HOUSING (SCOTLAND) BILL  
[AS AMENDED AT STAGE 2]  

REVISED EXPLANATORY NOTES  

CONTENTS  

1. As required under Rule 9.7.8A of the Parliament’s Standing Orders, these revised Explanatory Notes are published to accompany the Housing (Scotland) Bill (introduced in the Scottish Parliament on 13 January 2010) as amended at Stage 2. Text has been added or deleted as necessary to reflect the amendments made to the Bill at Stage 2 and these changes are indicated by sideling in the right margin.  

THE BILL  

2. The purpose of the Housing (Scotland) Bill is to safeguard social housing for the use of future generations of tenants by reforming the Right to Buy (RTB), and to improve value for tenants and taxpayers through a modernised system of social housing regulation. Parts 1-10A replace and modernise the regulatory framework established by the Housing (Scotland) Act 2001 (“the 2001 Act”) and in Part 3 of the Housing (Scotland) Act 1988. Part 10B removes restrictions on certain leases and securities entered into by social landlords.  

3. The Bill also addresses, in relation to the private rented sector, problems and possible improvements in the systems of landlord registration and licensing of houses in multiple occupation (HMOs). It also includes improvements to local authority powers to deal with disrepair in privately owned houses.  

4. Part 14 of the Bill makes some miscellaneous changes to housing legislation. The changes affect tenants who are granted a lease of a property in breach of their landlord’s standard security conditions, (“unauthorised tenants”), tenants with rent arrears, police accommodation, the definition of “local connection” for members of the armed forces, vacant dwellings and homelessness assessment and support duties.  

5. In summary, the Bill includes provisions that will:  

- modernise social housing regulation;  
- reform the Right to Buy (RTB);  
- amend legislation on private sector housing; and  
- protect “unauthorised tenants”, those with rent arrears and homeless people.  

6. A more detailed explanation of the Bill’s purpose can be found in the Policy Memorandum, which also explains the thinking and policy intentions that underpin it.
STRUCTURE OF THE BILL

7. The Bill is in 18 Parts.

- **Part 1** establishes the SHR as an independent regulator with the objective of safeguarding and promoting the interests of tenants, prospective tenants, homeless people and others using housing services provided by social landlords.

- **Part 2** requires the regulator to keep a register of social landlords and sets out the criteria for registration and the circumstances in which a body may be removed from the register.

- **Part 3** provides for Scottish Ministers to specify the standards and outcomes social landlords must aim to achieve in a Social Housing Charter, and for the regulator to set performance improvement targets and assess and report on their performance. Part 3 also requires the regulator to set out standards of governance and financial viability for registered social landlords.

- **Part 4** provides the regulator with powers to carry out inquiries and obtain information from social landlords.

- **Part 5** gives the regulator a range of powers to intervene where it has concerns about a social landlord’s performance, governance arrangements or financial viability. It also requires the regulator to issue a code of practice explaining how it will use its intervention powers.

- **Part 6** provides for the regulator to set accounting requirements for registered social landlords.

- **Part 7** provides the regulator with powers to deal with an insolvent registered social landlord.

- **Part 8** deals with the constitution, rule changes, amalgamation and dissolution of registered social landlords.

- **Part 9** sets out controls on the disposal of land by registered social landlords.

- **Part 9A** sets out a special procedure for certain disposals by and restructurings of registered social landlords where there is a change of landlord.

- **Part 10** makes special provision, including approval by tenants, for the change of landlord from a local authority landlord.

- **Part 10A** makes provision for regulation of charitable registered social landlords.

- **Part 10B** makes provision for long leases and heritable securities where a social landlord is, or is to be, the lessee or the debtor in the security.

- **Part 11** reforms the Right to Buy.

- **Part 12** amends the system of registration of private landlords contained in Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004. This is in relation to fees for appointing agents; public access to information on applications not yet determined and persons found not to be fit and proper to act as landlords; an increase in the maximum fine for offences; and a power for a local authority to
obtain information to enable or assist it to carry out its landlord registration functions.

- **Part 13** makes changes to the powers available to local authorities under the Housing (Scotland) Act 2006 to address disrepair in private housing. This relates to maintenance powers, charging orders and repayment charges, the scheme of assistance and enforcement powers. Part 13 also makes changes to the system of HMO licensing to give The Scottish Ministers a power to bring by order additional types of multi-occupancy property within the scope of HMO licensing and to give local authorities a power to refuse to consider an application for an HMO licence if it considers that there would be a breach of planning control.

- **Part 14** includes miscellaneous amendments.

- **Part 15** sets out supplementary and final provisions.

**PART ONE – THE SCOTTISH HOUSING REGULATOR**

The Regulator

8. Section 1 establishes the Scottish Housing Regulator (“the regulator” or “the SHR”) as a body corporate. Although not covered by the Bill, it is intended that the SHR will become a non-Ministerial office holder of the Scottish Administration (in other words, a non-Ministerial Department) and that its employees will be civil servants. The formal mechanism for this will be by an order made by Westminster under the Scotland Act 1998 following enactment of this Bill. Section 2(1) gives the regulator the objective to safeguard and promote the interests of those who are, or who may become, tenants of social landlords, or homeless, or the recipients of housing services provided by social landlords. Section 2(2) requires the regulator to perform its functions in a way that is in line with its objective and which it considers most appropriate for the purpose of meeting that objective.

9. Section 3(1) sets out the Scottish Housing Regulator’s general functions. These are to keep a publicly available register of social landlords and to monitor, assess and regularly report on all social landlords’ performance of housing activities and on registered social landlords’ financial well-being and standards of governance. (“Social landlords” provide housing for people in housing need at rents below open market levels. They can include registered social landlords and local authorities that provide rented housing and other housing services.))

10. Section 3(2) requires the regulator to perform its functions in a proportionate, accountable and transparent way that is targeted only where action is needed and that is consistent with any other principle which appears to it to represent best regulatory practice.

