
Amendment of
definition of
"prescribed"
in Housing
(Scotland)
Act 1974.

74.—(1) Where, under the terms of an instalment purchase agreement, a person has been let into possession of a dwelling-house and, on the termination of the agreement or of his right to possession under it, proceedings are brought for possession of the dwelling-house, the court may—

Discretion of
court in cases
relating to
instalment
purchase
agreements.

(a) adjourn the proceedings ; or

(b) on making an order for possession of the dwelling-house, supersede extract or postpone the date of possession ;

for such period or periods as the court thinks fit.

(2) On any such adjournment, superseding of extract, or postponement the court may impose such conditions with regard to the payment by the person in possession in respect of his continued occupation of the dwelling-house and such other conditions as the court thinks fit.

(3) The court may revoke or from time to time vary any condition imposed by virtue of this section.

(4) In this section "instalment purchase agreement" means an agreement for the purchase of a dwelling-house under which the whole or part of the purchase price is to be paid in 3 or more instalments and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid.

Abolition of Scottish Housing Advisory Committee

75. The Scottish Housing Advisory Committee established by section 167 of the Housing (Scotland) Act 1966 is abolished and accordingly—

Abolition of
Scottish
Housing
Advisory
Committee.
1966 c. 49.

(a) section 167 of that Act is repealed ;

(b) in section 91(1) of that Act the words "and after consultation with the Scottish Housing Advisory Committee" are repealed ; and

(c) in section 91(2) of that Act the words "and the said Committee" are repealed.

76. The Housing (Scotland) Act 1966 shall be amended as follows—

Amendment
of sections 17
and 145 of
Housing
(Scotland)
Act 1966.

(a) in section 17 (power to make closing orders with respect to underground rooms), in subsections (2)(b) and (3),

PART V

the words "with the consent of the Secretary of State" shall cease to have effect;

- (b) in section 145 (powers of dealing with land etc.), in subsection (7)—

(i) for the words "section 168 of the Local Government (Scotland) Act 1947" there shall be substituted the words "section 74 of the Local Government (Scotland) Act 1973";

(ii) for the words from "Act of 1947" to the words "that Act" there shall be substituted the words "Act of 1973 in the exercise of any power under Part VI of that Act";

(iii) for the words "said section 168" there shall be substituted the words "said section 74".

Duty of local authority to have regard to amenities of locality etc.
1966 c. 49.

77. In fulfilling the duty imposed on it by section 177 of the Housing (Scotland) Act 1966 a local authority shall no longer require to have regard to directions made by the Secretary of State and accordingly, in the said section 177—

- (a) in subsection (1), the words from "artistic interest" to the end are repealed; and

- (b) in subsection (2) the words ", and if required by the Secretary shall," and the words from ", and the authority" to the end are repealed.

Extension of rent allowances.
1972 c. 46.

78. Part II of the Housing (Financial Provisions) (Scotland) Act 1972 (Rent rebates and allowances) shall be amended as follows—

- (a) in subsection (4) of section 16 (rent allowances) by inserting at the beginning of paragraph (a) the words "a regional council,";

- (b) in section 16 by adding after subsection (7) the following subsections—

"(8) Subsection (1) above and, in so far as they relate to rent allowances, sections 17 to 22 below shall, with any necessary modifications, apply in relation to a person who occupies any hostel accommodation as they apply in relation to a tenant to whom those provisions apply.

(9) A person shall not be precluded from receiving an allowance under an allowance scheme by reason only that he does not have exclusive occupation of the house which he occupies.";

- (c) in section 22(1) by inserting in the appropriate place the following definition—

" "hostel" means a building in which is provided, for persons generally or for any class or classes of

persons, residential accommodation (otherwise than in houses) and either board or common facilities for the preparation of food adequate to the needs of those persons, or both.”.

PART V

79. Section 21(1)(b) of the 1972 Act shall be amended by inserting after the word “relates” the words “or for board”.

Board excluded in calculating rent allowances.

80. In the definition of “housing association” in section 78 (interpretation) of the Housing (Financial Provisions) (Scotland) Act 1972 there shall be added at the end the words—

Extension of rent allowance scheme.

