

Housing (Scotland) Bill

[AS INTRODUCED]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 45-EN), a Financial Memorandum (SP Bill 45-FM), a Policy
Memorandum (SP Bill 45-PM), a Delegated Powers Memorandum (SP Bill 45-DPM) and
statements on legislative competence (SP Bill 45-LC).**

Housing (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about rent control; evictions and damages for unlawful evictions; residential tenants keeping pets and making changes to let property; unclaimed tenancy deposits; registration of letting agents; ending of joint tenancies; delivery of notices by social landlords; conversion of assured tenancies; homelessness prevention; mobile homes; fuel poverty; the new homes ombudsman; and for connected purposes.

PART 1

RENT

CHAPTER 1

DESIGNATION OF RENT CONTROL AREAS

Rent conditions: assessments and reports

1 Periodic assessment of rent conditions

- (1) Each local authority must, by no later than the end of each reporting period—
- (a) carry out an assessment of—
 - (i) the level of rent payable under relevant tenancies of properties in the area of the local authority, and
 - (ii) the rate of increase in rent payable under relevant tenancies of properties in the area of the local authority, and
 - (b) prepare and submit a report in relation to the assessment to the Scottish Ministers (see section 2).
- (2) In subsection (1), “reporting period”—
- (a) in the case of the first report of a local authority under that subsection, means the period ending with 30 November 2026,
 - (b) in the case of each subsequent report of a local authority under that subsection, means the period of 5 years beginning with the day following the end of the reporting period relating to the local authority’s previous report under that subsection.

- (3) The Scottish Ministers may by regulations amend subsection (2)(a) to, for the date specified in that subsection, substitute another date.
- (4) The Scottish Ministers may by regulations amend subsection (2)(b) to—
- (a) for the time period for the time being specified in that subsection—
- 5 (i) substitute another time period by which one or more subsequent reports must be submitted,
- (ii) specify a date (or dates) by which one or more subsequent reports must be submitted,
- 10 (b) for the date (or dates) for the time being specified in that subsection (such specification having been made as mentioned in paragraph (a)(ii)), substitute a date (or dates) by which one or more subsequent reports must be submitted.
- (5) In this Chapter—
- “assessment of rent conditions” means an assessment of the matters mentioned in subsection (1)(a),
- 15 “relevant tenancy” means a private residential tenancy, or an assured tenancy under the Housing (Scotland) Act 1988.

2 Report to Scottish Ministers following periodic assessment

- (1) A local authority’s report under section 1(1) must—
- 20 (a) include details of the assessment of rent conditions carried out by the local authority,
- (b) state—
- (i) whether or not it recommends to the Scottish Ministers that they designate all or any part of the area of the local authority as a rent control area under section 9(1), and
- 25 (ii) the reasons for any such recommendation.
- (2) In its report under section 1(1), a local authority may recommend the designation of any area as a rent control area only if the local authority is of the opinion that the introduction of measures to control the rate at which rent payable under private residential tenancies of properties in the area is increasing is necessary to protect the social and economic interests of tenants in the area.
- 30 (3) Where a report includes a recommendation as mentioned in subsection (2) that an area be designated as a rent control area, the report must include a plan identifying the boundary of the area.
- (4) In this Chapter, “rent control area” means an area that is designated as a rent control area by regulations under section 9(1).
- 35

3 Interim assessment and reports by local authorities

- (1) Subsection (2) applies where a local authority considers that, since the submission of the most recent report under section 1(1) in relation to the area of the local authority—
- (a) there has been a significant change in—
 - (i) the level of rents under relevant tenancies in the area (or any part of it), or
 - (ii) the rate of increase in rents under relevant tenancies in the area (or any part of it), and
 - (b) the change may affect the need to designate the area (or any part of it) as a rent control area.
- (2) The local authority may (in addition to the duty to carry out a periodic assessment of rent conditions and to submit a subsequent report under section 1(1)) carry out an interim assessment of rent conditions in relation to its area of (either or both)—
- (a) the level of rents in the area (or any part of it),
 - (b) the rate of increase in rents in the area (or any part of it).
- (3) Where a local authority is carrying out an interim assessment of rent conditions under subsection (2), it must inform the Scottish Ministers in writing of that fact.
- (4) Subsection (5) applies where the Scottish Ministers consider that, since the submission by a local authority of its most recent report under section 1(1), there has been a significant change in—
- (a) the level of rents under relevant tenancies in the area of the local authority (or any part of it), or
 - (b) the rate of increase in rents under relevant tenancies in the area of the local authority (or any part of it).
- (5) The Scottish Ministers may direct the local authority (in addition to the duty to carry out a periodic assessment of rent conditions and to submit a subsequent report under section 1(1)) to carry out an interim assessment of rent conditions in relation to its area of (either or both)—
- (a) the level of rents in the area (or any part of it),
 - (b) the rate of increase in rents in the area (or any part of it).
- (6) Where a local authority has carried out an interim assessment of rent conditions under subsection (2), it must prepare a report relating to the assessment and submit it to the Scottish Ministers as soon as is reasonably practicable following the completion of the interim assessment.
- (7) Where a local authority has carried out an interim assessment of rent conditions under subsection (5), it must prepare a report relating to the assessment and submit it to the Scottish Ministers in accordance with any time limit specified in the Scottish Ministers' direction given under that subsection.
- (8) A direction under subsection (5) must—
- (a) be given in writing, and
 - (b) be published in such manner as the Scottish Ministers consider appropriate.

*Consideration of rent conditions reports***4 Scottish Ministers to review local authority report**

The Scottish Ministers must consider a report received from a local authority under—

- (a) section 1(1),
- (b) section 3(6), or
- (c) section 3(7),

as soon as reasonably practicable after receipt of the report.

5 Further assessment of rent conditions and report by local authority

(1) Subsection (2) applies if the Scottish Ministers, having considered a report from a local authority as mentioned in section 4, or pursuant to a direction under subsection (2), are of the opinion that—

- (a) the assessment of rent conditions to which the report relates was not adequate, or
- (b) the local authority did not have regard to the Scottish Ministers' relevant guidance in connection with—

- (i) the carrying out of its assessment of rent conditions on which the report is based, or
- (ii) the preparation of the report.

(2) The Scottish Ministers may direct the local authority to carry out a further assessment of rent conditions and submit a further report in relation to that assessment.

(3) A direction under subsection (2) must—

- (a) be given in writing, and
- (b) specify the timing and manner of the local authority's further assessment and report.

(4) A requirement to submit a further report in accordance with a direction under subsection (2) does not affect the duty of a local authority to submit a periodic report under section 1(1).

(5) In subsection (1)(b), "relevant guidance" means—

- (a) in relation to the carrying out of an assessment, guidance issued under section 6(1),
- (b) in relation to the preparation of a report, guidance issued under section 7(1).

*Ministerial guidance on local authority assessments and reports***6 Ministerial guidance on assessments of rent conditions**

(1) The Scottish Ministers may issue guidance to local authorities about the carrying out of assessments of rent conditions under section 1(1), 3(2) or (5), or 5(2).

(2) Guidance issued under subsection (1) may, in particular, include provision about—

- (a) the nature of an assessment of rent conditions including different stages of an assessment,

- (b) the matters to be considered by a local authority in carrying out an assessment,
- (c) action to be taken by a local authority in the course of carrying out an assessment,
- (d) matters to be taken into account in identifying discrete parts of the area of the local authority that are to be considered individually as part of an assessment,
- 5 (e) matters to be taken into account by a local authority in assessing whether the level of rent payable under relevant tenancies of properties in an area is to be considered by the local authority as being too high,
- (f) matters to be taken into account by a local authority in assessing whether the rate at which rent payable under relevant tenancies of properties in an area is increasing is to be considered by the local authority as being too high.

- 10 (3) Before issuing guidance under subsection (1), the Scottish Ministers must consult—
 - (a) local authorities, and
 - (b) persons who appear to them to represent the interests of tenants and landlords.
- 15 (4) The Scottish Ministers must publish guidance issued under subsection (1) in such manner as they consider appropriate.
- (5) In carrying out an assessment of rent conditions mentioned in subsection (1), a local authority must have regard to any guidance issued under that subsection.

7 Ministerial guidance on reports following assessments of rent conditions

- 20 (1) The Scottish Ministers may issue guidance to local authorities about reports to be prepared under section 1(1), 3(6) or (7), or 5(2).
- (2) Guidance under subsection (1) may, in particular, include provision about—
 - 25 (a) the form in which a report is to be prepared,
 - (b) the information to be included in a report, including any documents to be submitted with the report,
 - (c) the anonymising of—
 - (i) information to be included in the report,
 - (ii) documents to be submitted with the report,
 - (d) matters to be considered by local authorities in deciding whether to recommend the designation of an area as a rent control area,
 - 30 (e) the identification of such an area with reference to a plan,
 - (f) any other criteria or thresholds applying to a recommendation to designate an area as a rent control area.
- (3) Before issuing guidance under subsection (1), the Scottish Ministers must consult—
 - (a) local authorities, and
 - 35 (b) persons who appear to them to represent the interests of tenants and landlords.
- (4) The Scottish Ministers must publish guidance issued under subsection (1) in such manner as they consider appropriate.

- (5) In preparing and submitting a report mentioned in subsection (1), a local authority must have regard to any guidance issued by the Scottish Ministers under that subsection.

Ministers' decision on whether to designate rent control area

8 Scottish Ministers' duty to report

- (1) The Scottish Ministers, having considered a report from a local authority under section 4 or a further report mentioned in section 5(2), must prepare and publish a report—
- (a) stating—
 - (i) whether or not they propose to lay a draft of a Scottish statutory instrument containing regulations under section 9(1) designating all or part of the area of the local authority as a rent control area, and
 - (ii) the reasons for their decision,
 - (b) including an explanation of such other matters as the Scottish Ministers consider appropriate.
- (2) The Scottish Ministers must publish the report prepared by them—
- (a) as soon as reasonably practicable after receiving the relevant local authority report,
 - (b) in such manner as they consider appropriate.

9 Power to designate rent control area

- (1) Having considered a report from a local authority under section 4 or a further report mentioned in section 5(2), the Scottish Ministers may by regulations designate all or part of the area of the local authority as a rent control area.
- (2) But the Scottish Ministers may designate under subsection (1) all or part of the area of a local authority only if they are satisfied that restricting the rate of increase in rent payable under private residential tenancies in the area to be designated—
- (a) is necessary and proportionate for the purpose of protecting the social and economic interests of tenants in the area, and
 - (b) is a necessary and proportionate control of landlords' use of their property in the area.
- (3) Regulations under subsection (1) designating an area as a rent control area must provide that the rent payable under a private residential tenancy of a property in the area that is not an exempt property may not be increased by more than an amount specified in the regulations which may include—
- (a) a specified percentage (which may be 0%),
 - (b) an amount falling within a specified range,
 - (c) an amount calculated with reference to—
 - (i) one or more specified factors, or
 - (ii) other specified criteria (including a formula).
- (4) Any regulations under subsection (1) cease to have effect on the expiry of a period of 5 years from the day on which the regulations come into force (unless they are revoked before the expiry of that period).

- (5) In subsection (3)—
- “an exempt property” has the meaning given by regulations under section 13(1),
- “specified” means specified in regulations under subsection (1).

10 Designation of rent control area: consultation

- 5 (1) Before laying a draft of a Scottish statutory instrument containing regulations under section 9(1) designating an area as a rent control area (“the proposed rent control area”), the Scottish Ministers must consult—
- (a) the local authority within whose area the proposed rent control area is situated,
- 10 (b) persons who appear to them to represent the interests of tenants and landlords under relevant tenancies of properties in the proposed rent control area.
- (2) The Scottish Ministers must—
- (a) consult the persons referred to in subsection (1) in relation to—
- (i) the specification of the area forming the proposed rent control area,
- 15 (ii) the form of the rent control measure being considered for the proposed rent control area,
- (iii) the level of the rent control measure being considered for the proposed rent control area,
- (b) allow a period of not less than 8 weeks for any representations to be made in response to the consultation.
- 20 (3) When laying a draft of a Scottish statutory instrument containing regulations mentioned in subsection (1) before the Scottish Parliament, the Scottish Ministers must also lay before the Parliament a report—
- (a) setting out the reasons why they consider that the regulations should be made including—
- 25 (i) the reasons for the specification of the area to be designated as a rent control area, and
- (ii) the reasons for the form and level of the rent control measure to be introduced for the area,
- (b) describing—
- 30 (i) the consultation carried out under subsection (1),
- (ii) any representations received in response to the consultation, and
- (iii) the changes (if any) from what was originally proposed as a result of those representations.
- 35 (4) In this Chapter, a “rent control measure” means a restriction on the amount by which the rent payable under a private residential tenancy of a property in a rent control area may be increased as mentioned in section 9(3).

11 Duty to keep rent control area under review

- (1) The Scottish Ministers must keep under review the operation of any regulations under section 9(1) in relation to each rent control area.
- (2) Where the Scottish Ministers consider that a rent control measure applying in a rent control area as provided for in regulations under section 9(1) is no longer necessary or proportionate, the Scottish Ministers must as soon as reasonably practicable lay a draft of a Scottish statutory instrument containing regulations under section 9(1) before the Scottish Parliament to vary or revoke the regulations as they consider appropriate.

12 Variation of rent controls in existing rent control area: consultation

- (1) This section applies where the Scottish Ministers propose to amend a rent control measure specified in regulations under section 9(1) that applies in relation to an existing rent control area.
- (2) Before laying a draft of a Scottish statutory instrument containing regulations under section 9(1) before the Scottish Parliament to provide for that amendment, the Scottish Ministers must consult—
- (a) the local authority within whose area the existing rent control area is situated,
 - (b) persons who appear to them to represent the interests of tenants and landlords under relevant tenancies of properties in the existing rent control area.
- (3) The Scottish Ministers must—
- (a) consult the persons referred to in subsection (2) in relation to—
 - (i) any revised form of the rent control measure being considered for the existing rent control area,
 - (ii) any revised level of the rent control measure being considered for the existing rent control area,
 - (b) allow a period of not less than 8 weeks for any representations to be made in response to the consultation.
- (4) When laying a draft of a Scottish statutory instrument containing regulations mentioned in subsection (2) before the Scottish Parliament, the Scottish Ministers must also lay before the Parliament a report—
- (a) setting out the reasons why they consider that the regulations should be made including the reasons for any revised form or level (or both) of the rent control measure to be introduced for the rent control area, and
 - (b) describing—
 - (i) the consultation carried out under subsection (2),
 - (ii) any representations received in response to the consultation, and
 - (iii) the changes (if any) from what was originally proposed as a result of those representations.