11. Section 4 requires the regulator to consult and involve bodies representing homeless people, tenants and other service users in its work and to publish a statement about how it intends to do this.

12. Section 5 requires the regulator to consult the Accounts Commission for Scotland on how it will carry out its powers and duties in respect of local authority landlords. The regulator must publish a statement on how it will do so.
13. Section 6 makes the regulator independent from Scottish Ministers by preventing them from directing or otherwise trying to control how the regulator carries out its functions (except where contrary provision is made).

Membership

14. Section 7 deals with the detailed membership of the regulator. Subsection (1) provides for the regulator’s chief executive to be a member of its board and for ordinary members to be appointed by Scottish Ministers (after normal public appointment procedures). Ministers have discretion to appoint the number of members they think is appropriate for the regulator, but must appoint a minimum of three members.

15. Section 8(1) sets out the categories of person who are disqualified from being members. These are MSPs, MPs, MEPs, office holders of the Scottish Administration, local councillors, employees of local councils and employees and officers of any registered social landlord. Subsection (2) allows Scottish Ministers to remove an ordinary member from office if they are satisfied that the member is an undischarged bankrupt or has been absent from meetings for over six consecutive months, is unable to discharge the member’s functions as a member or is unsuitable as a member. Subsection 150 defines what is meant by an “undischarged bankrupt”.

16. Section 9 allows the Regulator to reimburse its ordinary members’ expenses incurred in carrying out their functions.

Chairing and Proceedings

17. Section 10 deals with the regulator’s constitutional arrangements. Subsection (1) requires the Scottish Ministers to appoint one of the ordinary members to chair meetings of the regulator’s board and allows Ministers to appoint another ordinary member to act as deputy chair.

18. Section 11 provides for the SHR to regulate its own procedure and that of any committees that are established. Subsection (2) prevents any of the regulator’s proceedings or acts being called into question in the event that there is a vacancy in its membership or if the process for appointing a member was carried out incorrectly.

Staff and property

19. Section 12 provides for the regulator to appoint as a member of staff a chief executive. The first chief executive will be directly appointed by Scottish Ministers after consulting with the chair of the regulator’s board (if that person has been appointed at the time of the chief executive’s appointment). The regulator may appoint subsequent chief executives. Both the appointment of the chief executive and the terms of their appointment are subject to approval by Scottish Ministers.

20. Section 13 provides for the regulator to appoint other members of staff and the terms of such staff are subject to the approval of Scottish Ministers. It introduces schedule 1 which makes transitional provisions about the regulator’s staff and property.
Powers

21. Section 14 sets out the regulator’s general powers. Subsection (1) allows the regulator to do anything it thinks necessary or advisable for the purpose of or in connection with the performance of any function conferred on it by this Bill. Subsection (2) prevents the regulator from borrowing money. The regulator must also have the consent or approval of Scottish Ministers before it can:

- acquire or dispose of land;
- give guarantees; or
- determine the location of its office premises.

22. Section 15 provides for the regulator, at its discretion, to authorise anyone to carry out any of its functions and the extent to which they can carry out such a function. The regulator can authorise both members of its staff and people who are not members of its staff to carry out its functions.

Studies, co-operation and annual reports

23. Section 17 gives the regulator the power to commission studies or to carry them out itself to inform its approach towards meeting its objective. The regulator is able to, but is not required to, publish a report on any study or research.

24. Section 18 requires the SHR to co-operate with other relevant regulators. Subsection (2) sets out the bodies that are considered to be relevant regulators. These are:

- the Office for Tenants and Social Landlords (known as the Tenant Services Authority)
- the Office of the Scottish Charity Regulator
- Healthcare Improvement Scotland
- Social Care and Social Work Improvement Scotland
- the Scottish Public Services Ombudsman
- the Financial Services Authority
- the registrar of companies
- the Accounts Commission for Scotland.

25. Section 18(3) allows the regulator to disclose any information to the relevant regulator for any purpose connected with the performance of its functions or in order to enable or assist the relevant regulator to perform any function.

26. Section 19 stipulates that the regulator must annually prepare and publish a general report on how it has used its functions, lay a copy before the Scottish Parliament and send a copy to Scottish Ministers. Subsection (2) states that this report must include information
about the use of the Regulator’s powers under Parts 4 (Inquiries and Information) and Part 5 (Regulatory Intervention) of this Bill. Subsection (3) gives the regulator discretion to decide what other information should be in the report, what the report looks like and how it is to be published.

PART TWO – REGISTERED SOCIAL LANDLORDS

The register of social landlords

27. Section 20 places a duty on the regulator to maintain an accessible register of social landlords. Subsection (2) prevents local authorities and local authority landlords from being included in the register. Subsection 4 specifies the information that must be held in the register.

28. Section 21 arranges for the transition from the current register of social landlords maintained by the Scottish Housing Regulator on behalf of Scottish Ministers to the new register. The new register will include all those bodies that are currently on the Scottish Housing Regulator’s register.

29. Section 22 provides the regulator with powers to determine the way in which an application must be made and the type of information the body applying for registration must provide. The regulator can charge for registration.

30. Section 23 places the regulator under a duty to include in the register every applicant body which it considers meets the registration criteria. Subsection (2) states that the registration criteria are made up of the legislative registration criteria and the regulatory registration criteria. Subsection (3) provides that as long as a body is on the register then it should be presumed that it is eligible for registration even if it is subsequently removed from the register.

Registration criteria

31. Section 24 sets out the criteria (the ‘legislative registration criteria’) that a body must meet before it can be registered as a social landlord. The criteria are that a body does not trade for profit; that it is established for the purpose of, or has among its objects and powers, the provision, construction, improvement, or management of houses to be kept available for letting or for occupation by its members, or of hostels. The body must operate, or intend to operate, in Scotland. Section 24(1)(d) prescribes a number of additional purposes or objects that a body is able to carry out in addition to the criteria at 24(1)(a), (b) and (c).