“where under the terms of the tenancy agreement or of the agreement by which the tenant became a member of the association or otherwise he (or his personal representatives) will be entitled, on his ceasing to be a member and subject to any conditions stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the house.”.

1972 c. 46.

81. In making an agreement under section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 for the exercise by a housing co-operative of local authority housing functions, a local authority shall no longer require to obtain the consent of the Secretary of State to the terms of the agreement and accordingly, in the said section 5—

Agreements for exercise by housing cooperatives of local authority housing functions.

(a) in subsection (2) the words “and the terms of any agreement shall be approved by him” are repealed; and

1975 c. 28.

(b) in subsection (3) the words “and to the terms” are repealed.

PART VI

SUPPLEMENTARY

82. In Parts I to III of this Act, except where provision is made to the contrary,

Interpretation of Parts I to III.

“dwelling-house” means a house or part of a house used for human habitation, and includes land let in conjunction with a dwelling-house and outhouses and pertinents belonging to the dwelling-house or usually enjoyed therewith;

“family” in relation to a tenant includes a person with whom he is living as man and wife;

“landlord” means a person who lets a dwelling-house to a tenant for human habitation, and includes his successors in title;

PART VI

“secure tenancy” means a *secure tenancy* within the meaning of section 10 of this Act;

“tenancy” means any agreement under which a dwelling-house is made available for occupation for human habitation, and “leases”, “let” and “lets” shall be construed accordingly;

“tenant” means a person who leases a dwelling-house from a landlord and who derives his right therein directly from the landlord, and in the case of joint tenancies means all the tenants.

Service of notices.

83.—(1) A notice or other document which requires to be served on a person under any provision of this Act may be given to him—

(a) by delivering it to him;

(b) by leaving it at his proper address; or

(c) by sending it by recorded delivery post to him at that address.

1978 c. 30.

(2) For the purposes of this section and of section 7 of the Interpretation Act 1978 (references to service by post) in its application to this section, a person's proper address shall be his last known address.

Repeals.

84. Subject to the transitional provisions contained in this Act, the enactments mentioned in Schedule 5 to this Act are repealed to the extent specified in the third column of that Schedule.

Public money.

85. There shall be paid out of money provided by Parliament any increase attributable to this Act in any sums payable out of money so provided under any other enactment.

Citation, commencement and extent.

86.—(1) This Act may be cited as the *Tenants' Rights, Etc. (Scotland) Act 1980*.

(2) The *Housing (Scotland) Acts 1966 to 1978* and this Act (except Part IV) may be cited together as the *Housing (Scotland) Acts 1966 to 1980*.

(3) The *Rent (Scotland) Acts 1971 to 1975* and Part IV of this Act, and this Part so far as it relates to the said Part IV, may be cited together as the *Rent (Scotland) Acts 1971 to 1980*.

(4) This Act shall commence on a day appointed by the Secretary of State by order in a statutory instrument, and different days may be appointed for different provisions.

(5) This Act applies to Scotland only.

SCHEDULES

SCHEDULE 1

Section 10.

TENANCIES WHICH ARE NOT SECURE TENANCIES

Long leases

1. A tenancy shall not be a secure tenancy if it is for a period exceeding 20 years, whether or not it is (or may become) terminable before the end of that period by notice given by or to the tenant.

Premises occupied under contract of employment

2.—(1) A tenancy shall not be a secure tenancy if the tenant (or one of joint tenants) is an employee of the landlord, or of any local authority or development corporation and his contract of employment requires him to occupy the dwelling-house for the better performance of his duties.

(2) In this paragraph "contract of employment" means a contract of service or of apprenticeship, whether express or implied, and (if it is express) whether it is oral or in writing.

Temporary letting to person seeking accommodation

3. A tenancy shall not be a secure tenancy if the dwelling-house was let by the landlord expressly on a temporary basis to a person moving into an area in order to take up employment there, and for the purpose of enabling him to seek accommodation in the area.

Temporary letting pending development

4. A tenancy shall not be a secure tenancy if the dwelling-house was let by the landlord to the tenant expressly on a temporary basis, pending development affecting the dwelling-house.