Properties exempt from or subject to modified restrictions

13 Properties exempt from rent control area restrictions

- (1) The Scottish Ministers may by regulations define, for the purpose of section 9(3), what is an exempt property.
- 5 (2) Regulations under subsection (1) may define a property as an exempt property by reference to such matters (or a combination of matters) as the Scottish Ministers consider appropriate including, in particular—
- (a) a description of the circumstances relating to the landlord of the property,
- (b) a description of the circumstances relating to the tenant of the property,
- 10 (c) a description of the property according to its type.
- (3) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1), the Scottish Ministers—
- (a) must consult persons who appear to them to represent the interests of tenants and landlords, and
- 15 (b) may consult any other person they consider appropriate.

14 Properties subject to modified rent control area restrictions

- (1) The Scottish Ministers may by regulations make provision for or in connection with a landlord of a specified property under a private residential tenancy—
- (a) to increase, with approval from such person as may be specified in the regulations, the rent payable under the tenancy by an amount that is more than the amount that would otherwise be permitted in the area in which the property is situated by regulations under section 9(1),
- 20 (b) to increase, without such approval, the rent payable under the tenancy by an amount that is more than the amount that would otherwise be permitted in the area in which the property is situated by regulations under section 9(1).
- 25 (2) In subsection (1), “a specified property” means a property defined in regulations under that subsection by reference to such matters (or a combination of matters) as the Scottish Ministers consider appropriate including, in particular—
- (a) a description of the circumstances relating to the landlord of the property,
- 30 (b) a description of the circumstances relating to the tenant of the property,
- (c) a description of the property according to its type.
- (3) Regulations under paragraph (a) of subsection (1) may, in particular, specify the process by which a landlord may seek approval from a decision maker (such as a rent officer or the First-tier Tribunal) to increase the rent payable under the tenancy by an amount referred to in that paragraph.
- 35 (4) Regulations under subsection (1) may modify an enactment, so far as it relates to a specified property, for or in connection with—
- (a) the method by which a landlord of a specified property may increase the rent payable under a private residential tenancy of a property in the area,

- (b) any review or appeal—
 - (i) in connection with such an increase, or
 - (ii) of a decision relating to such an increase.

(5) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1), the Scottish Ministers—

- (a) must consult persons who appear to them to represent the interests of tenants and landlords, and
- (b) may consult any other person they consider appropriate.

Power to seek information from landlords and tenants

15 Information that may be sought by local authority

(1) A local authority may request from a person who is entered in the authority's landlord register the information mentioned in subsection (2) in relation to any house that is entered in the person's entry in the register.

(2) The information referred to in subsection (1), in relation to any house mentioned in that subsection, is—

- (a) the address of the house,
- (b) a description of the type of tenancy or occupancy agreement to which the house is subject,
- (c) the amount of rent payable under any tenancy to which the house is subject,
- (d) the date on which the rent payable under such a tenancy was last increased and the amount by which the rent was last increased,
- (e) the size of the house including the number of bedrooms in the house, the number of storeys in the house and the floor area of the house,
- (f) the type of the house (such as whether it is a detached, semi-detached, terraced or flatted property).

(3) In addition, a local authority may request the information mentioned in subsection (2) in relation to a house mentioned in subsection (1) from a person with a right to use the house as a dwelling by virtue of a lease.

(4) The power conferred by subsection (1) or (3) may be exercised by a local authority for the purpose of—

- (a) enabling or assisting the exercise of any of its functions under this Chapter,
- (b) assisting the Scottish Ministers in the exercise of any of their functions under this Chapter.

(5) In making a request under subsection (1) or (3), a local authority must have regard to any guidance given by the Scottish Ministers about the form, content and frequency of such a request.

(6) In this section—

“house” is to be construed in accordance with section 101 of the Antisocial Behaviour etc. (Scotland) Act 2004,

“landlord register”, in relation to a local authority, means the register prepared and maintained by the local authority for the purpose of Part 8 of that Act.

- (7) The Scottish Ministers may by regulations modify this section so as to add or remove information that may be requested by a local authority under—

- 5 (a) subsection (1), or
(b) subsection (3).

16 Landlord’s failure to provide information sought

- 10 (1) If a local authority issues a request for information to a person (“the landlord”) under section 15(1) and the landlord fails to provide all of the information within 28 days of receiving the request, the local authority may give notice in writing to the landlord of its intention to apply to the First-tier Tribunal for an order under subsection (5).

- (2) A local authority may apply to the First-tier Tribunal for an order under subsection (5) only if it has given notice under subsection (1) to the landlord and either—

- 15 (a) the period of 28 days beginning with the day on which the landlord received the notice has expired and the landlord has not made a request in writing to the local authority during that period that the authority carry out a review of its intention to apply to the First-tier Tribunal, or

- 20 (b) the landlord made a request in writing for such a review by the local authority within that period and the authority, having carried out the review and considered any written representations made by or on behalf of the landlord, is satisfied—

- (i) when the local authority has concluded its review, that the landlord has not provided it with all of the information requested under section 15(1), and
(ii) that the landlord does not have a reasonable excuse for failing to do so.

- 25 (3) But a local authority may not apply to the First-tier Tribunal for an order under subsection (5) more than 12 months after the landlord received the request from the local authority under section 15(1).

- (4) Where an application is made by a local authority under subsection (2) following a request for information made to a landlord under section 15(1), the First-tier Tribunal may make an order under subsection (5) where—

- 30 (a) at the time the First-tier Tribunal receives the application, the landlord has not provided the local authority with all of the information requested by the local authority, and

- (b) the First-tier Tribunal is satisfied that the landlord does not have a reasonable excuse for failing to provide all of the information requested by the local authority.

- 35 (5) An order under this subsection is one requiring the landlord to pay the local authority that made the application an amount not exceeding £1,000.

- (6) In making an order under subsection (5), the First-tier Tribunal may, if it considers it to be appropriate, also order the landlord to provide any information requested by the local authority under section 15(1) that has not been provided by the landlord.

- 40 (7) In giving notice under subsection (1), a local authority must have regard to any guidance given by the Scottish Ministers about the form and content of such notices.

17 Landlord’s provision of false information

- (1) If a local authority issues a request for information to a person (“the landlord”) under section 15(1) and the landlord provided information in response to the request which the local authority considers must have been known by the landlord to be false in a material way, the local authority may give notice in writing to the landlord of its intention to apply to the First-tier Tribunal for an order under subsection (5).
- (2) A local authority may apply to the First-tier Tribunal for an order under subsection (5) only if it has given notice under subsection (1) to the landlord and either—
- (a) the period of 28 days beginning with the day on which the landlord received the notice has expired and the landlord has not made a request in writing to the local authority during that period that the authority carry out a review of its intention to apply to the First-tier Tribunal, or
 - (b) the landlord made a request in writing for such a review by the local authority within that period and the authority, having carried out the review and considered any written representations made by or on behalf of the landlord, is satisfied that the landlord provided information in response to its request under section 15(1) that the landlord must have known to be false in a material way.
- (3) But a local authority may not apply to the First-tier Tribunal for an order under subsection (5) more than 12 months after the landlord received the request from the local authority under section 15(1).
- (4) Where an application is made by a local authority under subsection (2) following a request for information made to a landlord under section 15(1), the First-tier Tribunal may make an order under subsection (5) if it is satisfied that the landlord, in purporting to comply with the request, provided information to the local authority that the landlord must have known to be false in a material way.
- (5) An order under this subsection is one requiring the landlord to pay the local authority that made the application an amount not exceeding £1,000.
- (6) In giving notice under subsection (1), a local authority must have regard to any guidance given by the Scottish Ministers about the form and content of such notices.

*Expiry of rent control area: power to modify law***18 Power to modify law in connection with the expiry of rent control area**

- (1) On or in anticipation of the expiry of regulations under section 9(1) (meaning that an area of a local authority ceases to be designated as a rent control area), the Scottish Ministers may by regulations make provision for or in connection with—
- (a) the method by which a landlord may increase the rent payable under a private residential tenancy of a property in the area,
 - (b) any review or appeal—
 - (i) in connection with such an increase, or
 - (ii) of a decision relating to such an increase.

- (2) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1), the Scottish Ministers—
- (a) must consult persons who appear to them to represent the interests of tenants and landlords, and
 - (b) may consult any other person they consider appropriate.
- (3) Regulations under subsection (1)—
- (a) may modify any enactment (including this Act),
 - (b) cease to have effect on the expiry of a period of 12 months from the day on which the regulations come into force (unless they are revoked before the expiry of that period).

CHAPTER 2

RENT CONTROL AREAS: MODIFICATIONS OF THE 2016 ACT

Setting and variation of rent

19 **Setting and variation of rent**

- (1) The 2016 Act is modified as follows.
- (2) After Part 4 (rent) insert—

“PART 4A

RENT: PROPERTIES IN A RENT CONTROL AREA (OTHER THAN EXCLUDED PROPERTIES)

CHAPTER 1

INITIAL PROVISIONS AND RESTRICTIONS IN RELATION TO RENT ETC.

Application of this Part

43A Application of this Part

This Part applies in relation to a private residential tenancy (in this Part, a “current tenancy”) of a property that—

- (a) is in a rent control area, and
- (b) is not an exempt property for the purpose of any regulations made under section 13(1) of the 2025 Act.

Key definitions in this Part

43B Meaning of property that is “previously let” and the “immediately preceding tenancy”

- (1) In this Part, a reference to the property let under a current tenancy as having been previously let is a reference to a property that—
 - (a) is the same or substantially the same as the property that was let under the immediately preceding tenancy, and
 - (b) is not an excluded property as mentioned in subsection (2).

- (2) For the purpose of subsection (1), the property let under the current tenancy is an excluded property if—
- (a) it was purchased by the landlord under the tenancy with vacant possession, and
 - (b) the tenancy is the first private residential tenancy of the property granted by the landlord since the purchase.
- (3) In this Part, a reference to the immediately preceding tenancy is, in relation to a current tenancy, a reference to a private residential tenancy or an assured tenancy that—
- (a) immediately preceded the current tenancy, and
 - (b) ended no more than 12 months before the start of the current tenancy.
- (4) The Scottish Ministers may by regulations modify this section to adjust the meaning of the expressions included in this section.

43C Meaning of “relevant rent increase”

- (1) In this Part, “relevant rent increase”, in relation to a current tenancy, means—
- (a) an increase in the amount payable in rent under a previous private residential tenancy or an assured tenancy of a property that is the same or substantially the same as the property let (or to be let) under the current tenancy (“a relevant tenancy”),
 - (b) a setting of the initial rent under a relevant tenancy (“tenancy A”) if—
 - (i) that initial rent is an amount exceeding the final rent under the relevant tenancy that immediately preceded tenancy A (“tenancy B”),
 - (ii) tenancy B ended no more than 12 months before the start of tenancy A, and
 - (iii) the property let under tenancy A is not an excluded property as mentioned in subsection (2).
- (2) For the purpose of subsection (1), property let under tenancy A is an excluded property if—
- (a) the property was purchased by the landlord under tenancy A with vacant possession, and
 - (b) tenancy A was the first private residential tenancy or assured tenancy granted by the landlord since the purchase.

43D Meaning of other terms

- (1) In this Part—
- “assured tenancy” means an assured tenancy under the Housing (Scotland) Act 1988,
 - “final rent”, in relation to a tenancy, means the amount that was payable in rent at the end of the tenancy,

“initial rent”, in relation to a tenancy, means the amount that is (or is to be) payable in rent at the start of the tenancy,

“permitted amount”, in relation to an area, means the maximum amount that is specified in regulations under section 9(1) of the 2025 Act as the amount that any increase in the rent payable under a current tenancy of a property in the area may not exceed,

“previous rent increase”, in relation to a current tenancy, means—

- (a) a setting of the initial rent under the current tenancy that exceeds the final rent under the immediately preceding tenancy, or
- (b) a relevant rent increase.

- (2) For the purpose of this Part, whether property let under a tenancy is the same or substantially the same as property let under a previous tenancy is to be determined with reference to a comparison between the description of each property in the terms applying to each tenancy.

Restriction on setting of initial rent by landlord

43E Restriction on setting of initial rent by landlord

- (1) This section applies if the property let (or to be let) under a current tenancy was previously let.
- (2) If there was a relevant rent increase during the period of 12 months before the start of the current tenancy, the initial rent under the current tenancy may not be more than the final rent under the immediately preceding tenancy.
- (3) If there was not a relevant rent increase during the period of 12 months before the start of the current tenancy, the initial rent under the current tenancy may not be more than the final rent under the immediately preceding tenancy as increased by the permitted amount for the area in which the property is situated.

Restrictions on rent increases

43F Method by which rent may be increased

The rent payable under a current tenancy may be increased only in accordance with Chapter 2.

43G Frequency with which rent may be increased

- (1) The rent payable under a current tenancy may not be increased—
 - (a) if the let property was previously let—
 - (i) on the first occasion after the setting of the initial rent under the current tenancy, unless the most recent previous rent increase took effect more than 12 months previously,
 - (ii) thereafter, more than once in a 12 month period,

(b) if the let property was not previously let—

(i) during the first 12 months of the current tenancy except in such circumstances as may be prescribed by the Scottish Ministers in regulations,

(ii) more than once in any other 12 month period.

(2) For the purpose of subsection (1)(a)(ii) or (b)(ii), where the last rent increase resulted from an order of a rent officer or the First-tier Tribunal, the 12 month period is to be regarded as commencing on the date on which the rent would have been increased in accordance with section 43J(4) had a referral to a rent officer not been made.

Restrictions on other charges and diligence

43H No premiums, advance payments, etc.

(1) Sections 82, 83 and 86 to 90 of the Rent (Scotland) Act 1984 apply in relation to a current tenancy as they apply in relation to a tenancy of the kind to which those sections refer.

(2) But—

(a) section 83(5) of that Act is to be ignored,

(b) the date mentioned in section 88(1) of that Act is to be read as if it were the date on which this section comes into force.

43I Restriction on diligence

Except with the leave of the First-tier Tribunal, no diligence is to be done in respect of—

(a) the rent due by a tenant or former tenant under a current tenancy,

(b) any liability of a tenant or former tenant arising under section 43S.

CHAPTER 2

RENT VARIATION INSTIGATED BY LANDLORD'S NOTICE

Rent-increase notice given by landlord

43J Landlord's power to increase rent by no more than the permitted amount

(1) The landlord under a current tenancy may increase the rent payable under the tenancy by giving the tenant a notice in accordance with this section (“a rent-increase notice”).