32. Section 24(2B) provides Ministers with the power by order to amend the additional purposes, objects and powers specified in section 24(1)(d) and (2A). Ministers are required to consult the regulator and tenants, social landlords and secured creditors of RSLs (or representatives of these groups) before making an order under this section. An order that restricts or limits purposes or objects in section 24(1)(d) has no effect in relation to a body registered as a social landlord when the order was made.
33. Section 25 provides the regulator with powers to set regulatory registration criteria about a body’s financial situation, the arrangements for its governance and financial management and the manner in which it provides housing services. The regulator is able to set different criteria for different types of bodies. The regulator must consult interested parties before setting, revising or withdrawing any criteria.

34. Section 26 requires the regulator to issue guidance on how it will assess whether a body meets the registration criteria and to make this available to those with an interest in the guidance. Before issuing, revising or withdrawing guidance the regulator must consult Scottish Ministers, registered social landlords or their representatives, tenants of registered social landlords or their representatives, and secured creditors of registered social landlords or their representatives.

**Removal from register**

35. Section 27 provides that the regulator may remove a body from the register if it considers that the body no longer meets the registration criteria, has never met those criteria, has ceased to carry out activities or has ceased to exist (it could also remove a body on receipt of an application under section 27). Under subsection (2) the regulator may require the body to provide information to demonstrate that it meets any of the registration criteria. Before it removes a body from the register, the regulator must give the body at least 14 days notice and have regard to any views expressed by the body in that period.

36. Section 28 requires the regulator to set criteria for voluntary de-registration and to remove from the register, at its request, a landlord that meets those criteria. The regulator must consult Scottish Ministers, tenants of registered social landlords or their representatives, registered social landlords or their representatives and secured creditors of registered social landlords or their representatives and inform those affected of any change or replacement of de-registration criteria.

**Appeals**

37. Section 29 provides an appeal mechanism for bodies aggrieved by a decision of the regulator not to register it as a social landlord or to remove it, or not to remove it, from the register. The appeal is to the Court of Session. Subsection (2) provides for the actions that the Court may take to decide an appeal. Under subsection (3), where the appeal is against the decision relating to the removal of a body from the register the regulator must not remove the body from the register until the appeals process is complete.

**Communication with other regulators**

38. Section 30 requires the regulator to notify other regulators of its decision to register or de-register a body and of the outcome of any appeal against such a decision.

**PART 3 – PERFORMANCE OF SOCIAL LANDLORDS**

39. Part 3 of the Bill requires the Scottish Ministers to set out the standards and outcomes social landlords should be aiming to achieve. Part 3 also requires the regulator to assess and report on social landlords’ performance of housing activities and gives it the power to set
performance improvement targets. The SHR must also set standards of financial management and governance for registered social landlords.

**The Scottish Social Housing Charter**

40. Sections 31 to 33 provide for the Scottish Ministers to publish a Scottish Social Housing Charter setting out what social landlords should aim to achieve (standards and outcomes) in performing housing activities. Once it is published, Ministers must review the Charter from time to time. Section 33 requires Ministers to consult interested parties before publishing the Charter for the first time and each time it is reviewed. Those to be consulted are listed at section 33(2). Ministers must submit the Charter to the Scottish Parliament for approval and it only comes into effect once it has been approved.

41. Section 32 gives examples of the kind of service areas the Charter might cover. The examples are for illustrative purposes and are not necessarily the areas that will be covered by the Charter, as these will be developed in consultation with stakeholders under section 33.

**Performance improvement targets**

42. The Charter will provide a framework for the regulator to assess and report on social landlords’ performance. Section 34 allows the regulator to set performance improvement targets for social landlords. Subsection (2) allows it to set targets for an individual landlord or a group of landlords if, for example, their performance falls below that of the sector generally. Before setting, revising or withdrawing targets that apply to social landlords, the regulator must consult Scottish Ministers and the other interested parties specified in subsection (3). The requirement to consult does not apply if the target affects only one landlord, or if the regulator considers there is an urgent need to set the performance improvement target.

**Guidance, performance assessment and reports**

43. Section 35 provides for the regulator to publish guidance about how it will assess social landlords’ performance against the Charter and the indicators it will use to measure progress. There is a requirement for the regulator to consult specified interested parties before issuing, revising or withdrawing this guidance.

44. Section 36 requires the regulator to publish a code of conduct setting out the standards of governance and financial management registered social landlords are expected to meet. It must also publish guidance on the code of conduct. Before it publishes, revises or withdraws the code of conduct or guidance, subsection (4) requires the regulator to consult registered social landlords, their tenants or their representative organisations, and lenders or their representative organisation (the Council of Mortgage Lenders).

45. Section 36A allows the SHR to set financial management or governance targets for registered social landlords. These targets may be set for an individual landlord or for a group of registered social landlords. Unless they apply only to an individual registered social landlord - or there is an urgent need to set a target - the regulator must consult those specified in subsection (3) before setting the targets.
46. Under Section 36B the regulator may also publish guidance setting out the indicators it will use to assess registered social landlords’ progress against any governance or financial management targets it has set.

47. Section 3(1)(b) provides for the regulator to monitor, assess and report on social landlords’ performance of housing activities and on registered social landlords’ financial health and governance standards. Section 38 prescribes what the regulator must consider when assessing social landlords’ housing activities. Generally, this includes the level and quality of service provided viewed in the context of the rents being charged; the Charter; and relevant performance improvement targets and guidance. When assessing registered social landlords’ financial management and governance, the regulator must consider the standards set out in the code of conduct and guidance issued under section 36 and any relevant targets.