In this paragraph "development" has the meaning assigned to it by section 19 of the Town and Country Planning (Scotland) Act 1972 c. 52. 1972.

Temporary accommodation during works

5. A tenancy shall not be a secure tenancy if the dwelling-house is occupied by the tenant while works are being carried out on the dwelling-house which he normally occupies as his home, and if he is entitled to return there after the works are completed—

(a) by agreement ; or

(b) by virtue of an order of the sheriff under section 15(5) of this Act.

Accommodation for homeless persons

6. A tenancy shall not be a secure tenancy if the dwelling-house is being let to the tenant expressly on a temporary basis, in the fulfilment of a duty imposed on a housing authority by the Housing 1977 c. 48. (Homeless Persons) Act 1977.

SCH 1.

Agricultural and business premises

7. A tenancy shall not be a secure tenancy if the dwelling-house—
- (a) is let together with agricultural land exceeding two acres in extent ;
 - (b) consists of or includes premises which are used as a shop or office for business, trade or professional purposes ;
 - (c) consists of or includes premises licensed for the sale of exciseable liquor ; or
 - (d) is let in conjunction with any purpose mentioned in subparagraph (b) or (c) above.

Sections
15 and 20.

SCHEDULE 2

GROUNDS FOR RECOVERY OF POSSESSION OF DWELLING-HOUSES
LET UNDER SECURE TENANCIES

PART I

GROUNDS ON WHICH COURT MAY ORDER RECOVERY OF
POSSESSION

1. Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.

2. The tenant (or any one of joint tenants) or any person residing or lodging with him or any sub-tenant of his has been convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes.

3. The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant (or any one of joint tenants) or any person residing or lodging with him or any sub-tenant of his ; and in the case of acts of waste by, or the neglect or default of, a person lodging with a tenant or a sub-tenant of his the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this paragraph “ the common parts ” means any part of a building containing the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses.

4. The condition of any furniture provided for use under the tenancy, or for use in any of the common parts (within the meaning given in paragraph 3 above), has deteriorated owing to ill-treatment by the tenant (or any one of joint tenants) or any person residing or lodging with him or any sub-tenant of his ; and in the case of ill-treatment by a person lodging with a tenant or a sub-tenant of his the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

5. The tenant and his spouse have been absent from the dwelling-house without reasonable cause for a continuous period exceeding six months or have ceased to occupy the dwelling-house as their principal home.

6. The landlord wishes to transfer the secure tenancy of the dwelling house to the spouse or former spouse of the tenant, or to a person with whom the tenant has been living as man and wife, where either the tenant or the spouse, former spouse or person aforesaid no longer wishes to live together with the other in the dwelling house, and the spouse, former spouse or person aforesaid has applied to the landlord for the transfer of the tenancy.

7. The tenant of the dwelling-house (or any one of joint tenants) or any person residing or lodging with him or any sub-tenant of his has been guilty of conduct in or in the vicinity of the dwelling-house which is a nuisance or annoyance and it is not reasonable in all the circumstances that the landlord should be required to make other accommodation available to him.

8. The tenant of the dwelling-house (or any one of joint tenants) or any person residing or lodging with him or any sub-tenant of his has been guilty of conduct in or in the vicinity of the dwelling-house which is a nuisance or annoyance and in the opinion of the landlord it is appropriate in the circumstances to require the tenant to move to other accommodation.

9. The dwelling-house is overcrowded, within the meaning of section 89 of the Housing (Scotland) Act 1966, in such circumstances as to render the occupier guilty of an offence. 1966 c. 49.

10. The landlord intends within a reasonable period of time to demolish, or carry out substantial work on, the building or a part of the building which comprises or includes the dwelling-house, and it cannot reasonably do so without obtaining possession of the dwelling-house.

11. The dwelling-house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the dwelling house and—

- (a) there is no longer a person with such special needs occupying the dwelling-house ; and
- (b) the landlord requires it for occupation (whether alone or with other members of his family) by a person who has such special needs.