(2) But the landlord under a current tenancy may not increase the rent payable under the tenancy by more than the permitted amount for the area in which the let property is situated.

(3) The rent-increase notice must—

(a) specify—

(i) the rent that will be payable once the increase takes effect,

- (ii) the day on which the increase is to take effect, and
- (b) fulfil any other requirements prescribed by the Scottish Ministers in regulations.
- (4) The rent increase takes effect on the effective date, unless before that date—
- 5 (a) the landlord intimates to the tenant that the notice is rescinded,
- (b) the tenant makes a referral to a rent officer under section 43L(2), or
- (c) the tenant applies to the First-tier Tribunal under section 43Q(1).
- (5) For the purpose of subsection (4), the effective date is the date of the later of—
- 10 (a) the day specified in the notice in accordance with subsection (3)(a)(ii),
or
- (b) the day after the day on which the minimum notice period ends.
- (6) In subsection (5)(b), “the minimum notice period” means the period that—
- (a) begins on the day the notice is received by the tenant, and
- 15 (b) ends on the day falling—
- (i) three months after it began, or
- (ii) whatever longer period after it began as the landlord and tenant have agreed between them.
- (7) In subsection (6), the reference to a period of three months is to a period that
- 20 ends in the month that falls three months after the month in which it began, either—
- (a) on the same day of the month as it began, or
- (b) if the month in which the period ends has no such day, on the final day of that month.

25 **43K Modification of rent-increase notice by parties**

- (1) This section does not apply in relation to a current tenancy of a property in an area for which the permitted amount is zero (or equivalent to zero).
- (2) Anything specified in a rent-increase notice in accordance with section 43J(3)(a)
- 30 may be modified by agreement between the landlord and tenant under the current tenancy.
- (3) But the landlord and the tenant may not modify a rent-increase notice under subsection (2) so as to increase the rent payable under the current tenancy by more than the permitted amount for the area in which the let property is situated.
- 35 (4) A modification made to a rent-increase notice by virtue of subsection (2) ceases to have effect if the notice subsequently prompts a referral to a rent officer under section 43L(2).

*Tenant's referral of rent-increase notice to rent officer***43L Tenant's right to refer rent-increase notice to rent officer**

- 5 (1) If a tenant who has received a rent-increase notice considers that the proposed increase in the rent payable under the current tenancy is more than the permitted amount for the area in which the let property is situated, the tenant must notify the landlord in writing of the tenant's view before the end of the day falling 21 days after the tenant receives the notice.
- 10 (2) The tenant may make a referral to a rent officer for the area in which the let property is situated seeking a decision under section 43M in relation to the rent-increase notice if, before the end of the day falling 21 days after the landlord receives notification from the tenant under subsection (1), either—
- 15 (a) where the permitted amount for the area is zero (or equivalent to zero), the landlord has not notified the tenant in writing that the rent-increase notice has been withdrawn, or
- (b) in any other case, the landlord and the tenant have not agreed to a modification of the rent-increase notice so as to increase the rent payable in respect of the let property by no more than the permitted amount for the area in which the let property is situated.
- 20 (3) A referral to a rent officer under subsection (2) must be—
- (a) in the prescribed form,
- (b) accompanied by the prescribed fee (if any),
- (c) intimated by the tenant to the landlord in the prescribed manner, and
- (d) made before the end of the day falling 42 days after the landlord receives notice from the tenant under subsection (1).
- 25 (4) In subsection (3), “prescribed” means prescribed by the Scottish Ministers in regulations.

43M Rent officer's power to set rent

- 30 (1) Where a rent officer receives a referral under section 43L(2), the rent officer is to decide whether the rent specified in accordance with section 43J(3)(a)(i) in the rent-increase notice would be an increase in the rent payable under the current tenancy of more than the permitted amount for the area in which the let property is situated.
- 35 (2) If the rent officer decides under subsection (1) that the rent specified in the rent-increase notice would be an increase in the rent payable under the current tenancy of no more than the permitted amount for the area in which the let property is situated, the rent officer must make an order stating that from the effective date the rent payable under the tenancy is the rent specified in the rent-increase notice.
- 40 (3) If the rent officer decides under subsection (1) that the rent specified in the rent-increase notice would be an increase in the rent payable under the current

tenancy of more than the permitted amount for the area in which the let property is situated, the rent officer must make an order stating—

(a) where the permitted amount for the area is zero (or equivalent to zero), that the rent-increase notice has no effect,

(b) in any other case, that from the effective date the rent payable under the current tenancy is the rent determined by the rent officer.

(4) The rent determined by the rent officer under subsection (3)(b) must be the rent payable under the current tenancy as increased by the permitted amount for the area in which the let property is situated.

(5) For the purpose of subsections (2) and (3), the effective date is—

(a) where the rent officer makes the order 14 days or more before the original effective date, the original effective date,

(b) otherwise, the first payment date falling at least 14 days after the day on which the rent officer makes the order.

(6) In subsection (5)—

“original effective date” means the date on which the rent would have been increased in accordance with section 43J(4) had the referral to the rent officer not been made under section 43L(2),

“payment date” means a date on which a rent payment falls to be made in accordance with the terms of the current tenancy.

43N Rent officer’s power to correct order

(1) A rent officer may, within 14 days of making an order under section 43M(2) or (3), remake the order for the purpose of curing an error in the original order made under that subsection.

(2) The effective date of the remade order is to be specified in accordance with subsection (2) or (3) of section 43M as though it were an order made under either of those subsections.

(3) Where an order is remade under this section—

(a) the original order is of no effect,

(b) other than in subsection (1), references in this Part to an order made under section 43M(2) or (3) are to be read as references to the remade order,

(c) if a request for review of the original order has been made under section 43O(1), the review is to be regarded as having been made against the remade order.

43O Right of review to another rent officer

(1) Where a rent officer has made an order under section 43M(2) or (3) in relation to the rent payable under a current tenancy, the landlord or the tenant may request a review of the order by a different rent officer.

- (2) A request for a review of an order under subsection (1) must—
- (a) be made before the end of the day falling 14 days after the order is made,
 - (b) be in the prescribed form,
 - (c) be intimated by the landlord or the tenant (as the case may be) to the other party to the tenancy by sending a copy of the request to the other party.
- (3) Requesting a review under subsection (1) renders the order being reviewed of no effect.
- (4) In subsection (2), “prescribed” means prescribed by the Scottish Ministers in regulations.

43P Other rent officer’s power to set rent

- (1) Where a rent officer receives a request for a review under section 43O(1), the rent officer is to decide whether the rent specified in accordance with section 43J(3)(a)(i) in the rent-increase notice prompting the referral to the first rent officer under section 43L(2) would be an increase in the rent payable under the current tenancy of more than the permitted amount for the area in which the let property is situated.
- (2) If the rent officer decides under subsection (1) that the rent specified in the rent-increase notice would be an increase in the rent payable under the current tenancy of no more than the permitted amount for the area in which the let property is situated, the rent officer must make an order stating that from the effective date the rent payable under the current tenancy is the rent specified in the rent-increase notice.
- (3) If the rent officer decides under subsection (1) that the rent specified in the rent-increase notice would be an increase in the rent payable under the current tenancy of more than the permitted amount for the area in which the let property is situated, the rent officer must make an order stating that from the effective date the rent payable under the current tenancy is the rent determined by the rent officer.
- (4) The rent determined by the rent officer under subsection (3) must be the rent payable under the current tenancy as increased by the permitted amount for the area in which the let property is situated.
- (5) For the purpose of subsections (2) and (3), the effective date is—
- (a) where the rent officer makes the order 14 days or more before the original effective date, the original effective date,
 - (b) otherwise, the first payment date falling at least 14 days after the day on which the rent officer makes the order.
- (6) In subsection (5)—
- “original effective date” means the date on which the rent would have been increased in accordance with section 43J(4) had the referral to the rent officer not been made under section 43L(2),

“payment date” means a date on which a rent payment falls to be made in accordance with the terms of the current tenancy.

- (7) Where the rent officer makes an order under subsection (2) or (3), the order under section 43M(2) or (3) to which the request for review under section 43O(1) relates is of no effect.

Tenant’s application to First-tier Tribunal relating to rent-increase notice

43Q Tenant’s right to apply to First-tier Tribunal in relation to rent-increase notice

- (1) A tenant under a current tenancy of a property that was previously let who has received a rent-increase notice on the first occasion under the tenancy may apply to the First-tier Tribunal for determination of whether—

(a) a previous rent increase took effect less than 12 months before the day on which the increase is to take effect (as specified in the notice in accordance with section 43J(3)(a)(ii)),

(b) the initial rent under the tenancy (that is proposed to be increased by the rent-increase notice) was not set in accordance with section 43E(2) or (3) (as the case may be).

- (2) A tenant may make an application under subsection (1) only if—

(a) the tenant has notified the landlord in writing before the end of the day falling 21 days after the tenant receives the rent-increase notice as to why the tenant considers that the circumstances mentioned in paragraph (a) or (b) (as the case may be) of subsection (1) are met, and

(b) before the end of the day falling 21 days after the landlord receives notification from the tenant under paragraph (a), the landlord and tenant have not agreed to a modification of the rent-increase notice as mentioned in subsection (3).

- (3) The modification referred to in subsection (2)(b) is—

(a) where the tenant considers that the circumstances mentioned in subsection (1)(a) are met, a modification so that the increase in rent is to take effect 12 months or more after the most recent previous rent increase took effect,

(b) where the tenant considers that the circumstances mentioned in subsection (1)(b) are met, a modification so that the increase in the rent payable is based on increasing an amount of rent that is set in accordance with section 43E(2) or (3) (as the case may be).

- (4) An application to the First-tier Tribunal under subsection (1) must be—

(a) intimated by the tenant to the landlord in the prescribed manner, and

(b) made before the end of the day falling 42 days after the landlord receives the notice from the tenant in accordance with subsection (2)(a).

- (5) In subsection (4), “prescribed” means prescribed by the Scottish Ministers in regulations.

43R First-tier Tribunal's powers on an application under section 43Q(1)

- (1) Subsection (2) applies where the First-tier Tribunal receives an application under section 43Q(1)(a) in relation to a rent-increase notice given under a current tenancy.
- 5 (2) If the Tribunal determines—
- (a) that any previous rent increase took effect less than 12 months before the original effective date, the Tribunal must make an order that the rent-increase notice is of no effect (and accordingly the rent payable under the current tenancy is unchanged),
- 10 (b) that any previous rent increase took effect 12 months or more before the original effective date, the Tribunal must make an order stating that from the effective date the rent payable under the current tenancy is the lower of—
- 15 (i) the rent specified in the rent-increase notice in accordance with section 43J(3)(a)(i), and
- (ii) the rent payable under the tenancy as increased by the permitted amount for the area in which the let property is situated.
- (3) Subsection (4) applies where the First-tier Tribunal receives an application under section 43Q(1)(b) in relation to a rent-increase notice given under a current tenancy.
- 20 (4) If the Tribunal determines—
- (a) that the initial rent under the current tenancy (that is proposed to be increased by the rent-increase notice) was not set in accordance with section 43E(2) or (3) (as the case may be), the Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the rent determined by the Tribunal,
- 25 (b) that the rent payable at the start of the current tenancy (that is proposed to be increased by the rent-increase notice) was set in accordance with section 43E(2) or (3) (as the case may be), the Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the lower of—
- 30 (i) the rent specified in the rent-increase notice in accordance with section 43J(3)(a)(i), and
- (ii) the rent payable under the tenancy as increased by the permitted amount for the area in which the let property is situated.
- 35 (5) In determining the rent under subsection (4)(a), the First-tier Tribunal may not determine that the rent payable under the current tenancy from the effective date is more than the base rent as increased by the permitted amount for the area in which the let property is situated.
- 40 (6) For the purpose of subsection (2) or (4), the effective date is—
- (a) where the Tribunal makes the order 14 days or more before the original effective date, the original effective date,

(b) otherwise, the first payment date falling at least 14 days after the day on which the Tribunal makes the order.

(7) In this section—

“base rent” means the amount of rent that would have been payable from the start of the current tenancy had the rent been set in accordance with section 43E(2) or (3) (as the case may be),

“original effective date” means the date on which the rent would have been increased in accordance with section 43J(4) had the referral to the First-tier Tribunal not been made under section 43Q(1),

“payment date” means a date on which a rent payment falls to be made in accordance with the terms of the current tenancy.

Matters arising from referral to rent officer or application to First-tier Tribunal

43S Tenant’s liability for underpaid rent

(1) This section applies where—

(a) the rent payable under a current tenancy has been changed by an order made under—

(i) section 43M(2) or (3),

(ii) section 43P(2) or (3), or

(iii) section 43R(2)(b) or (4)(a) or (b),

(b) the effective date stated in the order (“the actual effective date”) falls later than the date on which the rent would have been increased in accordance with section 43J(4) had a referral to a rent officer not been made under section 43L(2) or, as the case may be, had an application to the First-tier Tribunal not been made under section 43Q(1) (“the originally proposed effective date”), and

(c) the rent payable from the actual effective date (“the new rent”) is more than the rent payable immediately before that date (“the old rent”).

(2) On the date the order is made the tenant becomes liable under this subsection to pay the landlord the difference between—

(a) the amount that would have been payable in rent between the originally proposed effective date and the actual effective date had the new rent been the rent payable from the originally proposed effective date, and

(b) the amount that should have been paid in rent during the same period (whether or not it was actually paid).

(3) Subsection (4) applies if, at the end of the day falling 28 days after a tenant’s liability under subsection (2) arose, that liability is (in whole or in part) still outstanding.

(4) For the purposes of paragraph 12 of schedule 3, the liability mentioned in subsection (3) is to be regarded as a sum that fell to be paid by way of rent on the day the liability arose.

- (5) In this section, a reference to a period between two dates includes both of those dates.

43T Withdrawal of referral or request for review by rent officer or application to First-tier Tribunal

- (1) This section applies—

(a) where a referral to the rent officer made under section 43L(2) is withdrawn by the tenant,

(b) where—

(i) a request for a review by another rent officer made under section 43O(1) is withdrawn by one party, and

(ii) either—

(A) the other party has not requested a review in respect of the tenancy in question, or

(B) any request for a review by the other party has been withdrawn, or

(c) where an application to the First-tier Tribunal made under section 43Q(1) is withdrawn by the tenant.

- (2) The order maker must make an order under section 43M(2) or (3), section 43P(2) or (3), or section 43R(2)(b) or (4)(a) or (b) (as the case may be), stating that from the effective date the rent payable under the current tenancy concerned is the lower of—

(a) the rent specified in the rent-increase notice, and

(b) the rent payable under the tenancy as increased by the permitted amount for the area in which the let property is situated.