48. Section 39 sets out reporting requirements for the regulator. It must publish, at least once a year, a report on landlords’ performance in achieving the standards and outcomes set in the Charter and in meeting performance improvement targets. Subsection (2) allows the regulator to include in its reports information about its use of regulatory intervention powers, the financial health of registered social landlords, and any other information it considers likely to be useful to social landlords, their tenants, prospective tenants or other service users.

**Encouragement of equal opportunities**

49. Section 37 requires social landlords to provide housing services in a way that encourages equal opportunity and is consistent with the law on equal opportunities.

**PART 4 – INQUIRIES AND INFORMATION**

50. Part 4 provides the regulator with powers to carry out inquiries and obtain information from social landlords.

**Inquiries**

51. Sections 40 to 44 replace the inspection powers in sections 69, 70, 72 and 73, and paragraphs 16 to 18 of Schedule 7, in the Housing (Scotland) Act 2001 with more flexible powers of inquiry, consistent with the principles of a proportionate and risk-based approach to regulation.

52. Section 40(1) allows the regulator to make inquiries into bodies connected with a social landlord, such as subsidiaries or associates, as well as the social landlord itself. Subsection (2) allows the regulator to determine the purpose and timing of inquiries. For example, it may decide to carry out an inquiry unannounced or at short notice, or an inquiry into a group of landlords, a specific theme or specific geographical area.

53. Inquiries can relate to a social landlord’s housing activities (which are defined in the Interpretation section, 150). The regulator may also make inquiries into registered social landlords’ financial or other affairs (section 40(3)(b)). An inquiry can be carried out by the regulator’s own staff, or the regulator may appoint someone else (an “inquirer”) to carry it out.
54. Section 41 gives the regulator right of access at reasonable times to a social landlord’s premises and to any relevant information, including documents stored electronically. The landlord (and anyone on the landlord’s premises) must ensure the regulator is given any facilities or assistance it may reasonably request for its inquiries. The regulator has the power to obtain, copy or take away any relevant information held by a social landlord. This section also makes it a criminal offence to fail to assist, or in any way obstruct, the regulator in carrying out its inquiries.

55. Section 42 allows the regulator to arrange for a social landlord’s housing to be surveyed if it suspects the landlord is failing, or at risk of failing, to achieve an outcome in the Social Housing Charter, meet a performance, financial management or governance target or implement a performance improvement plan. Subsection (9) makes it a criminal offence to obstruct a survey. It is also an offence for a landlord to fail to give at least seven days’ notice of the survey to residents in the houses due to be surveyed.

56. Section 43 allows the regulator to have an “exceptional” audit carried out as part of its inquiries into a registered social landlord’s affairs. Under this section, an exceptional audit is carried out by a qualified auditor, appointed by the regulator, to audit the registered social landlord’s accounts and balance sheet and report back to the regulator on any specified matters. This is separate from, and does not affect, the audit requirements contained in either Part 6 of this Bill or any other legislation.

57. Section 44 gives the regulator the power to publish a report of any inquiries it makes, but it is not obliged to publish a report on every inquiry. It must, however, consult on, publish and bring to landlords’ attention a statement setting out the types of inquiries on which it will publish reports. Whenever it publishes an inquiry report the regulator must send a copy to the social landlord concerned and to every registered tenants’ organisation associated with that landlord.

Information

58. Section 45 requires the regulator to provide a means for tenants to bring to its attention significant performance failures by social landlords. The regulator must publish a statement explaining what is meant by “significant performance failures” and the arrangements it will make for dealing with them.

59. Section 46 gives the regulator the power, when making inquiries or for any other purpose related to its regulatory functions, to obtain any information it needs about a social landlord or a connected body. A request for information can be made to any person. However, subsection (3) provides that the regulator’s initial request must be directed to the social landlord or the connected body. It can only be directed elsewhere if the landlord or connected body fails, or is unable, to provide the information required. It is a criminal offence under section 47 to fail without reasonable excuse to provide (or knowingly or recklessly provide false or misleading) information, or to alter, suppress or destroy information required under section 46.

60. Section 47A requires the regulator to issue guidance for landlords on how they should involve homeless people, tenants and other service users (or their representatives) in...
preparing information it has requested the social landlord to provide. Subsection (2) provides that the regulator may require a social landlord to provide information on how it has involved such persons (or their representatives) in providing the information to which the guidance relates. Guidance may be given generally or for particular purposes. Subsections (4) and (5) specify those that the regulator must consult before issuing the guidance and require the regulator to bring the statement to the attention of affected social landlords.

61. Section 48 places a duty on the regulator to issue a code of practice on inquiries, setting out how it will make inquiries and perform functions under Part 4 of the Bill. There is a similar duty on the regulator in section 51 covering regulatory intervention under Part 5.

PART 5 – REGULATORY INTERVENTION

62. Part 5 replaces the regulatory intervention powers in the Housing (Scotland) Act 2001. Section 49 lists the powers contained in this Part, which can include requiring a social landlord to comply with the Scottish Social Housing Charter, meet a performance improvement target or implement a performance improvement plan. For local authorities, the intervention powers are no longer solely linked to inspection.

63. There is no fixed sequence for the use of these powers and the regulator can use them individually or in combination. However, section 50 requires the regulator to consider the principle that social landlords should be responsible for determining how to provide housing services and manage their own affairs when deciding whether, and how, to intervene (while section 3(2) requires regulatory action to be targeted only where it is needed). Section 51 requires the regulator to consult on and publish a code of practice explaining how it will take decisions about use of its intervention powers.

Remedial action

64. Section 52 replaces the Scottish Ministers’ power (at section 74 of the 2001 Act) to require a local authority to produce a remedial plan with a power for the regulator to require any social landlord to submit a performance improvement plan. The regulator can require the submission if it considers that the landlord is failing, or at risk of failing, to achieve an outcome set in the Scottish Social Housing Charter or to meet a performance, financial management or governance target. The regulator can also require an improvement plan if this is justified by the social landlord’s conduct or, in the case of an RSL, if there has been misconduct or mismanagement in its financial or other affairs.