12. The dwelling-house forms part of a group of dwelling-houses which has been designed, or which has been provided with or located near facilities, for persons in need of special social support, and—

- (a) there is no longer a person with such a need occupying the dwelling-house ; and
- (b) the landlord requires it for occupation (whether alone or with other members of his family) by a person who has such a need.

SCH. 2

13. The landlord is a housing association which has as its object, or as one of its objects, the housing of persons who are in a special category by reason of age, infirmity, disability or social circumstances and the tenant (or one of joint tenants), having been granted a tenancy as a person falling into such a special category, has ceased to be in the special category, or for other reasons the accommodation in the dwelling house is no longer suitable for his needs, and the accommodation is required for someone who is in a special category.

14. The interest of the landlord in the dwelling house is that of a lessee under a lease and that lease either

- (a) has terminated, or
- (b) will terminate within a period of 6 months from the date of raising of proceedings for recovery of possession.

PART II

SUITABILITY OF ACCOMMODATION

1. For the purposes of sections 15 and 20 of this Act, accommodation is suitable if—

- (a) it consists of premises which are to be let as a separate dwelling under a secure tenancy or under a protected tenancy within the meaning of the Rent (Scotland) Act 1971 ; and
- (b) it is reasonably suitable to the needs of the tenant and his family.

1971 c. 28.

2. In determining whether accommodation is reasonably suitable to the needs of the tenant and his family, regard shall be had to—

- (a) its proximity to the place of work (including attendance at an educational institution) of the tenant and of other members of his family, compared with his existing dwelling-house ;
- (b) the extent of the accommodation required by the tenant and his family ;
- (c) the character of the accommodation offered compared to his existing dwelling-house ;
- (d) the terms on which the accommodation is offered to the tenant compared with the terms of his existing tenancy ;
- (e) if any furniture was provided by the landlord for use under the existing tenancy, whether furniture is to be provided for use under the new tenancy which is of a comparable nature in relation to the needs of the tenant and his family ;
- (f) any special needs of the tenant or his family.

3. If the landlord has made an offer in writing to the tenant of new accommodation which complies with paragraph 1(a) above and which appears to it to be suitable, specifying the date when the accommodation will be available and the date (not being less than 14 days from the date of the offer) by which the offer must be

accepted, the accommodation so offered shall be deemed to be suitable if—

SCH. 2

- (a) the landlord shows that the tenant accepted the offer within the time duly specified in the offer ; or
- (b) the landlord shows that the tenant did not so accept the offer, and the tenant does not satisfy the court that he acted reasonably in failing to accept the offer.

SCHEDULE 3

Section 21.

TERMS OF SECURE TENANCY RELATING TO SUBLETTING ETC.

1. A secure tenant who wishes to assign, sublet or otherwise give up to another person possession of the dwelling-house which is the subject of the secure tenancy or any part thereof or take in a lodger shall serve on the landlord an application in writing for the landlord's consent, giving details of the proposed transaction, and in particular of any payment which has been or is to be received by the tenant in consideration of the transaction.

2. In relation to an application under paragraph 1 above, the landlord may consent, or may refuse his consent, provided that he may not refuse his consent unreasonably.

3. (a) The landlord shall serve on the tenant notice in writing of his consent or refusal, and in the case of refusal the reasons therefor, within one month of receipt of the application.

(b) where the landlord fails to serve a notice in accordance with paragraph (a) above within the period therein mentioned, he shall be deemed to have consented to the application.

4. A tenant who is aggrieved by a refusal (other than a refusal on the grounds provided for in section 21(2) of this Act) may raise proceedings by summary application in the sheriff court of the district in which the dwelling-house is situated.

5. In proceedings under paragraph 4 above, the sheriff shall order the landlord to consent to the application unless it appears to him that the refusal is reasonable.

6. In deciding whether a refusal is reasonable the sheriff shall have regard in particular to—

(a) whether the consent would lead to overcrowding of the dwelling-house in such circumstances as to render the occupier guilty of an offence under section 89 of the Housing 1966 c. 49. (Scotland) Act 1966 ; and

(b) whether the landlord proposes to carry out works on the dwelling-house or on the building of which it forms part so that the proposed works will affect the accommodation likely to be used by the sub-tenant or lodger who would reside in the dwelling-house as a result of the consent.