- (3) Where the order maker is another rent officer in relation to the making of an order under section 43P(2) or (3), an order may not be made by virtue of subsection (2) until the expiry of the period within which a request for a review made under section 43O(1) may be made.

- (4) In subsection (2)—

“order maker” means—

(a) in the case of the making of an order under section 43M(2) or (3), the rent officer,

(b) in the case of the making of an order under section 43P(2) or (3), another rent officer,

(c) in the case of the making of an order under section 43R(2)(b) or (4)(a) or (b), the First-tier Tribunal,

“the rent-increase notice” means the rent-increase notice that, as the case may be—

(a) prompted the referral to the rent officer,

(b) led to the request for review by another rent officer, or

(c) led to the application to the First-tier Tribunal.”.

Information about rent to be included in advertisements

20 Prospective landlords’ duty to include information about rent in advertisements

(1) The 2016 Act is modified as follows.

5 (2) After section 17 insert—

“Information about rent to be included in advertisements

17A Prospective landlords’ duty to include information about rent in advertisements etc.

(1) A person—

10 (a) who proposes to let a property (“the advertised property”) in a rent control area on an agreement that may give rise to a private residential tenancy, and

(b) who is communicating with another person by way of advertisement in writing with a view to entering into such an agreement,

15 must include the information mentioned in subsection (2) in the advertisement.

(2) The information referred to in subsection (1)—

(a) where the advertised property was let previously, is—

(i) the rent payable under the previous tenancy,

(ii) the date (if any) on which the rent was most recently increased under the previous tenancy,

(iii) the rent that the prospective landlord proposes to be payable under the tenancy,

(iv) confirmation that the property is in a rent control area,

(b) where the advertised property was not let previously, is—

(i) the rent that the prospective landlord proposes to be payable under the tenancy,

(ii) confirmation that the property is in a rent control area.

(3) For the purpose of subsection (2), subject to subsection (4), an advertised property was let previously if—

30 (a) there was a previous private residential tenancy or assured tenancy of property that is the same or substantially the same as the advertised property (“the previous tenancy”),

(b) the previous tenancy immediately preceded the proposed let of the advertised property, and

35 (c) the previous tenancy ended no more than 12 months before the advertisement of the advertised property.

- (4) But an advertised property was not let previously if—
- (a) the person who is to become the landlord under the proposed tenancy purchased the property with vacant possession, and
 - (b) the proposed tenancy is to be the first private residential tenancy of the property to be granted by that person since the purchase.
- (5) The Scottish Ministers may by regulations—
- (a) modify subsection (2) to add or remove information to be included in an advertisement referred to in subsection (1),
 - (b) modify subsection (3) or (4) to adjust the meaning of the expressions included in those subsections.
- (6) In this section, “advertisement” includes any form of advertising whether—
- (a) to the public generally,
 - (b) to any section of the public, or
 - (c) individually to selected persons.”.

CHAPTER 3

OTHER RESTRICTIONS ON RENT INCREASES

Frequency of rent increases

21 Private residential tenancies not in rent control area: frequency of rent increase

- (1) The 2016 Act is modified as follows.
- (2) In section 19 (frequency with which rent may be increased)—
- (a) in subsection (1), for the words “more than once in a 12 month period” substitute “—
 - (a) during the first 12 months of the tenancy except in such circumstances as may be prescribed by the Scottish Ministers in regulations,
 - (b) more than once in any other 12 month period”,
 - (b) in subsection (2), for “subsection (1)” substitute “subsection (1)(b)”.

Capping of rent increases on referral or appeal

22 Private residential tenancies: capping of rent increase

- (1) The 2016 Act is modified as follows.
- (2) In section 25 (rent officer’s power to set rent), in subsection (1)—
- (a) after “tenancy is” insert “the lower of—”,
 - (b) the words “the rent determined by the rent officer in accordance with section 32” become paragraph (a),
 - (c) after that paragraph, insert “, and

(b) the rent specified in accordance with section 22(2)(a)(i) in the rent-increase notice that prompted the referral.”.

(3) In section 29 (First-tier Tribunal’s power to set rent), in subsection (1)—

(a) after “tenancy is” insert “the lower of—”,

(b) the words “the rent determined by the First-tier Tribunal in accordance with section 32” become paragraph (a),

(c) after that paragraph, insert “, and

(b) the rent specified in accordance with section 22(2)(a)(i) in the rent-increase notice that led to the appeal.”.

(4) In section 34 (duty to make information available), in subsection (1)—

(a) the word “and” immediately following paragraph (a) is repealed,

(b) in paragraph (b), the words “to be payable” are repealed,

(c) after paragraph (b) insert “, and

(c) what rents they have ordered to be payable in accordance with section 25(1) or (as the case may be) 29(1).”.

23 Assured tenancies: capping of rent increase

(1) The Housing (Scotland) Act 1988 is modified as follows.

(2) In section 25 (determination of rent by the First-tier Tribunal)—

(a) in subsection (6), for “determined by the First-tier Tribunal (together with, in a case where subsection (4) above applies, the appropriate amount in respect of rates)” substitute “specified under subsection (6A)”,

(b) after subsection (6) insert—

“(6A) The rent specified is the lower of—

(a) the rent determined by the First-tier Tribunal (together with, in a case where subsection (4) applies, the appropriate amount in respect of rates), and

(b) the rent proposed in accordance with section 24(1) in the notice that led to the referral.”.

PART 2

DEALING WITH EVICTIONS

Evictions: duties to consider delay

24 Private residential tenancies: duty to consider delay to eviction

(1) The 2016 Act is modified as follows.

(2) After section 51 insert—

“51A Eviction orders: duty to consider delay

- 5 (1) When specifying in an eviction order the day on which a tenancy is to end, the First-tier Tribunal must consider whether it would be reasonable in the circumstances to specify a day that has the effect of delaying the bringing of the tenancy to an end (but see subsection (5)).
- 10 (2) The Tribunal may consider in particular—
- (a) whether bringing the tenancy to an end without a period of delay would—
 - (i) cause the tenant or a member of the tenant’s household to experience financial hardship,
 - (ii) have a detrimental effect on the health of the tenant or a member of the tenant’s household, or
 - (iii) have another detrimental effect on the tenant or a member of the tenant’s household due to the tenant or the member of the tenant’s household having a disability,
 - 15 (b) whether a period of delay in bringing the tenancy to an end would—
 - (i) cause the landlord to experience financial hardship,
 - (ii) have a detrimental effect on the health of the landlord, or
 - (iii) have another detrimental effect on the landlord due to the landlord having a disability, and
 - 20 (c) whether a seasonal factor would contribute to any financial hardship or detrimental effect mentioned in paragraph (a) or (b).
- (3) In subsection (2), “disability” is to be construed in accordance with section 6 of the Equality Act 2010.
- 25 (4) For the purposes of subsections (1) and (2), the Tribunal must give the tenant and the landlord an opportunity to make representations about whether it would be reasonable to delay the bringing of the tenancy to an end.
- (5) Subsection (1) does not apply if the Tribunal is satisfied that the only grounds established for the eviction order are one or more of the following eviction grounds—
- 30 (a) that the tenant is not occupying the let property as the tenant’s home,
- (b) that the tenant has a relevant conviction,
- (c) that the tenant has engaged in relevant anti-social behaviour.
- (6) The Scottish Ministers may by regulations modify this section as regards the matters that may be considered by the Tribunal.”.

35 **25 Scottish secure tenancies etc.: duty to consider delay to eviction**

- (1) The Housing (Scotland) Act 2001 is modified as follows.
- (2) After section 16 insert—

“16A Orders for possession: duty to consider delay

- 5 (1) When appointing a date for recovery of possession of a house in an order under section 16(2), the court must consider whether it would be reasonable in the circumstances to appoint a date that delays the effect of giving the landlord the right to recover possession of the house (but see subsection (5)).
- (2) The court may consider in particular—
- (a) whether giving the landlord the right to recover possession without a period of delay would—
- 10 (i) cause the tenant or a member of the tenant’s household to experience financial hardship,
- (ii) have a detrimental effect on the health of the tenant or a member of the tenant’s household, or
- 15 (iii) have another detrimental effect on the tenant or a member of the tenant’s household due to the tenant or the member of the tenant’s household having a disability,
- (b) whether a seasonal factor would contribute to any financial hardship or detrimental effect mentioned in paragraph (a).
- (3) In subsection (2), “disability” is to be construed in accordance with section 6 of the Equality Act 2010.
- 20 (4) For the purposes of subsections (1) and (2), the court must give the tenant and the landlord an opportunity to make representations about whether it would be reasonable to delay giving the landlord the right to recover possession.
- (5) Subsection (1) does not apply if the court is satisfied that the only grounds established for the order for recovery of possession are one or more of the grounds set out in paragraphs 2, 5, 7, 8 and 15A of schedule 2.
- 25 (6) The Scottish Ministers may by regulations modify this section as regards the matters that may be considered by the court.”.

- (3) After section 36 insert—

“36A Recovery of possession: duty to consider delay

- 30 (1) When appointing a date for recovery of possession of a house in an order under section 36(5), the court must consider whether it would be reasonable in the circumstances to appoint a date that delays the effect of giving the landlord the right to recover possession of the house (but see subsection (5)).
- (2) The court may consider in particular—
- 35 (a) whether giving the landlord the right to recover possession without a period of delay would—
- (i) cause the tenant or a member of the tenant’s household to experience financial hardship,
- 40 (ii) have a detrimental effect on the health of the tenant or a member of the tenant’s household, or

(iii) have another detrimental effect on the tenant or a member of the tenant's household due to the tenant or the member of the tenant's household having a disability,

(b) whether a seasonal factor would contribute to any financial hardship or detrimental effect mentioned in paragraph (a).

(3) In subsection (2), “disability” is to be construed in accordance with section 6 of the Equality Act 2010.

(4) For the purposes of subsections (1) and (2), the court must give the tenant and the landlord an opportunity to make representations about whether it would be reasonable to delay giving the landlord the right to recover possession.

(5) Subsection (1) does not apply if the court is satisfied that the only reasons established for the order for recovery of possession are comparable to one or more of the grounds set out in paragraphs 2, 5, 7, 8 and 15A of schedule 2.

(6) The Scottish Ministers may by regulations modify this section as regards the matters that may be considered by the court.”.

26 Assured tenancies: duty to consider delay to eviction

(1) The Housing (Scotland) Act 1988 is modified as follows.

(2) After section 20 insert—

“20A Orders for possession: duty to consider delay

(1) On the making of an order for possession of a house let on an assured tenancy, the First-tier Tribunal must consider whether it would be reasonable in the circumstances to postpone the date of possession of the house for a period (but see subsection (5)).

(2) The First-tier Tribunal may consider in particular—

(a) whether, if the date of possession were not postponed for a period, the order for possession would—

(i) cause the tenant or a member of the tenant's household to experience financial hardship,

(ii) have a detrimental effect on the health of the tenant or a member of the tenant's household, or

(iii) have another detrimental effect on the tenant or a member of the tenant's household due to the tenant or the member of the tenant's household having a disability,

(b) whether postponing the date of possession for a period would—

(i) cause the landlord to experience financial hardship,

(ii) have a detrimental effect on the health of the landlord, or

(iii) have another detrimental effect on the landlord due to the landlord having a disability, and

(c) whether a seasonal factor would contribute to any financial hardship or detrimental effect mentioned in paragraph (a) or (b).

- 5
- (3) In subsection (2), “disability” is to be construed in accordance with section 6 of the Equality Act 2010.
- (4) For the purposes of subsections (1) and (2), the First-tier Tribunal must give the tenant and the landlord an opportunity to make representations about whether it would be reasonable to postpone the date of possession.
- (5) Subsection (1) does not apply if the First-tier Tribunal is satisfied that the only ground established for the order for possession is Ground 15 in Part 2 of schedule 5.
- 10 (6) The Scottish Ministers may by regulations modify this section as regards the matters that may be considered by the First-tier Tribunal.
- (7) Regulations under subsection (6) are subject to the affirmative procedure.”.

27 Protected tenancies and statutory tenancies: duty to consider delay to eviction

- (1) The Rent (Scotland) Act 1984 is modified as follows.
- (2) After section 12 insert—

15 **“12ZA Orders for possession: duty to consider delay**

- 20 (1) On the making of an order for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy, the First-tier Tribunal must consider whether it would be reasonable in the circumstances to postpone the date of possession of the dwelling-house for a period (but see subsection (5)).
- (2) The First-tier Tribunal may consider in particular—
- 25 (a) whether, if the date of possession were not postponed for a period, the order for possession would—
- (i) cause the tenant or a member of the tenant’s household to experience financial hardship,
- (ii) have a detrimental effect on the health of the tenant or a member of the tenant’s household, or
- 30 (iii) have another detrimental effect on the tenant or a member of the tenant’s household due to the tenant or the member of the tenant’s household having a disability,
- (b) whether postponing the date of possession for a period would—
- (i) cause the landlord to experience financial hardship,
- (ii) have a detrimental effect on the health of the landlord, or
- 35 (iii) have another detrimental effect on the landlord due to the landlord having a disability, and
- (c) whether a seasonal factor would contribute to any financial hardship or detrimental effect mentioned in paragraph (a) or (b).
- (3) In subsection (2), “disability” is to be construed in accordance with section 6 of the Equality Act 2010.

- (4) For the purposes of subsections (1) and (2), the First-tier Tribunal must give the tenant and the landlord an opportunity to make representations about whether it would be reasonable to postpone the date of possession.
- (5) Subsection (1) does not apply if the First-tier Tribunal is satisfied that the only ground established for the order for possession are the circumstances specified in Case 2 of Part 1 of schedule 2.
- (6) The Scottish Ministers may by regulations modify this section as regards the matters that may be considered by the First-tier Tribunal.
- (7) Regulations under subsection (6) may make—
- (a) different provision for different purposes,
 - (b) incidental, supplementary, consequential, transitional, transitory or saving provision.
- (8) Regulations under subsection (6) are subject to the affirmative procedure.”.