65. Under section 52(2A) the regulator may require a landlord to involve service users, or their representatives, in preparing a performance improvement plan. Section 58 (2B) allows the regulator to ask the landlord for evidence of service users’ involvement in preparing the plan.

66. The regulator may accept, modify or reject a performance improvement plan. The social landlord must be notified of any intention to make changes to or reject a plan. If the plan is rejected the social landlord must submit a revised plan and, once accepted, must implement it. The landlord also has to publish the plan and send a copy of it to any registered tenants organisations associated with it.
Enforcement notices

67. Section 53 allows the regulator to serve an enforcement notice on a social landlord if it considers that the social landlord is, or is at risk of, failing to achieve an outcome set in the Scottish Social Housing Charter, meeting a performance, financial management or governance target, or of implementing an approved performance improvement plan. The regulator may also serve an enforcement notice if it considers that:

- there has been misconduct or mismanagement of the registered social landlord’s affairs;
- the social landlord’s assets or tenants’ interests need to be protected;
- the registered social landlord’s assets need protection;
- the social landlord’s financial viability is at risk; or
- any other conduct of the social landlord justifies the notice.

68. The enforcement notice requires the landlord to take action to put right or avoid a failure or other problem, or to protect its tenants or assets. The regulator must publish the notice and send a copy to any registered tenants organisation associated with the social landlord.

Appointment of a manager

69. Section 54 allows the regulator, if it considers it necessary, to appoint someone to manage a social landlord’s services (or aspects of its services). There are two criteria, set out at subsection (1), that must be met before the regulator can make such an appointment. First, it considers (either following an inquiry or for some other reason) that the landlord is failing or at risk of failing to:

- achieve an outcome in the Social Housing Charter;
- meet a performance improvement target;
- implement an agreed improvement plan; or
- comply with an enforcement notice.

70. Secondly, it must consider such an appointment is needed to make sure the social landlord provides an appropriate standard of services. In the case of a local authority landlord there is a further requirement at subsection (3) for the regulator to consult the local authority, its representative body (COSLA), and the Accounts Commission before making an appointment.

71. There is no requirement to consult before making an appointment to a registered social landlord, although the criteria at section 54 (1) must be met. Section 55 provides that, where it has established a need to do so, the regulator may appoint or require the RSL to appoint a manager for its financial or other affairs.
72. Section 56 allows the regulator to determine the period and terms and conditions for the appointment of a manager. The manager will have general powers to do what is necessary to fulfil his or her functions, and may also be given specific powers by the regulator. The manager must comply with any direction given by the regulator (section 56(3)).

**Removal, suspension and appointment of officers**

73. Under section 57, the regulator may remove an officer of a registered social landlord (a committee member of a registered society or a director of a company limited by guarantee) who is bankrupt or apparently insolvent; disqualified from being a company director or charity trustee; incapable of fulfilling their role because of a mental disorder; or is impeding the effective management of the registered social landlord because of their absence or failure to act. The regulator must give the officer and the registered social landlord 14 days’ notice of its intention to remove the officer. “Officer” has the meaning given in the Interpretation section (150).

74. Section 58 gives the regulator power to suspend a “responsible individual” (an officer or agent) if it considers they have been responsible for, party to, or otherwise contributed to misconduct or mismanagement of the registered social landlord’s other affairs, or if it considers that its tenants’ interests or its assets need to be protected, or that there is obstruction or non co-operation in relation to Part 8. Again, the regulator must give the individual and the RSL 14 days’ notice of its intention. The regulator may appoint an individual to perform the suspended individual’s functions or give the RSL directions about performing those functions or other matters arising from the suspension. Subsection (5) makes it an offence for a suspended individual to act, without the regulator’s consent, in the management or control of any registered social landlord.

75. Section 59 allows the regulator to remove a responsible individual if its inquiries confirm misconduct or mismanagement or the registered social landlord’s assets or tenants’ interests need to be protected or that there is obstruction or non co-operation in relation to Part 8. Again, there is a requirement for the regulator to give 14 days’ notice. Subsection (3) makes it an offence for an individual who has been removed to act without the regulator’s consent in the management or control of any registered social landlord. A “responsible individual” is a person defined as such under section 60: an officer or agent of an RSL who appears to have been responsible for, facilitated or contributed to, or has been privy to the misconduct, mismanagement, failure etc.

76. A decision by the regulator under section 57, 58 or 59 can be appealed to the Court of Session under section 61.

77. Under section 62 the regulator has the power to appoint a new or additional officer to a registered social landlord. Subsection (2A) provides for the regulator, in some circumstances, to require the RSL to take out personal indemnity insurance for the person appointed.

78. The regulator may use its power to appoint an officer to:

- replace an officer it has removed;
• if the RSL has no officers;
• if the number of officers has fallen below that required by the RSL’s constitution (and there is no mechanism in the constitution to remedy this); or
• if it considers it necessary for the proper management of the registered social landlord’s financial or other affairs.

Protection of assets

79. Sections 63 and 64 allow the regulator to protect the registered social landlord’s assets during and following inquiries into its financial or other affairs. Section 63 allows it to restrict particular types of transactions or payments. The regulator can also direct a bank or other person not to part with any money, assets or securities it holds for the registered social landlord without its consent. Subsection (3) makes it an offence to fail to comply with a direction given under this section.