Section 23.

SCHEDULE 4

TERMS OF SECURE TENANCY RELATING TO ALTERATIONS ETC. TO
DWELLING-HOUSE

1. A secure tenant who wishes to carry out work shall serve on the landlord an application in writing for the landlord's consent, giving details of the work proposed to be carried out.

2. In relation to an application under paragraph 1 above, the landlord may—

- (a) consent ;
 - (b) refuse his consent, provided that he may not refuse his consent unreasonably ; or
 - (c) consent subject to such reasonable conditions as he may impose.
3. (a) The landlord shall intimate his consent or refusal, and any conditions imposed, and in the case of refusal the reasons therefor, to the tenant in writing within one month of receipt of the application.
- (b) in the event that the landlord fails to make intimation in accordance with paragraph (a) above within the period therein mentioned, he shall be deemed to have consented to the application.

4. A tenant who is aggrieved by a refusal, or by any condition imposed under paragraph 2(c) above may raise proceedings by summary application in the sheriff court of the district in which the dwelling-house is situated.

5. In proceedings under paragraph 4 above, the sheriff shall order the landlord to consent to the application or, as the case may be, to withdraw the condition unless it appears to him that the refusal or condition is reasonable.

6. In deciding whether a refusal or a condition is reasonable the sheriff shall have regard in particular to—

- (a) the safety of occupiers of the dwelling-house or of any other premises ;
- (b) any expenditure which the landlord is likely to incur as a result of the work ;
- (c) whether the work is likely to reduce the value of the dwelling-house or of any premises of which it forms part, or to make the dwelling-house or such premises less suitable for letting or for sale ; and
- (d) any effect which the work is likely to have on the extent of the accommodation provided by the dwelling-house.

SCHEDULE 5

Section 84.

REPEALS

Chapter	Short title	Extent of repeal
62 & 63 Vict. c. 44.	Small Dwellings Acquisition Act 1899.	The whole Act.
13 & 14 Geo. 5. c. 24.	Housing, &c. Act 1923.	Part III and section 25(7).
25 & 26 Geo. 5. c. 41.	Housing (Scotland) Act 1935.	Section 83.
12 & 13 Geo. 6. c. 61.	Housing (Scotland) Act 1949.	Section 39.
14 & 15 Geo. 6. c. 65.	Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 16(1) the word "standard".
		In section 16(2)(c) the words from "and" to the end. Section 16(4)(b). In section 17(2)(a) and (b) the word "standard" and in section 17(2)(a) the words from ", and" to the end. In section 18(2)(a) and (b) the word "standard" and in section 18(2)(a) the words from ", and" to the end. Section 19(5). Section 3(1). Section 31(2). Schedule 2.
7 & 8 Eliz. 2. c. 33.	House Purchase and Housing Act 1959.	Section 17(2)(b) and (3), the words "with the consent of the Secretary of State".
1966 c. 49.	Housing (Scotland) Act 1966.	In section 17(3) the words " , or fail to make such regulations under the said subsection (2)(b) as the Secretary of State approves,".
		In section 91(1), the words "and after consultation with the Scottish Housing Advisory Committee". In section 91(2), the words "and the said Committee". Section 145(5)(b). Section 151(6). Section 167.
		In section 177(1) the words from "artistic interest" to the end. In section 177(2) the words " , and if required by the Secretary of State shall," and the words from " , and the authority" to the end.
1968 c. 31.	Housing (Financial Provisions) (Scotland) Act 1968.	In section 49(1), the words "subject to such conditions as may be approved by the Secretary of State". Section 50.