Damages for unlawful eviction

28 Unlawful eviction: notification and damages

- (1) The Housing (Scotland) Act 1988 is modified as follows.
- (2) In section 36 (damages for unlawful eviction)—
- (a) in subsection (3), for “assessed on the basis set out in” substitute “determined in accordance with”,
 - (b) subsection (6B) is repealed,
 - (c) after subsection (7) insert—
 - “(7A) Where the court makes an order awarding damages to a former residential occupier by virtue of subsection (3), the court must send a copy of the order to—
 - (a) the chief constable of the Police Service of Scotland, and
 - (b) the Scottish Housing Regulator. - (7B) Where the First-tier Tribunal makes an order awarding damages to a former residential occupier by virtue of subsection (3), the First-tier Tribunal must send a copy of the order to—
 - (a) the chief constable of the Police Service of Scotland, and
 - (b) any local authority with which the landlord (or where there is more than one, each of them) is required to be registered as a landlord. - (7C) For the purpose of subsection (7B), a person is registered as a landlord with a local authority if the person is entered in the register prepared and maintained by the local authority for the purpose of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.”,
 - (d) in subsection (8), in the opening words, after “section” insert “and section 37”.
- (3) For section 37 (the measure of damages) substitute—

“37 Determination of damages

(1) For the purpose of section 36(3), the damages that the court or, as the case may be, the First-tier Tribunal may determine as payable are to be an amount that is—

- 5 (a) not less than 3 months’ rent, and
(b) not more than 36 months’ rent,

taking into account the manner of the unlawful eviction and the impact that it has had on the former residential occupier.

10 (2) But, the court or, as the case may be, the First-tier Tribunal may reduce the amount of damages that would otherwise be payable under subsection (1), including to an amount lower than 3 months’ rent, if it considers it appropriate to do so having regard to all the circumstances of the case.

(3) Where two or more persons jointly were the landlord, the court or, as the case may be, the First-tier Tribunal may determine that—

- 15 (a) damages are payable by all, some or only one of the former landlords,
(b) each former landlord must pay a specified amount of damages, but the cumulative total of each of the amounts must not exceed 36 months’ rent, or
(c) the former landlords are jointly and severally liable in respect of the
20 whole amount of damages payable.

(4) In this section “rent”, in relation to the premises in question, means—

- 25 (a) except in a case mentioned in paragraph (b), the amount that was payable in rent in connection with the right to occupy the premises (whether under a contract or otherwise) immediately before the landlord became liable to pay the former residential occupier under section 36(3), or
(b) in a case where two or more persons jointly were liable to pay the amount mentioned in paragraph (a) immediately before the liability arose, that amount divided by the number of such persons.”.

PART 3

30 **KEEPING PETS AND MAKING CHANGES TO LET PROPERTY**

29 Private residential tenancies: keeping pets and making changes to let property

- (1) The 2016 Act is modified as follows.
(2) After Part 5 (termination) insert—

“PART 5A

KEEPING PETS AND MAKING CHANGES TO LET PROPERTY

CHAPTER 1

KEEPING PETS

- 5 **64A Tenant’s right to keep a pet**
- (1) A tenant under a private residential tenancy to which this Chapter applies may keep a pet (or pets) at the let property with the landlord’s consent (but see subsection (4)).
- 10 (2) The landlord’s consent may not be unreasonably refused (see also section 64E).
- (3) Where a landlord has consented to the keeping of a pet by the tenant at the let property, the tenant may keep the pet at the let property until the end of the tenancy subject to any reasonable conditions imposed by the landlord in connection with the consent to keep the pet.
- 15 (4) A tenant under a private residential tenancy may keep a pet at the let property without the consent of the landlord if the terms of the tenancy allow the tenant to do so without such consent.
- (5) This Chapter applies to a private residential tenancy if the term mentioned in paragraph 9 of schedule 2 is a statutory term of the tenancy.
- 20 (6) In this Chapter—
- “animal” does not include a dangerous wild animal within the meaning given by section 7(4) of the Dangerous Wild Animals Act 1976,
- “pet” means an animal kept by a person mainly for—
- 25 (a) personal interest (including as regards its welfare, treatment or training),
- (b) companionship,
- (c) ornamental purposes,
- (d) any combination of paragraphs (a) to (c).
- 64B Consent to keep a pet**
- 30 (1) A request by a tenant for the landlord’s consent under section 64A(1) to keep a pet must—
- (a) be in writing, and
- (b) fulfil any other requirements prescribed by the Scottish Ministers in regulations.
- 35 (2) The landlord must, within a period of 42 days beginning with the day on which the request is received, give the tenant notice that the landlord—
- (a) consents to the tenant keeping the pet at the let property with or without conditions, or
- (b) refuses to consent to this.

- 5
- (3) The landlord's notice must—
- (a) specify any such conditions,
 - (b) give reasons for any refusal of consent,
 - (c) be in writing, and
 - (d) fulfil any other requirements prescribed by the Scottish Ministers in regulations.
- (4) Any conditions specified in the landlord's notice must be reasonable (see also section 64F).
- 10 (5) If notice is not given in accordance with subsection (2), the landlord is to be deemed to have refused consent.

64C Restrictions on keeping a pet: right of appeal

- 15 (1) A tenant may appeal to the First-tier Tribunal against—
- (a) where the tenant was given notice in accordance with section 64B(2)—
 - (i) any condition specified in the notice (“consent condition”) on the ground that the condition is unreasonable,
 - (ii) any refusal of consent mentioned in the notice on the ground that the refusal is unreasonable, or
 - (b) where the tenant considers that section 64B(5) applies, the deemed refusal of consent.
- 20 (2) Before making the appeal, the tenant must give the landlord notice of—
- (a) the tenant's intention to make it, and
 - (b) whether the appeal will be against—
 - (i) one or more consent conditions and, if so, which, or
 - (ii) a refusal of consent (including any deemed refusal).
- 25 (3) The tenant's notice under subsection (2) must fulfil any other requirements prescribed by the Scottish Ministers in regulations.
- (4) The tenant's notice under subsection (2) must be given to the landlord within a period of 42 days beginning with—
- (a) where the tenant intends to appeal under subsection (1)(a)—
 - (i) the day on which the tenant was given notice in accordance with section 64B(2), or
 - (ii) where no such notice was given within the period required by the section, the expiry of that period,
 - (b) where the tenant intends to appeal under subsection (1)(b), the day on which consent is deemed to have been refused under section 64B(5).
- 30
- 35 (5) The appeal must be made within a period of 42 days beginning with the day on which the tenant gave notice to the landlord under subsection (2).

(6) The First-tier Tribunal may dismiss an appeal under this section if it is satisfied that—

(a) notice of the tenant’s intention to appeal was not given to the landlord in accordance with this section,

(b) the appeal was not made within the period required by subsection (5).

64D Restrictions on keeping a pet: decisions on appeal

(1) Subsection (2) applies in relation to an appeal under section 64C(1)(a)(i) against one or more consent conditions.

(2) If the First-tier Tribunal decides that—

(a) any such condition is unreasonable, it may make a consent order,

(b) each such condition is reasonable, it may dismiss the appeal.

(3) Subsection (4) applies in relation to an appeal under section 64C(1)(a)(ii) against a refusal of consent.

(4) If the First-tier Tribunal decides that—

(a) the refusal is unreasonable, it may make a consent order,

(b) the refusal is reasonable, it may dismiss the appeal.

(5) Subsection (6) applies in relation to an appeal under section 64C(1)(b) against a deemed refusal of consent.

(6) If the First-tier Tribunal—

(a) is satisfied that the landlord in question is deemed to have refused such consent and decides that—

(i) the deemed refusal is unreasonable, it may make a consent order,

(ii) the deemed refusal is reasonable, it may dismiss the appeal,

(b) is not satisfied that the landlord is deemed to have refused consent, it may dismiss the appeal.

(7) In this section a “consent order”, in relation to an appeal by a tenant under section 64C(1), means an order requiring the landlord to give the tenant notice that the landlord consents to the tenant keeping of the pet to which the appeal relates at the let property with or without such conditions as the First-tier Tribunal may specify.

64E Power to make provision about when it is reasonable to refuse consent to keep a pet

(1) For the purpose of section 64A(2), the Scottish Ministers may by regulations make provision about when it is reasonable for a landlord to refuse to consent to a tenant keeping a pet at a let property.

(2) Regulations under subsection (1) may in particular specify—

(a) circumstances in which it is or is not reasonable to refuse such consent,

- (b) factors that tend to show that the refusal of such consent is or is not reasonable.

64F Power to make provision about when a consent condition for keeping a pet is reasonable

- (1) For the purposes of sections 64B(4), the Scottish Ministers may by regulations make provision about when a condition specified in a landlord's notice is reasonable.
- (2) Regulations under subsection (1) may in particular specify—
 - (a) circumstances in which a condition, or type of condition, is or is not reasonable,
 - (b) factors that tend to show that a condition is or is not reasonable.

64G Regulations under sections 64E and 64F: consultation

Before laying a draft of a Scottish statutory instrument containing regulations under section 64E or 64F before the Scottish Parliament, the Scottish Ministers—

- (a) must consult persons who appear to them to represent the interests of tenants and landlords, and
- (b) may consult any other person they consider appropriate.

CHAPTER 2

MAKING CHANGES TO LET PROPERTY

64H Tenant's right to make changes to let property

- (1) A tenant under a private residential tenancy to which this Chapter applies may—
 - (a) make a category 1 change to the let property without the consent of the landlord,
 - (b) make a category 2 change to the let property if—
 - (i) the change is made at least 6 months after the start of the tenancy, and
 - (ii) the tenant has the landlord's consent to make the change (but see subsection (4)).
- (2) The landlord's consent to make a category 2 change may not be unreasonably refused (see also section 64M).
- (3) Where a tenant makes a category 1 change or a category 2 change to a let property in accordance with this Chapter, any costs incurred by the tenant in making the change are to be met by the tenant unless the landlord agrees otherwise.
- (4) A tenant under a private residential tenancy may make a category 2 change at any time to the let property without the consent of the landlord if the terms

of the tenancy allow the tenant to make the change at that time without such consent.

(5) This Chapter applies to a private residential tenancy if the term mentioned in paragraph 10 of schedule 2 is a statutory term of the tenancy.

5 (6) In this Chapter—

(a) a “category 1 change” or “category 2 change”, in relation to a let property of a particular type, means a change or kind of change that is categorised as such in regulations under section 64L and which applies in relation to a let property of that type,

10 (b) a reference to making any such change (however described) includes arranging for the change to be made.

64I Consent for category 2 changes

(1) A request by a tenant for the landlord’s consent under section 64H(1) to make a category 2 change must—

15 (a) be in writing, and

(b) fulfil any other requirements prescribed by the Scottish Ministers in regulations.

(2) The landlord must, within a period of 42 days beginning with the day on which the request was received, give the tenant notice that the landlord—

20 (a) consents to the tenant making the category 2 change to the let property with or without conditions, or

(b) refuses to consent to this.

(3) The landlord’s notice must—

25 (a) specify any such conditions,

(b) give reasons for any refusal of consent,

(c) be in writing, and

(d) fulfil any other requirements prescribed by the Scottish Ministers in regulations.

(4) Any conditions specified in the landlord’s notice must be reasonable (see also section 64N).

30 (5) If notice is not given in accordance with subsection (2), the landlord is deemed to have refused consent.

64J Restrictions on category 2 changes: right of appeal

(1) A tenant may appeal to the First-tier Tribunal against—

35 (a) where the tenant was given notice in accordance with section 64I(2)—

(i) any condition specified in the notice (“consent condition”) on the ground that the condition is unreasonable,

- (ii) any refusal of consent mentioned in the notice on the ground that the refusal is unreasonable, or
 - (b) where the tenant considers that section 64I(5) applies, the deemed refusal of consent.
- 5 (2) Before making the appeal, the tenant must give the landlord notice of—
 - (a) the tenant’s intention to make it, and
 - (b) whether the appeal will be against—
 - (i) one or more consent conditions and, if so, which, or
 - (ii) a refusal of consent (including any deemed refusal).
- 10 (3) The tenant’s notice under subsection (2) must fulfil any other requirements prescribed by the Scottish Ministers in regulations.
- (4) The tenant’s notice under subsection (2) must be given to the landlord within a period of 42 days beginning with—
 - (a) where the tenant intends to appeal under subsection (1)(a)—
 - 15 (i) the day on which the tenant was given notice in accordance with section 64I(2), or
 - (ii) where no such notice was given within the period required by the section, the expiry of that period,
 - (b) where the tenant intends to appeal under subsection (1)(b), the day on
20 which the landlord is deemed to have refused consent under section 64I(5).
- (5) The appeal must be made within a period of 42 days beginning with the day on which the tenant gave notice to the landlord under subsection (2).
- 25 (6) The First-tier Tribunal may dismiss an appeal under this section if it is satisfied that—
 - (a) notice of the tenant’s intention to appeal was not given to the landlord in accordance with this section,
 - (b) the appeal was not made within the period required by subsection (5).

64K Restrictions on category 2 changes: decisions on appeal

- 30 (1) Subsection (2) applies in relation to an appeal under section 64J(1)(a)(i) against one or more consent conditions.
- (2) If the First-tier Tribunal decides that—
 - (a) any such condition is unreasonable, it may make a consent order,
 - (b) each such condition is reasonable, it may dismiss the appeal.
- 35 (3) Subsection (4) applies in relation to an appeal under section 64J(1)(a)(ii) against a refusal of consent.
- (4) If the First-tier Tribunal decides that—
 - (a) the refusal is unreasonable, it may make a consent order,

(b) the refusal is reasonable, it may dismiss the appeal.

(5) Subsection (6) applies in relation to an appeal under section 64J(1)(b) against a deemed refusal of consent.

(6) If the First-tier Tribunal—

(a) is satisfied that the landlord in question is deemed to have refused such consent and decides that—

(i) the deemed refusal is unreasonable, it may make a consent order,

(ii) the deemed refusal is reasonable, it may dismiss the appeal,

(b) is not satisfied that the landlord is deemed to have refused consent, it may dismiss the appeal.

(7) In this section a “consent order”, in relation to an appeal by a tenant under section 64J(1), means an order requiring the landlord to give the tenant notice that the landlord consents to the tenant making the category 2 change to which the appeal relates with or without such conditions as the First-tier Tribunal may specify.

64L Power to specify changes to a let property that may be made by the tenant

(1) For the purposes of section 64H(6)(a), the Scottish Ministers may by regulations specify one or more changes (or kinds of change) to a property let under a private residential tenancy.

(2) Regulations under subsection (1) must categorise each specified change or kind of change as either—

(a) a category 1 change, or

(b) a category 2 change.

(3) Regulations under subsection (1) may provide that a category 1 change or a category 2 change—

(a) applies only in relation to property of a particular type or description, or

(b) does not apply in relation to property of a particular type or description.

64M Power to make provision about when it is reasonable to refuse consent for a category 2 change

(1) For the purpose of section 64H(2), the Scottish Ministers may by regulations make provision about when it is reasonable for a landlord to refuse to consent to the making of a category 2 change to a let property.