80. Section 64 allows the regulator to transfer the registered social landlord’s assets to another registered social landlord if, after making inquiries, it considers that there has been misconduct or mismanagement of the registered social landlord’s affairs or that there is a risk to its financial viability or governance or it cannot provide housing services to an acceptable standard. In either case, the regulator must also be satisfied that a transfer of some or all of the assets would improve the management of those assets. Before doing this the regulator must consult, and consider the views of, the tenants and any secured creditor known to it, of any houses it proposes to transfer. The terms of transfer must set the price the regulator considers, after obtaining an independent valuation, the assets would fetch if sold by a willing seller to a willing registered social landlord. They must also provide for the settlement or transfer of the transferring landlord’s debts and liabilities in relation to the transferred property.

81. In the case of a charitable registered social landlord, any transfer must be to another charitable registered social landlord. And, under subsection (7), the regulator must consult the Office of the Scottish Charity Regulator before directing a transfer of assets acquired by a non-charitable registered social landlord at a time when it was a registered charity. This is to ensure that charitable assets continue to be used only for charitable purposes, as required by the Charities and Trustee Investment (Scotland) Act 2005.

PART 6 – ACCOUNTS AND AUDIT

82. Part 6 provides the regulator with the power to set requirements for registered social landlords’ accounts and audit arrangements. This part of the Bill replaces similar powers of the Scottish Ministers in Part 3 of Schedule 7 of the 2001 Act.

83. Section 65 allows a determination of accounting requirements by the regulator. The requirements should ensure that registered social landlords’ accounts are properly prepared and provide a true and fair picture of their affairs. The regulator’s determination may be general or for a particular purpose and can apply to different RSLs or different cases. The regulator may revise or withdraw a determination and must bring any determination to the attention of any affected registered social landlords. A determination cannot relate to an
accounting period before it was published (section 65). Subsection (3) requires the regulator to consult before making any determination.

84. Section 66 places a duty on registered social landlords to comply with the regulator’s accounting requirements. The auditor’s report on a registered social landlord must state if, in the auditor’s opinion, its accounts comply with the requirements. Under section 67, the registered social landlord must provide the regulator with a copy of its accounts and auditor’s report within six months of the end of the accounting period to which they relate. Section 68 makes it an offence for a registered social landlord to fail to comply with either of these requirements.

85. Section 69(2) places a duty on reporting accountants and auditors appointed to prepare accounts or carry out internal audits for a registered social landlord to disclose to the regulator any matter they believe is of material significance to the regulator’s functions, under section 3, of monitoring, assessing and reporting on social landlords’ performance, financial wellbeing and standards of governance. This includes both significant matters relating to the affairs of the registered social landlord and to the affairs of a parent or subsidiary body connected with the registered social landlord.

86. Section 69(3) empowers accountants and auditors to report any matter they do not consider is of material significance under section 69(2), but which they think could be relevant to the exercise of any of the regulator’s functions. The duty and the power to report matters to the regulator both continue after someone has stopped acting in the capacity of auditor or reporting accountant to the registered social landlord.

PART 7 – INSOLVENCY ETC

87. This Part of the Bill sets out the action to be taken in the event of a registered social landlord becoming, or at risk of becoming, insolvent.

88. Throughout this Part of the Bill references to notifying and consulting secured creditors are qualified to refer only to those creditors the regulator is able to contact after making reasonable inquiries.

Arrangements for and effect of a moratorium

89. Section 70 sets out in a table who is required, and in what circumstances, to notify the regulator that certain steps are being taken to enforce a security over land. Notice is required both before and after taking one of the actions specified. Subsection (2) allows the regulator to define what is meant by a step “to enforce a security over a registered social landlord’s land”.

90. Section 71(1) provides that a step will have no effect unless the person taking it has notified the regulator in advance of their intention. However, failure to notify the regulator after the step has been taken will not make the step invalid (section 71(2)).

91. Taking one of the steps specified at section 70 automatically triggers a stop (a moratorium) on the disposal of land held by the registered social landlord (section 72).
Section 88 defines land as including “any existing or future interest of the landlord in rent or other receipts arising from land”. Taking another specified step during the period the moratorium (section 73) is in place will not result in a new moratorium or affect the length of the existing one. Any moratorium must, unless cancelled or extended, end 56 days after notice is given that the specified step has been taken.

92. Section 73 also provides for the regulator, with the consent of all the registered social landlord’s secured creditors (who can be located after reasonable enquiries), to extend the moratorium from time to time. Notice of such an extension must be given to the registered social landlord and any liquidator, administrative receiver, receiver or administrator appointed in relation to the registered social landlord or its land. Where the regulator considers the proper management of the registered social landlord’s land can be secured without making a proposal under section 77 of this Bill - and following consultation with the person whose step triggered the moratorium - the regulator can cancel the moratorium. The regulator must notify the registered social landlord and its secured creditors when a moratorium ends. Where a moratorium has ended, other than by cancellation, the notice given must also provide an explanation of section 74.

93. Under section 74 if, after a moratorium has ended (other than by cancellation), a specified step is taken against the same registered social landlord within three years, a new moratorium will not be triggered. The regulator may, with the consent of the registered social landlord’s secured creditors, renew the original moratorium for a specified time. The regulator must give notice of the renewal to the registered social landlord and any liquidator, administrative receiver, receiver or administrator appointed in relation to the registered social landlord or its land.

94. Section 75 ensures that, under a moratorium, the registered social landlord’s land cannot be disposed of without the regulator’s consent (unless the regulator’s consent is not required under section 104 of this Bill). The regulator may consent to a disposal before the moratorium begins and it may place conditions on its consent.

95. Section 76 gives the regulator powers to appoint, or require a registered social landlord to appoint, an interim manager with powers to manage some or all of its affairs during a moratorium. The interim manager must, however, comply with any direction given by the regulator and may not dispose of land or grant security over land.