SCH. 5

Chapter	Short title	Extent of repeal
1970 c. 35.	Conveyancing and Feudal Reform (Scotland) Act 1970.	Section 9(7).
1970 c. 44.	Chronically Sick and Disabled Persons Act 1970.	Section 10.
1971 c. 28.	Rent (Scotland) Act 1971.	<p>In section 4(1) the words from "or of" to "Cornwall".</p> <p>In section 5, in subsection (4), the words from the beginning to "fulfilled," and subsection (5).</p> <p>Section 7(1) and in subsection (2) the words from "which" to the end.</p> <p>Section 9(1).</p> <p>Section 24.</p> <p>In section 25(1) the words "or section 24(2)".</p> <p>Sections 29 and 30.</p> <p>In section 36, the definition of "improvement".</p> <p>Part V.</p> <p>Sections 70 to 76.</p> <p>In section 80(2), the words "(whether a controlled or regulated tenancy)".</p> <p>Section 81.</p> <p>In section 82 the definitions of "qualification certificate" and "qualifying conditions".</p> <p>Section 84.</p> <p>In section 85 the words from "or of" to "Cornwall".</p> <p>Section 97(2).</p> <p>In section 100, the definition of "rent tribunal".</p> <p>Section 106(8).</p> <p>In section 110(1)(b), the words "either controlled heritable securities or".</p> <p>Section 110(2).</p> <p>In section 111(1), the words "but which is not a controlled heritable security".</p> <p>Sections 113 to 115.</p> <p>Section 122(1)(b).</p> <p>Section 123(2), and in section 123(3), the references to sections 24(3), 49(4), 50(4), 54(2) and 69(4).</p> <p>Section 125(2).</p> <p>Section 129(2).</p> <p>In section 133, the definition of "controlled tenancy", "repairs increase", "section 50 increase" and "standard rent".</p>

Chapter	Short title	Extent of repeal
1971 c. 28— <i>cont.</i>	Rent (Scotland) Act 1971 <i>—cont.</i>	Section 135(1). Schedule 2. In Schedule 3, (i) in Case 5 the words from “or, in” to “1939,”; (ii) Case 6 (iii) in Case 9 the words “or as the case may be, Part V”. Schedule 8. Schedules 10 to 12. Schedule 14. Schedules 16 and 17. In Schedule 19, paragraphs 9, 10, 14(1)(c) and 19(1).
1971 c. 40.	Fire Precautions Act 1971.	In Part III of the Schedule, in paragraph 1(1), the words “or a controlled”, in paragraph 1(2), sub-paragraph (a), paragraphs 1(6) and 1(7) and 4.
1972 c. 46.	Housing (Financial Provisions) (Scotland) Act 1972.	Section 49(2). In section 50, the definition of “controlled tenancy”. In section 61(3), the words “subject to section 64 of this Act”. In section 62, in subsection (2) the words “and 64”, in subsection (4) the words “or section 64(4)”. Sections 64 and 65. In Schedule 7, paragraphs 1 to 7.
1973 c. 65.	Local Government (Scotland) Act 1973.	In Schedule 12, paragraph 1. In Schedule 13, paragraphs 4, 5 and 7.
1974 c. 44.	Housing Act 1974.	In section 18, in subsection (2) the words “in such form as may be prescribed” and subsection (5).
1974 c. 45.	Housing (Scotland) Act 1974.	Section 1(2). In section 7, in subsection (1) the words “by the owner,” in both places where they appear, subsection (1)(c) and the word “and” which precedes it. In section 8, in subsection (1) the words “and in subsection (2) below” and subsection (2). In section 9, in paragraph (b) of subsection (5) the words “by a member of the agricultural population”.

SCH. 5

Chapter	Short title	Extent of repeal
1974 c. 45— <i>cont.</i>	Housing (Scotland) Act 1974— <i>cont.</i>	In section 10A(5), “(1A)”. Section 14A(2). In section 49(3), in the definition of “owner”, the words “but in Part I includes such a lessee as is mentioned in section 2(3)(a) of this Act.” In Schedule 3, paragraph 37.
1974 c. 51. 1975 c. 21.	Rent Act 1974. Criminal Procedure (Scotland) Act 1975.	Section 1(3). In Schedule 7C, in the entry relating to the Housing (Scotland) Act 1966, in the first column, the words from “where” to the end of the column.
1975 c. 28.	Housing Rents and Subsidies (Scotland) Act 1975.	Section 1(5). Section 2. In section 5, in subsection (2) the words “and the terms of any agreement shall be approved by him”, in subsection (3) the words “and to the terms”. Sections 7 to 11. Schedule 2. In Schedule 3, paragraph 5.