(2) Regulations under subsection (1) may in particular specify—

(a) circumstances in which it is or is not reasonable to refuse such consent,

(b) factors that tend to show that the refusal of such consent is or is not reasonable.

64N Power to make provision about when a consent condition for a category 2 change is reasonable

- 5
- (1) For the purpose of section 64I(4), the Scottish Ministers may by regulations make provision about when a condition specified in a landlord's notice is reasonable.
 - (2) Regulations under subsection (1) may in particular specify—
 - (a) circumstances in which a condition, or type of condition, is or is not reasonable,
 - (b) factors that tend to show that a condition is or is not reasonable.

10 **64O Regulations under sections 64L, 64M and 64N: consultation**

Before laying a draft of a Scottish statutory instrument containing regulations under section 64L, 64M or 64N before the Scottish Parliament, the Scottish Ministers—

- 15
- (a) must consult persons who appear to them to represent the interests of tenants and landlords, and
 - (b) may consult any other person they consider appropriate.”.
- (3) In schedule 2 (statutory terms required by section 8), after paragraph 8 insert—
- “9 The tenant may keep pets at the let property in accordance with Chapter 1 of Part 5A.
- 20 10 The tenant may make changes to the let property in accordance with Chapter 2 of Part 5A.”.

30 Scottish secure tenancies etc.: keeping pets

- (1) The Housing (Scotland) Act 2001 is modified as follows.
- (2) After section 31 insert—

25 *“Keeping pets*

31A Tenant's right to keep a pet

- 30
- (1) It is a term of every Scottish secure tenancy that the tenant may keep a pet (or pets) at the house with the consent in writing of the landlord, which must not be unreasonably withheld (but see subsection (3)).
 - (2) The provisions of Part 1A of schedule 5 have effect as terms of every Scottish secure tenancy (but see subsection (3)).
 - (3) The terms of a Scottish secure tenancy that have effect by virtue of subsections (1) and (2) may be modified by a landlord so that, under the terms of the tenancy, the tenant may keep a pet at the house without the consent of the landlord.
 - (4) In this section, sections 31B and 31C and Part 1A of schedule 5—

35 “animal” does not include a dangerous wild animal within the meaning given by section 7(4) of the Dangerous Wild Animals Act 1976,

“pet” means an animal kept by a person mainly for—

- (a) personal interest (including as regards its welfare, treatment or training),
- (b) companionship,
- (c) ornamental purposes, or
- (d) any combination of paragraphs (a) to (c),

“tenant”, in the case of a joint tenancy, does not include the other joint tenant or tenants.

31B Power to make provision about when a consent condition for keeping a pet is reasonable

- (1) For the purpose of paragraph 8C(b) of schedule 5, the Scottish Ministers may by regulations make provision about when a condition mentioned in that paragraph (to which consent to keep a pet is subject) is reasonable.
- (2) Regulations under subsection (1) may in particular specify—
 - (a) circumstances in which a condition, or type of condition, is or is not reasonable,
 - (b) factors that tend to show that a condition is or is not reasonable.

31C Power to make provision about when it is reasonable to refuse consent to keep a pet

- (1) For the purpose of paragraph 8C(c) of schedule 5, the Scottish Ministers may by regulations make provision about when it is reasonable for a landlord to refuse to consent to a tenant keeping a pet at a house.
- (2) Regulations under subsection (1) may in particular specify—
 - (a) circumstances in which it is or is not reasonable to refuse such consent,
 - (b) factors that tend to show that the refusal of such consent is or is not reasonable.

31D Regulations under sections 31B and 31C: consultation

Before laying a draft of a Scottish statutory instrument containing regulations under section 31B or 31C before the Scottish Parliament, the Scottish Ministers—

- (a) must consult persons who appear to them to represent the interests of tenants and landlords affected by the regulations, and
 - (b) may consult any other person they consider appropriate.”
- (3) In schedule 5, after Part 1 insert—

“PART 1A

KEEPING PETS

- 5 8A A tenant under a Scottish secure tenancy who wishes to keep a pet at the house may make a written application to the landlord for the landlord’s consent, giving details of the pet.
- 8B The application must fulfil any other requirements prescribed by the Scottish Ministers in regulations.
- 8C The landlord may—
- 10 (a) consent,
- (b) consent subject to such reasonable conditions as the landlord may impose, or
- (c) refuse consent, provided that it is not refused unreasonably.
- 8D Any condition imposed by the landlord must comply with regulations under section 31B.
- 15 8E A refusal of consent by the landlord must comply with regulations under section 31C.
- 8F The landlord must intimate its consent or refusal, any conditions imposed and, in the case of refusal, the reasons for the refusal, to the tenant in writing within a period of one month beginning with the day on which the application was received.
- 20 8G Where a landlord consents to the tenant keeping the pet at the house the tenant may keep the pet at the house until the end of the tenancy subject to any reasonable conditions imposed by the landlord in connection with the consent to keep the pet.
- 25 8H If the landlord fails to comply with paragraph 8F, it is to be taken to have consented to the application.”.

PART 4

OTHER MATTERS RELATING TO TENANTS

Unclaimed tenancy deposits

- 30 **31 Use of unclaimed tenancy deposits**
- (1) The Housing (Scotland) Act 2006 is modified as follows.
- (2) In section 121 (tenancy deposit schemes: regulatory framework)—
- (a) in subsection (2), after paragraph (d) insert—
- 35 “(da) impose requirements on a person who administers an approved scheme to report to the Scottish Ministers on matters relating to the operation of the approved scheme including, in particular, matters relating to unclaimed deposits,”,
- (b) after subsection (3) insert—

“(4) Tenancy deposit regulations must include provision to ensure that a tenancy deposit that is held under an approved scheme is not repaid unless a relevant application is made, within the 5-year period, for the tenancy deposit to be repaid.

5 (5) In this Part—

“5-year period”, in relation to a tenancy deposit held under an approved scheme, means the period of 5 years beginning with the later of—

(a) the day on which the provision required by subsection (4) comes into force in relation to the approved scheme, and

10 (b) the day on which the relevant tenancy or occupancy arrangement ends,

“approved scheme” means a tenancy deposit scheme that is approved under section 122,

15 “relevant application”, in relation to a tenancy deposit held under an approved scheme, means an application (however described) made—

(a) under the approved scheme, and

(b) in accordance with any tenancy deposit regulations that apply in relation to the application,

20 “relevant tenancy or occupancy arrangement”, in relation to a tenancy deposit held under an approved scheme, means the tenancy or occupancy arrangement under or in connection with which the tenancy deposit was paid as security.”.

(3) After section 122 insert—

“122A Determining unclaimed deposits

25 A tenancy deposit held under an approved scheme is to be determined by the scheme administrator to be an unclaimed deposit if the scheme administrator is satisfied that no relevant application was made, within the 5-year period, for the tenancy deposit to be repaid.

122B Transfer of unclaimed deposits

30 (1) The Scottish Ministers may direct the scheme administrator of an approved scheme to transfer to them, or to a fund administrator, any unclaimed deposits that are held on a particular day (“the accounting day”) under the approved scheme.

(2) The direction—

35 (a) must be in writing,

(b) may specify the manner in which any such unclaimed deposits are to be transferred.

(3) The scheme administrator must comply with any such direction within a period of 30 days beginning with the accounting day.

122C Use of transferred unclaimed deposits

(1) Unclaimed deposits that are transferred to the Scottish Ministers or to a fund administrator (in either case, “the recipient”) may be used by the recipient for the purposes of—

5 (a) providing or securing the provision of—

(i) advice, information or assistance to private tenants in relation to their rights as tenants,

(ii) other services or facilities that promote or support the interests of such tenants,

10 (b) preventing private tenants from becoming homeless,

(c) paying or recovering administrative costs that are reasonably incurred by the recipient in the exercise of functions under this section or section 122D (but see subsection (3)).

15 (2) Where any such unclaimed deposit is to be used for a purpose mentioned in subsection (1)(a) or (b) it may, in particular, be provided by way of a grant, loan or otherwise and on such conditions as the recipient considers appropriate.

(3) Where any such unclaimed deposit is to be used for a purpose mentioned in subsection (1)(c), a fund administrator may do so only with the consent of the Scottish Ministers and in accordance with any conditions they specify.

20 (4) The Scottish Ministers may by regulations modify subsection (1) to change the purposes for which unclaimed deposits that are transferred to the Scottish Ministers, or to a fund administrator, may be used by the recipient.

(5) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (4) before the Scottish Parliament, the Scottish Ministers—

25 (a) must consult—

(i) persons who as appear to them to represent the interests of tenants affected by the regulations, and

(ii) scheme administrators or persons who appear to the Scottish Ministers to represent the interests of scheme administrators, and

30 (b) may consult any other person they consider appropriate.

(6) In subsection (1), a reference to private tenants is a reference to any tenant under—

(a) a private residential tenancy under the 2016 Act,

(b) a student residential tenancy,

35 (c) an assured tenancy under the Housing (Scotland) Act 1988,

(d) a protected tenancy under the Rent (Scotland) Act 1984,

(e) a Part VII contract under that Act.

(7) In this section—

40 “the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,

“student” has the same meaning as in paragraph 5 of schedule 1 of the 2016 Act,

“student residential tenancy” means a tenancy—

- (a) the purpose of which is to confer on the tenant the right to occupy the let property while the tenant is a student, and
- (b) to which paragraph 5(2) or (3) of schedule 1 (tenancies which cannot be private residential tenancies: student lets) of the 2016 Act applies.

122D Reports on the use of transferred unclaimed deposits

- (1) The Scottish Ministers must prepare a report on the use of any unclaimed deposits that are transferred to them or to a fund administrator.
- (2) The Scottish Ministers must—
 - (a) publish the report within a period of 3 years beginning with—
 - (i) where the deposits to which the transfer request relates are transferred on a single day, that day, or
 - (ii) where such deposits are transferred over a period of two or more days, the first of those days, and
 - (b) lay a copy of it before the Scottish Parliament as soon as reasonably practicable after publication.
- (3) For the purpose of preparing a report under subsection (1), the Scottish Ministers may direct a fund administrator to give them a report on the use of any unclaimed deposits that are transferred to the fund administrator.
- (4) A report to be given by a fund administrator under subsection (3) must—
 - (a) be given to the Scottish Ministers as soon as reasonably practicable after the direction is received, and
 - (b) contain such information as the Scottish Ministers may specify in the direction.

122E Repayment of unclaimed deposits

- (1) Subsection (2) applies where—
 - (a) a tenancy deposit was paid by an occupant as security under or in connection with a tenancy or an occupancy arrangement, and
 - (b) the tenancy deposit was an unclaimed deposit that was transferred to the Scottish Ministers or a fund administrator.
- (2) Where this subsection applies, the Scottish Ministers may, on the application of the former occupant, repay all or part of the former tenancy deposit (“the amount”) to the former occupant if they are satisfied that—
 - (a) the former occupant has a reasonable excuse for not having made a relevant application, within the 5-year period, for the amount to be repaid, and

- (b) if the former occupant had made such an application immediately before the end of the 5-year period, the scheme administrator would have been required to repay the amount to the former occupant.”.

- (4) After section 123 insert—

“123A Interpretation of this Part

In this Part—

“fund administrator” means a person, other than the Scottish Ministers, to whom unclaimed deposits are transferred,

“scheme administrator”, in relation to an approved scheme, means the person who administers the scheme,

“transferred” means transferred in compliance with a request under section 122B(1),

“unclaimed deposit” means a tenancy deposit that is determined to be an unclaimed deposit in accordance with section 122A.”.

Registration of letting agents etc.

32 Applications for registration

- (1) The Housing (Scotland) Act 2014 is modified as follows.

- (2) In section 30(2) (application for registration)—

- (a) in paragraph (d)—

- (i) the words from “the individual” to the end of the paragraph become sub-paragraph (i),

- (ii) after that sub-paragraph insert “, and

- (ii) any other person who owns 25% or more of the relevant partnership, company or body,”,

- (b) in paragraph (e)—

- (i) sub-paragraph (i), and the word “or” immediately following it, are repealed,

- (ii) in sub-paragraph (ii), the word “otherwise” is repealed.

- (3) In section 32 (decision on application), after subsection (6) insert—

“(6A) The Scottish Ministers must give further notice under subsection (6) if they are considering refusing the application for reasons that differ from or supplement those previously notified.”.

33 Duty to inform: change of circumstances

- (1) The Housing (Scotland) Act 2014 is modified as follows.

- (2) In section 37 (duty to inform: change of circumstances)—

- (a) in subsection (1), for the words from “information” to “this section,” substitute “relevant information”,

- (b) after subsection (5) insert—

“(6) In subsection (1), “relevant information” means—

- (a) information provided by a registered letting agent under section 30(2)(a) to (e) or, as the case may be, this section,
- (b) such of the information provided by virtue of section 30(2)(f) as the Scottish Ministers may by regulations prescribe,
- (c) information provided by a registered letting agent in accordance with a notice served under section 52(1).”.

34 Revocation of registration: where agent no longer exists

(1) The Housing (Scotland) Act 2014 is modified as follows.

(2) In section 39 (revocation of registration)—

(a) in subsection (1)—

- (i) the word “or” immediately following paragraph (b) is repealed,
- (ii) after paragraph (c) insert “, or
- (d) the agent no longer exists.”,

(b) in subsection (2), in the opening words—

- (i) for “this section” substitute “subsection (1)(a), (b) or (c)”,
- (ii) after “must” insert “(if possible)”,

(c) after subsection (2) insert—

“(2A) The Scottish Ministers must give further notice under subsection (2) if they are considering removing the agent from the register for reasons that differ from or supplement those previously notified.”,

(d) in subsection (4), in the opening words—

- (i) after “must” insert “(if possible)”,
- (ii) after “decision” insert “under subsection (1)(a), (b) or (c)”.

35 Removal from register on application: notification of agent

(1) The Housing (Scotland) Act 2014 is modified as follows.

(2) In section 40 (removal from register on application), in subsection (4), after “must” insert “(if possible)”.

36 Note on register where entry refused or removed: duration

(1) The Housing (Scotland) Act 2014 is modified as follows.

(2) In section 42 (note on register where refusal or removal), in subsection (4)(a), for “12 months” substitute “3 years”.

37 Power to obtain information and carry out inspections

(1) The Housing (Scotland) Act 2014 is modified as follows.

(2) In section 52 (power to obtain information), for subsection (3) substitute—

“(3) Any requirement for a person to provide information in accordance with a notice under subsection (1) does not have effect to the extent that the person would be entitled to refuse to provide the information in, or for the purposes of, proceedings in a court in Scotland.”.