Making proposals for future ownership and management

96. During the moratorium the regulator can make proposals for the future ownership and management of the registered social landlord’s land in an attempt to ensure the land’s future and proper management by a registered social landlord (section 77). Before making proposals it must consult those people listed at subsection (2). The regulator must consider the interests of all the registered social landlord’s creditors and must aim to avoid worsening the position of any unsecured creditors. The proposals may provide for the appointment and remuneration of a manager to implement the proposals. The proposals must not result in non-preferential debts being paid before preferential ones or preferential creditors being paid different proportions of preferential debt, unless they have agreed to being paid a smaller proportion. (The term “preferential debt” refers to money owed to Her Majesty’s Revenue and Customs
for income tax deducted at source, VAT, car tax, betting and gaming duties, social security and pension scheme contributions, and remuneration of employees.)

97. The regulator must submit its proposals to all those of the registered social landlord’s secured creditors who can be located after reasonable enquiries have been made; the registered social landlord and its committee or board; and any liquidator, receiver or administrator. The regulator must also arrange to make the registered social landlord’s members, tenants and unsecured creditors aware of its proposals (section 78).

98. Section 79 allows secured creditors to either agree (with or without changes) or reject proposals about future management and ownership of a registered social landlord. The regulator must agree any changes to the proposals before those changes have effect. Subsection (3) lists those whom the regulator must notify about the agreed proposals.

99. The regulator may, under section 80, and with the agreement of the RSL and the secured creditors to whom the original proposals were submitted, modify agreed proposals from time to time. Sections 77 on the formulation of proposals and 79(3) on giving notice of agreed proposals apply equally to any such modifications.

**Implementing the proposals**

100. Once agreed the proposals are binding on the regulator, the registered social landlord, the registered social landlord’s secured and unsecured creditors and any liquidator, administrator or receiver appointed in respect of the registered social landlord’s land (section 81). The registered social landlord’s officers must co-operate in implementing the proposals but they are not required or allowed to do anything in breach of their duty as a trustee or other duty owed by them (section 81(2)).

101. The Regulator must appoint a manager to implement the agreed proposals if these provide for such an appointment (section 82). The manager can do anything that is needed to implement the proposals and a number of specific powers are set out in section 83. A manager must, so far as practicable, consult a registered social landlord’s tenants on anything likely to affect them and explain the effect such a thing is likely to have.

102. A manager appointed to a registered social landlord that is a registered society is also able to transfer the engagements of that registered social landlord to, or amalgamate it with, another registered social landlord that is a registered society (section 84).

103. The regulator may provide financial or other assistance to the landlord to preserve its position while proposals are being designed and agreed, and to an officer of a registered social landlord or a manager appointed to implement the agreed proposals. The regulator may, in particular, lend staff and arrange payment of a manager’s remuneration and expenses. But the regulator cannot pay grants, make loans, indemnify an officer or manager, make payments or give guarantees connected with loans without the consent of the Scottish Ministers. (Section 85).

104. The landlord or any creditor can apply to the Court of Session if they believe the manager is not acting within the agreed proposals. If it finds that this is the case then the
Court has the power to confirm, modify or reduce any decision or other act of the manager, give directions to the manager or make any other order it sees as necessary (section 86).

105. Section 87 allows anyone bound by the agreed proposals to apply to the Court of Session if he or she believes another person who is also bound by them is not acting in accordance with them. The Court can then confirm, modify or declare the action ineffective; or make any order it thinks appropriate by way of interdict, award of damages or otherwise.

PART 8 – REGISTERED SOCIAL LANDLORDS: ORGANISATIONAL CHANGE

106. Part 8 concerns changes to a registered social landlord’s name, office, or constitution. It replaces the previous requirements in Part 2 of Schedule 7 to the Housing (Scotland) Act 2001 dealing with the constitution, change of rules, amalgamation and dissolution of registered social landlords.

107. Sections 89 to 91 replace paragraphs 7 and 8 of Part 2 of schedule 7 to the 2001 Act. Section 89 requires registered social landlords to notify the regulator of a change of name or a change in registered office within 28 days of the change being made.

108. Under section 90, registered social landlords must obtain the regulator’s consent for any other change to the registered social landlord’s constitution - for example changes to their rules, memorandum or articles. If the registered social landlord is a registered society and obtains consent under section 90 to amend its rules, section 91 requires the registered social landlord to send a copy of the consent along with the copies of the amendment sent to the Financial Services Authority under section 10(1) of the Co-operative and Community Benefit Societies and Credit Unions Act 1965. Section 91A requires registered company registered social landlords to send a copy of the regulator’s consent to the registrar of companies in accordance with the Companies Act 2006.

109. The provisions in sections 92 to 102 replace those in paragraphs 9 to 12 of Part 2 of schedule 7 to the 2001 Act that relate to arrangements for restructuring, winding-up or dissolution of a registered social landlord.

110. Sections 92 to 95 apply to registered societies whose inclusion in the register of social landlords has been recorded by the Financial Services Authority. Under section 92, the regulator cannot give consent for the purposes of these sections unless it is satisfied the society has consulted its tenants about the matter requiring consent. This condition covers cases where the special consent, consultation and ballot procedures in Chapter 2 of Part 9A do not apply. The Financial Services Authority can only register resolutions for the restructuring (section 93), voluntary winding up (section 94) or dissolution (section 95) of a society if the regulator consents to the resolution and a copy of the consent accompanies any documents required to be sent to the Financial Services Authority.

111. Sections 96 to 100 apply to registered social landlords that are registered companies. Section 96 provides that the regulator cannot give consent for the purposes of these sections unless it is satisfied the company has consulted its tenants on the matter requiring consent. This condition covers cases where the special consent, consultation and ballot procedures in Chapter 2 of Part 9A do not apply. Under section 97, a court order under sections 899 (court
sanction for compromise or arrangement) or 900 (powers of court to facilitate reconstruction or amalgamation) of the Companies Act 2006 can only be made if the regulator consents. If the whole or part of the company is transferred to another company under section 900 of the Companies Act 2006, the other company will be included in the register of social landlords.