(3) In section 53 (power to carry out inspections), for subsection (3) substitute—

“(3) Any requirement for a person to give information in accordance with subsection (2)(d)(i) does not have effect to the extent that the person would be entitled to refuse to give the information in, or for the purposes of, proceedings in a court in Scotland.”.

Ending joint tenancies

38 Private residential tenancies: ending a joint tenancy

(1) The 2016 Act is modified as follows.

(2) In section 48 (tenant’s ability to bring tenancy to an end)—

(a) in subsection (1), after “section 49” insert “(but see also section 48A)”,

(b) in subsection (3), for the words from “if” to the end of the subsection substitute “where subsection (3A) or (3B) applies.”,

(c) after subsection (3) insert—

“(3A) This subsection applies where—

(a) before the day mentioned in subsection (2), a request to continue the tenancy after that day is made to the landlord by—

(i) in the case of a joint tenancy, all of the joint tenants,

(ii) in any other case, the tenant, and

(b) the landlord agrees to the request.

(3B) This subsection applies where—

(a) the person who gave the notice under subsection (1) is a joint tenant, and

(b) before the day mentioned in subsection (2), the interest of the joint tenant in the tenancy is assigned to another person.

(3C) In this section, in a case where two or more persons jointly are the tenant under a tenancy—

(a) references to the tenant or to a joint tenant are to any one of those persons, and

(b) references to a joint tenancy are to such a tenancy.

(3D) In the case of a joint tenancy, the reference to a tenant in subsection (1) includes a reference to all of the joint tenants acting together.”,

(d) in subsection (4), for “subsections (1) and (3)” substitute “this section”.

(3) After section 48 insert—

“48A Pre-notice to be given to other joint tenants

(1) Where a notice under section 48(1) is given by a joint tenant, the notice has no effect unless—

(a) that tenant has given every other joint tenant and the landlord under the tenancy a pre-notice—

(i) at least 2 months before the day on which the notice is given under section 48(1),

(ii) that fulfils the requirements described in subsection (3), and

(b) the notice under section 48(1) is given within a period of 28 days beginning with the day after the expiry of the 2 month period mentioned in paragraph (a) and is accompanied by—

(i) a statement that a pre-notice has been given to every other joint tenant in accordance with this section, and

(ii) such evidence in support of the statement as may be prescribed by the Scottish Ministers in regulations.

(2) Subsection (1) does not apply in a case where the notice under section 48(1) is given by all of the joint tenants acting together.

(3) A pre-notice given by a joint tenant fulfils the requirements referred to in subsection (1)(a)(ii) if it—

(a) is in writing,

(b) states that the joint tenant intends to bring to an end the tenancy by giving the landlord a notice under section 48(1),

(c) fulfils any other requirements prescribed by the Scottish Ministers in regulations.

(4) Regulations under subsection (1)(b)(ii) may in particular require that the evidence—

(a) includes information specified in the regulations,

(b) is in a form specified in the regulations,

(c) is given in a manner specified in the regulations.

(5) In this section—

“joint tenant” is to be construed in accordance with section 48(3C),

“landlord” is to be construed in accordance with section 48(4).”.

(4) In section 49 (requirements for notice to be given by tenant)—

(a) in subsection (2), for “agrees” substitute “and the tenant agree”,

(b) in subsection (3), in paragraph (b)(i), after “and” insert “the”,

(c) after subsection (4) insert—

“(4A) In a case where two or more persons jointly are the tenant under a tenancy—

(a) in subsection (1)(a)(ii), the reference to the tenant is to the joint tenant who gave the notice under section 48(1),

- (b) in subsections (2) and (3)(b)(i), the references to the tenant are to all of the joint tenants.”.

Delivery of notices etc.

39 Social landlords: delivery of notices etc.

- 5 (1) The Housing (Scotland) Act 2001 is modified as follows.
- (2) In section 40 (notices)—
- (a) in subsection (1)(c), for the words from “by recorded” to the end of the paragraph substitute “to that person’s proper address by means of a postal service which provides for the delivery of the notice or other document to be recorded.”,
- 10 (b) after subsection (1) insert—
- “(1A) For the purpose of subsection (1)(c), the delivery of a notice or other document may be recorded in any way that evidences that it was delivered to the person’s proper address (including in a way that evidences this without the need for the person to confirm the delivery).”,
- 15 (c) after subsection (2) insert—
- “(3) A notice to be given by a landlord to a tenant under section 25(1) may also be given by sending it, where subsection (4) applies, to the tenant using electronic communications.
- (4) This subsection applies where, before the notice is given, the landlord and the tenant agree in writing that the notice may be given to the tenant by transmitting it to an electronic address and in an electronic form specified by the tenant for the purpose.”.
- 20

Converting older tenancies

40 Assured tenancies: power to convert

- 25 (1) The 2016 Act is modified as follows.
- (2) In schedule 5 (transition from regimes under earlier enactments), after paragraph 5 insert—

“Change of tenancy status by regulations

- 30 6 (1) The Scottish Ministers may by regulations appoint a day on which a relevant assured tenancy—
- (a) ceases to be an assured tenancy, and
- (b) becomes a private residential tenancy.
- (2) Any day appointed by regulations under sub-paragraph (1) must be at least 12 months after the day on which the regulations come into force.
- 35 (3) Where by virtue of regulations under sub-paragraph (1) a tenancy becomes a private residential tenancy, the terms of the tenancy as they were immediately before the conversion are unchanged so far as they are consistent with the provisions under this Act.

- (4) Before laying a draft of a Scottish statutory instrument containing regulations under sub-paragraph (1) before the Scottish Parliament, the Scottish Ministers—
- (a) must consult persons who appear to them to represent the interests of tenants and landlords under assured tenancies, and
 - (b) may consult any other person they consider appropriate.
- (5) In sub-paragraph (1), a “relevant assured tenancy” means a tenancy—
- (a) that is an assured tenancy under the Housing (Scotland) Act 1988, and
 - (b) which, if it were not an assured tenancy, can for the time being be a private residential tenancy.”.

PART 5

HOMELESSNESS PREVENTION

Duties of relevant bodies

41 Duties of relevant bodies in relation to homelessness

- (1) The Housing (Scotland) Act 1987 is modified as follows.
- (2) In section 24 (homeless persons and persons threatened with homelessness)—
- (a) in subsection (2B), for “he has applied” substitute “an application has been made by or in respect of the person”,
 - (b) in subsection (4), for “2” substitute “6”.
- (3) In section 28 (inquiry into cases of possible homelessness or threatened homelessness)—
- (a) in subsection (1)—
 - (i) after “If” insert “an application is made to a local authority by or in respect of”,
 - (ii) the words “applies to a local authority” are repealed,
 - (b) after subsection (1) insert—

“(1A) An application under subsection (1) may be made in respect of a person (as opposed to by a person) only by a relevant body in accordance with section 36B or 36C.”.
- (4) In section 32 (duties to persons found to be threatened with homelessness)—
- (a) in subsection (2), for the words from “secure” to the end of the subsection substitute “—
 - (a) remove or, where this is not possible, minimise the threat of homelessness to the applicant, and
 - (b) secure that accommodation is available for occupation by the applicant.”,
 - (b) after subsection (2) insert—

“(2ZA) For the purpose of subsection (2)(b), the local authority must take reasonable steps—

5 (a) to secure that the accommodation occupied by the applicant when the application is made continues to be available for occupation by the applicant, and

(b) only if that accommodation will not continue to be available for occupation by the applicant, to secure that other accommodation is available for occupation by the applicant.”,

(c) after subsection (2B) insert—

10 “(2C) In a case falling within subsection (2), the local authority must give the applicant advice and assistance of such type as may be prescribed where the local authority considers it appropriate for the purposes of—

(a) removing or minimising the threat of homelessness in relation to the applicant,

15 (b) securing that accommodation continues to be, or is otherwise, available for occupation by the applicant.”,

(d) in subsection (3), for the words from “does” to the end of the subsection substitute “continues to be, or is otherwise, available for occupation by the applicant.”,

(e) in subsection (6), after “subsection” insert “(2C) or”.

20 (5) In section 33 (referral of application to another local authority)—

(a) in subsection (1), at the end insert “(but see subsection (7))”,

(b) after subsection (6) insert—

25 “(7) Where the application mentioned in paragraph (b) of subsection (1) was made by a relevant body, subsection (1) does not apply to the extent that it would otherwise enable a local authority in Scotland, on receiving the application, to notify a local authority in England or Wales in accordance with that subsection.”.

(6) After section 36 insert—

“Duties of relevant bodies in relation to homelessness

30 **36A Duty to ask if a person is homeless or threatened with homelessness**

(1) If a relevant body, when assessing the needs of a person in the exercise of its functions, has reason to believe that the person may be homeless or threatened with homelessness, the body must ask the person—

(a) whether the person is homeless or threatened with homelessness,

35 (b) whether the person is aware of any application under section 28(1) having been made by or in respect of the person and, if so, to give the name of the local authority to whom the application was made, and

(c) whether the person consents to the relevant body making such an application if the relevant body were to be satisfied that it is appropriate.

40 (2) Another person may, with the consent of the person referred to in subsection (1), answer any such question.

36B Duty to act if a person may be homeless

- (1) If the relevant body—
- (a) is informed that the person referred to in section 36A(1) is homeless, or
 - (b) has any other reason to believe that the person may be homeless,
- 5 the body must take the step mentioned in subsection (2).
- (2) The step is to make an application under section 28(1) to the appropriate local authority in respect of the person but only if the relevant body is satisfied that—
- 10 (a) it is appropriate to make the application taking account of the person's circumstances, and
 - (b) it has the consent of the person to make the application.
- (3) The duty to make an application mentioned in subsection (1) does not apply if the relevant body is satisfied that—
- 15 (a) an application under section 28(1) has already been made to the appropriate local authority by or in respect of the person, and
 - (b) the application is under consideration by the authority.

36C Duty to act if a person may be threatened with homelessness

- (1) If the relevant body—
- 20 (a) is informed that the person referred to in section 36A(1) is threatened with homelessness, or
 - (b) has any other reason to believe that the person may be threatened with homelessness,
- the body must take the steps mentioned in subsection (2).
- (2) The steps are—
- 25 (a) to take such action as the relevant body considers appropriate, in the exercise of its functions and in cooperation with any other relevant body, to—
 - (i) remove the threat of homelessness to the person, or
 - (ii) where this is not possible, minimise that threat, and
 - 30 (b) to make an application under section 28(1) to the appropriate local authority in respect of the person but only if the relevant body is satisfied that—
 - (i) it is unable to take action under paragraph (a) to remove the threat of homelessness,
 - 35 (ii) it is appropriate to make the application taking account of the person's circumstances, and
 - (iii) it has the consent of the person to make the application.

- (3) For the purpose of subsection (2)(a)—
- (a) the reference to action does not include the making of an application under section 28(1),
 - (b) a relevant body may share information with any other relevant body.

- (4) The duty to take the step mentioned in subsection (2)(b) does not apply if the relevant body is satisfied that—
- (a) an application under section 28(1) has been made to the appropriate local authority by or in respect of the person, and
 - (b) the application is under consideration by the authority.

36D Duty to have regard to matters relating to homelessness

A relevant body must, in the exercise of its functions, have regard to—

- (a) the need to prevent homelessness,
- (b) any guidance issued by the Scottish Ministers in connection with homelessness that is relevant to the exercise of its functions.”.

- (7) In section 43 (minor definitions)—

- (a) after the definition of “application (for housing accommodation)” insert—

““appropriate local authority”, in relation to the duty of a relevant body under section 36B(1) or 36C(1) in respect of a person, means the local authority for the district in which the person is present at the time that the relevant body asks the person the questions required under section 36A(1);”.

- (b) after the definition of “relevant authority” insert—

““relevant body” means—

- (a) a Health Board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
- (b) an integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
- (c) a local authority,
- (d) the Police Service of Scotland,
- (e) a registered social landlord (within the meaning of section 165 of the Housing (Scotland) Act 2010),
- (f) the Scottish Ministers in so far as they have functions (including any that are delegated to another person) relating to—
 - (i) prisons and young offenders institutions (as construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995), and
 - (ii) persons detained in them,
- (g) a Special Health Board constituted by order under section 2(1)(b) of the National Health Service (Scotland) Act 1978;”.

(8) After section 43 insert—

“43A Power to modify the meaning of “relevant body”

(1) The Scottish Ministers may by regulations modify the meaning of “relevant body” in section 43 to add or remove a person or a description of a person.

(2) Regulations under subsection (1) may make—

(a) different provision for different purposes,

(b) incidental, transitional, transitory or saving provision.

(3) Where the Scottish Ministers propose to make regulations under subsection (1) to add a person or a description of a person, before laying a draft of a Scottish statutory instrument containing the regulations before the Scottish Parliament, they must consult—

(a) where a person is proposed to be added, that person or a person who appears to the Scottish Ministers to represent the interests of that person,

(b) where a description of a person is proposed to be added, a person who appears to the Scottish Ministers to represent the interests of a person of that description.

(4) Regulations under subsection (1) are subject to the affirmative procedure.”.

Assessment of housing support services

42 Assessment of housing support services

(1) The Housing (Scotland) Act 2001 is modified as follows.

(2) In section 89 (local housing strategies), after subsection (2)(d) (and before the “and” which immediately follows it) insert—

“(da) the needs of persons in the area for, and the availability of—

(i) services that must be provided in accordance with section 32B(4) of the 1987 Act, and

(ii) other housing support services (as defined by section 91(8)).”.

Tenants affected by domestic abuse

43 Local authorities etc.: consideration of domestic abuse

(1) The Housing (Scotland) Act 1987 is modified as follows.

(2) In section 20 (persons to have priority on housing list and allocation of housing)—

(a) in subsection (2C)—

(i) in paragraph (b), the words from “(within” to the end of that paragraph are repealed,

(ii) paragraph (c) is repealed,

(b) after subsection (4) insert—

“(4A) In subsection (2C)(b), “abuse” is to be construed in accordance with the meaning given by section 43.”.

- (3) In section 24 (homeless persons and persons threatened with homelessness), in subsection (3)—

5 (a) in paragraph (b), the words from “(within” to the end of that paragraph are repealed,

(b) paragraph (bb), and the word “or” immediately following that paragraph, are repealed.

- (4) In section 33 (referral of application to another local authority)—

10 (a) in subsection (2)(c)—

(i) for “of domestic abuse” substitute “that occupation of accommodation”,

(ii) after “district” insert “will lead to abuse”,

(b) subsection (3) is repealed.

- (5) In section 43 (minor definitions), after the opening words insert—

15 ““abuse” includes—

(a) violence, harassment, threatening conduct, and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress, and

20 (b) in a case where abuse of a person is from a partner or ex-partner, abusive behaviour by the partner or ex-partner within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021 (as read with sections 1 and 3 of that Act);”.

44 **Social landlords: pre-action requirement where domestic abuse is a factor in rent arrears**

- 25 (1) The Housing (Scotland) Act 2001 is modified as follows.

- (2) In section 14A (pre-action requirements where grounds for possession include rent arrears)—

(a) after subsection (6) insert—

30 “(6A) Where the landlord considers that the tenant has experienced or is experiencing domestic abuse which explains or partly explains why the rent lawfully due from the tenant has not been paid, the landlord must—

(a) take such action to support the needs of the tenant arising in connection with the rent arrears as the landlord considers reasonable having regard to its domestic abuse policy under section 56A, and

35 (b) provide the tenant with details of such other support that may be available to the tenant in relation to domestic abuse as the landlord considers appropriate in the circumstances.”,

(b) in subsection (10), after “this section” insert “—

“domestic abuse” has the meaning given by section 56A(6).”.

45 Social landlords: policies about supporting tenants affected by domestic abuse

- (1) The Housing (Scotland) Act 2001 is modified as follows.
- (2) In Part 2 (tenants of social landlords), after Chapter 3 insert—

“CHAPTER 4

TENANTS AFFECTED BY DOMESTIC ABUSE

56A Social landlords: policies about supporting tenants affected by domestic abuse

- (1) Every local authority landlord and registered social landlord must prepare and publish a policy (a “domestic abuse policy”) on how it will exercise its functions in relation to the needs of tenants who the landlord has reason to believe have experienced, are experiencing or are at risk of domestic abuse, with a view to preventing homelessness.
- (2) A domestic abuse policy must, in particular, include a description of the action that the landlord must take in relation to the needs of a tenant in the circumstances mentioned in section 14A(6A).
- (3) A landlord—
 - (a) may revise its domestic abuse policy, and
 - (b) if it does so, must re-publish the policy.
- (4) A landlord must, in exercising its functions, have regard to its domestic abuse policy.
- (5) A landlord must have regard to any guidance issued by the Scottish Ministers about the exercise of its functions under this section including as regards the form and content of a domestic abuse policy.
- (6) In subsection (1), “domestic abuse” means abusive behaviour within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021 (as read with sections 1 and 3 of that Act).”

PART 6

OTHER HOUSING MATTERS

*Mobile homes***46 New pitch fees: considerations**

- (1) The Mobile Homes Act 1983 is modified as follows.
- (2) In section 2B (power to amend implied terms: Scotland)—
 - (a) in subsection (3), after paragraph (a) insert—
 - “(aa) make provision to substitute a different economic index for the one for the time being mentioned in paragraph 23(1)(b) of schedule 1;”,
 - (b) after subsection (4) insert—
 - “(4A) The second and any subsequent order made under this section may provide for any provision mentioned in subsection (3)(aa) that is included in the order

to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day).”.

(3) In schedule 1 (agreements under Act)—

(a) in paragraph 20, after sub-paragraph (3) insert—

“(4) Sub-paragraph (5) applies where—

(a) a notice is served under paragraph 17(1) or 19(1) setting out the owner’s proposal in respect of a new pitch fee,

(b) an application is subsequently made to the court under paragraph 17(4) or 19(3) for an order determining the amount of the new pitch fee, and

(c) the court is satisfied that a portion (“the compensatory portion”) of the new pitch fee proposed by the owner has been calculated to compensate a person for an actual or anticipated financial loss arising as a result of—

(i) the change made to paragraph 23(1)(b) by section 46(3)(c) of the Housing (Scotland) Act 2025, or

(ii) the substitution of any economic index for the time being mentioned in that paragraph with a different economic index.

(5) Where this sub-paragraph applies, the compensatory portion of the new pitch fee proposed by the owner must not be included in the amount of any new pitch fee determined by an order of the court under sub-paragraph (1).”.

(b) in paragraph 22—

(i) in sub-paragraph (1), for paragraph (c) substitute—

“(c) any direct effect of a relevant enactment on the costs payable by the owner in relation to the maintenance or management of that site.”,

(ii) after sub-paragraph (1) insert—

“(1A) But no regard is to be had, when determining the amount of the new pitch fee, to any actual or anticipated financial loss arising as a result of—

(a) the change made to paragraph 23(1)(b) by section 46(3)(c) of the Housing (Scotland) Act 2025, or

(b) the substitution of any economic index for the time being mentioned in that paragraph with a different economic index.”,

(iii) after sub-paragraph (3) insert—

“(4) In sub-paragraph (1)(c), “relevant enactment” means an enactment, other than an order made under paragraph 8(2), that has come into force since the last review date.”,

(c) in paragraph 23(1)(b), for “retail” substitute “consumer”,

(d) in paragraph 32—

(i) after the definition of “caravan site” insert—

““consumer prices index” means the general index for consumer prices published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board;”

5 (ii) the definition of “retail prices index” is repealed.

47 Meaning of “protected site”

- (1) The Mobile Homes Act 1983 is modified as follows.
- (2) In section 5 (interpretation), in subsection (1), in the definition of “protected site”, the words from “does” to “that,” are repealed.

10 *Fuel poverty*

48 Fuel poverty strategy: consultation

- (1) The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 is modified as follows.
- (2) In section 7 (consultation on strategy)—
 - 15 (a) in subsection (1), after “preparing” insert “or reviewing”,
 - (b) after subsection (3) insert—

““(3A) For the purpose of subsection (2), the duty to consult the persons mentioned in paragraph (a), (c), (d), (e) or (f) may be met by consulting persons who appear to the Scottish Ministers to represent the interests of the persons mentioned in any of those paragraphs.”.

20

49 Periodic reports: periods, consultation and publication etc.

- (1) The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 is modified as follows.
- (2) In section 9 (preparation of periodic reports), in subsection (5)(a)—
 - 25 (a) the words “of 3 years” are repealed,
 - (b) after “section 8” insert “and ending with 31 December 2024”.
- (3) In section 10 (consultation on periodic reports), in subsection (2), paragraphs (a) to (f) are repealed.
- (4) In section 11 (publication and laying of periodic reports), for “before the end of the financial year in which” substitute “within the period of 6 months beginning with the day after”.

30

50 Advisory panel: removal of funding cap

- (1) The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 is modified as follows.
- 35 (2) In section 15 (funding of the Scottish Fuel Poverty Advisory Panel)—
 - (a) in subsection (1), the words “Subject to subsection (2),” are repealed,

- (b) subsections (2) to (6) are repealed.

New homes ombudsman

51 Disclosure of information to new homes ombudsman

- (1) The Scottish Public Services Ombudsman Act 2002 is modified as follows.
- (2) In schedule 5 (which specifies persons or bodies to whom the Ombudsman in certain circumstances may disclose information in relation to certain matters), after the entry relating to Social Care and Social Work Improvement Scotland insert—

“the new homes ombudsman	A matter in respect of which the new homes ombudsman could exercise any function conferred by the new homes ombudsman scheme (see section 136 of the Building Safety Act 2022)”.
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PART 7

FINAL PROVISIONS

52 Regulations

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make different provision for different purposes or areas.
- (2) Regulations under section 1(3) or (4) are subject to the negative procedure.
- (3) Regulations under section 9(1), 13(1), 14(1), 15(7) or 18(1) are subject to the affirmative procedure.
- (4) This section does not apply to regulations under section 56(2).

53 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).
- (3) Regulations under subsection (1)—
- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but
 - (b) otherwise, are subject to the negative procedure.

54 Interpretation

In this Act—

- “the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,
“First-tier Tribunal” means the First-tier Tribunal for Scotland,

“private residential tenancy” means a private residential tenancy under the 2016 Act.

55 Minor and consequential modifications

The schedule contains minor and consequential modifications of enactments.

5 56 Commencement

- (1) This Part, except for section 55, comes into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
 - 10** (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.

57 Short title

The short title of this Act is the Housing (Scotland) Act 2025.

SCHEDULE
Introduced by section 55

MINOR AND CONSEQUENTIAL MODIFICATIONS OF ENACTMENTS

Rent (Scotland) Act 1984

- 5 1 (1) The Rent (Scotland) Act 1984 is modified as follows.
- (2) In section 89A (premiums: regulations), after subsection (4) insert—
- “(4A) Regulations under subsection (1) may—
- (a) include incidental, supplementary, consequential, transitional, transitory or saving provision,
- 10 (b) modify any enactment (including this Act).”.

Housing (Scotland) Act 1988

- 2 (1) The Housing (Scotland) Act 1988 is modified as follows.
- (2) In section 53 (orders and regulations), in subsection (2), after “18(4A)(b)” insert “or 20A(6)”.

15 *Housing (Scotland) Act 2001*

- 3 (1) The Housing (Scotland) Act 2001 is modified as follows.
- (2) In section 109 (orders and regulations)—
- (a) after subsection (2) insert—
- 20 “(2A) Regulations under paragraph 8B of schedule 5 prescribing requirements that must be fulfilled by, respectively, an application or an intimation may in particular require that it—
- (a) contain information specified in the regulations,
- (b) be in a form specified in the regulations,
- (c) be given in a manner specified in the regulations.”,
- 25 (b) in subsection (4), after “16(5A)(c)” insert “, 16A(6), 31B(1), 31C(1), 36A(6)”,
- (c) in subsection (6), after “7(3)” insert “, 16A(6), 31B(1), 31C(1) or 36A(6)”.
- (3) In the title of schedule 5, after “ALTERATIONS” insert “, KEEPING PETS”.

Housing (Scotland) Act 2006

- 4 (1) The Housing (Scotland) Act 2006 is modified as follows.
- 30 (2) In section 182(2)(b) (warrants authorising entry), in sub-paragraph (vi), the word “that” is repealed.
- (3) In section 191 (orders and regulations), in subsection (5), after “121(1)” insert “, 122C(4)”.

Housing (Scotland) Act 2014

- 5 (1) The Housing (Scotland) Act 2014 is modified as follows.
- (2) In section 36 (letting agent registration number), in subsection (3)(b), the word “operated” is repealed.

5 *Private Housing (Tenancies) (Scotland) Act 2016*

- 6 (1) The 2016 Act is modified as follows.
- (2) The title of Part 4 (rent) becomes “Rent: properties not in rent control area (or excluded property)”.
- 10 (3) After the title of Chapter 1 of Part 4 but before the italic heading (“Restrictions in rent increases”) insert—

“Application of this Part

17B Application of this Part

This Part applies in relation to a private residential tenancy of a property that—

- (a) is not in a rent control area, or
- 15 (b) is in a rent control area but is an exempt property for the purpose of any regulations made under section 13(1) of the 2025 Act.”.
- (4) In section 24 (tenant’s right to refer increase to rent officer), subsection (2) is repealed.
- (5) Chapter 3 (rent pressure zones) of Part 4 is repealed.
- (6) In section 73(2) (minor errors in documents)—
- 20 (a) in paragraph (a)—
- (i) for “or” insert “, 43J(1),”,
- (ii) after “61(1)” insert “, 64B(2), 64C(2), 64I(2) or 64J(2)”,
- (b) in paragraph (b), after “24(1)” insert “or 43L(2)”,
- (c) paragraph (c) and the word “and” that immediately follows that paragraph are
- 25 repealed,
- (d) after paragraph (c) insert—
- “(ca) the document by which a request for review is made to a rent officer under section 43O(1),
- (cb) the document by which a request is made for the landlord’s consent
- 30 under section 64B(1) or 64I(1), and”.
- (7) In section 76 (ancillary regulations), after subsection (1) insert—
- “(1A) Regulations under subsection (1) may modify any enactment (including this Act).”.
- (8) In section 77 (regulation-making powers)—
- 35 (a) in subsection (1), after “purposes” insert “or areas”,
- (b) in subsection (2)—
- (i) after “22(2)(b)” insert “, 43J(3)(b), 48A(3)(c)”,

- (ii) for “or 62(1)(d)” substitute “, 62(1)(d), 64B(1)(b), 64B(3)(d), 64C(3), 64I(1)(b), 64I(3)(d) or 64J(3)”;
- (iii) after “by a notice” insert “, pre-notice or request (as the case may be)”;
- (c) in subsection (3)—
- 5 (i) after “12” insert “, 17A(5), 19(1)(a)”;
- (ii) for “and 41” substitute “, 41, 43B(4), 43G(1)(b)(i), 51A(6), 64E(1), 64F(1), 64L(1), 64M(1), 64N(1)”;
- (iii) after “schedule 3” insert “and paragraph 6(1) of schedule 5”;
- (d) in subsection (4)—
- 10 (i) after “43” insert “, 43J(3)(b), 43L(3), 43O(2)(b), 43Q(4)(a), 48A(1)(b)(ii), 48A(3)(c)”;
- (ii) for “and 62” substitute “, 62, 64B(1)(b), 64B(3)(d), 64C(3), 64I(1)(b), 64I(3)(d) and 64J(3)”.
- (9) In section 78 (interpretation), in subsection (1)—
- 15 (a) after the opening words, insert—
- ““the 2025 Act” means the Housing (Scotland) Act 2025,”;
- (b) after the definition of “rent” insert—
- ““rent control area” means an area that is designated as a rent control area by regulations under section 9(1) of the 2025 Act,”;
- 20 (c) for the definition of “rent-increase notice” substitute—
- ““rent-increase notice”, except where stated otherwise, has—
- (a) in Chapter 2 of Part 4, the meaning given by section 22(1),
- (b) in Chapter 2 of Part 4A, the meaning given by section 43J(1).”.
- (10) In schedule 2 (statutory terms required by section 8), in paragraph 2, for “in accordance with Chapter 2 of Part 4” substitute “—
- 25 (a) in accordance with Chapter 2 of Part 4 if the let property—
- (i) is not in a rent control area, or
- (ii) is in a rent control area but it is an exempt property for the purpose of any regulations made under section 13(1) of the 2025 Act,
- 30 (b) in accordance with Chapter 2 of Part 4A if the let property—
- (i) is in a rent control area, and
- (ii) is not an exempt property as mentioned in sub-paragraph (a)(ii).”.

Housing (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about rent control; evictions and damages for unlawful evictions; residential tenants keeping pets and making changes to let property; unclaimed tenancy deposits; registration of letting agents; ending of joint tenancies; delivery of notices by social landlords; conversion of assured tenancies; homelessness prevention; mobile homes; fuel poverty; the new homes ombudsman; and for connected purposes.

Introduced by: Shirley-Anne Somerville
Supported by: Patrick Harvie and Paul McLennan
On: 26 March 2024
Bill type: Government Bill

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