112. Under section 98 a special resolution by a company under section 53 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 has effect only if the regulator consents to the resolution if passed. The new registered society created in pursuance of that resolution is to be included in the register of social landlords.

113. Under section 99, the regulator must consent to a voluntary arrangement in relation to a company under section 5 of the Insolvency Act 1986, before it will take effect. Under section 100 of this Bill, the regulator must consent to a special resolution being passed under the Insolvency Act 1986 for the voluntary winding up of the company for it to be valid.

114. Section 101 applies to RSLs that are registered societies or registered companies. Under this section, the regulator may present a petition for the winding up of the registered social landlord under the Insolvency Act 1986 on the ground that the registered social landlord is failing to properly carry out its objects or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986. Section 101(2)(c) introduces a third ground, in addition to those previously available under Part 2, Schedule 7 of the Housing Scotland Act 2001, that the regulator has directed the registered social landlord under section 64 of this Bill to transfer all its assets to another registered social landlord.

115. Section 102 applies to a registered social landlord that is also a registered society which has been dissolved in accordance with section 55 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965, or a registered company which has been wound up under the Insolvency Act 1986. Under this section the regulator can direct that any surplus assets, available after the registered social landlord’s liabilities have been discharged, can be transferred to another registered social landlord. The regulator must consult the tenants of the houses to be included in such a transfer and have regard to their views before making such a direction. The regulator may also discharge any liability of the registered social landlord to ensure that assets, which would otherwise need to be sold, can be transferred to another registered social landlord. The regulator may only direct the transfer of assets from a registered social landlord which is a charity to another charity which has the same, or similar, charitable purposes (under section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005). Before directing a transfer from a charitable registered social landlord, the regulator must consult the Office of the Scottish Charity Regulator. And, under section 102 (5A), the SHR must consult the Office of the Scottish Charity Regulator before directing a transfer of assets acquired by a non-charitable registered social landlord at a time when it was a registered charity. These provisions ensure that charitable assets continue to be used only for charitable purposes, as required by the Charities and Trustee Investment (Scotland) Act 2005.
PART 9 – DISPOSAL OF LAND OR ASSETS BY REGISTERED SOCIAL LANDLORDS

116. This Part of the Bill sets out the provisions governing registered social landlords that want to dispose of land, including houses or other assets. The meaning of “disposal” is given in the interpretation section of the Bill (section 150) as a “sale, lease, security, charge, option to acquire or any other disposal of any property or any interest in property (including entering into a contract for disposal)”.

Regulation of disposals

117. Part 9 provides the regulator with powers similar to those of the Scottish Ministers under sections 65 to 68 of the 2001 Act.

118. Section 103, which replaces section 66 of the 2001 Act, provides the basic power for an RSL to dispose of its land (or any other asset by granting security over it). This power is subject to the regulator’s consent unless this is not required under section 104 of this Bill. Consent may be given generally, to certain disposals, or for particular purposes. The regulator may place conditions on the consent.

119. Section 104 specifies those disposals that do not require the regulator’s consent (principally the granting of a tenancy or the sale of a property under the right to buy). Under subsection (1)(g) the regulator may determine further disposals not requiring its consent, following consultation with Scottish Ministers, registered social landlords or their representatives and secured creditors of registered social landlords or their representatives. The regulator must bring any determination to the attention of those affected by it. Subsection (2) includes an occupancy arrangement as a new category of disposal that does not need the regulator’s consent.

120. If consent is not required for a disposal, the registered social landlord must notify the regulator as soon as practicable after making such a disposal. Section 105 sets out provisions allowing the regulator to dispense with notification, either generally or for a particular purpose.

121. The registered social landlord may be required to consult tenants before it disposes of land and a ballot may be required if a disposal results in a change of landlord. Section 106 and Part 9A of this Bill set out the circumstances in which both consultations and ballots are to take place.

122. Section 106 applies to all disposals of land by a registered social landlord which require a landlord’s consent that are not covered by Part 9A. For such disposals the registered social landlord must consult with the tenants of the houses included in the disposal and anyone else the regulator requires it to consult. The registered social landlord must inform the regulator of the views expressed by those consulted.

123. Section 107 states that the disposal of land by a registered social landlord, where the regulator’s consent is required, is void unless the regulator has given the required consent.
PART 9A – SPECIAL PROCEDURE FOR DISPOSALS AND RESTRUCTURINGS RESULTING IN CHANGE OF LANDLORD

Disposals by a registered social landlord

124. Chapter 1, sections 109 to 115, replaces the provisions in Schedule 9 of the Housing (Scotland) Act 2001 in respect of registered social landlords. Chapter 1 sets out the special procedure for disposals and restructuring resulting in a change of landlord. Where the special procedures apply, a registered social landlord must seek the regulator’s initial consent. The regulator may refuse consent or direct for consultation with tenants. Thereafter consent may be given, but is subject to tenant authorisation via ballot or agreement. There is no requirement to follow the special procedure where the regulator directs the transfer of assets from one registered social landlord to another or where the transfer is made during the moratorium (see section 109(1)(a) and section 104(1)).

125. Section 109 provides that Chapter 1 of Part 9A applies to disposals of land by a registered social landlord where the regulator’s consent is required under Part 9 and which result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the registered social landlord making the transfer.

126. Under section 110 the regulator, having regard to any information available to it, may refuse consent to the disposal or direct the registered social landlord to consult with tenants in accordance with section 111.

127. Section 111 requires a registered social landlord proposing to make a disposal, where given a direction under section 110, to serve a notice on the tenants of each house included in the proposal which specifies to whom the disposal is to be made, explains the likely consequences of such a disposal for the tenants, informs the tenants of their right to make representations to the registered social landlord within such a reasonable period as specified (at least 28 days) and which includes any other details the registered social landlord considers appropriate. After considering any representations made within the specified period, the registered social landlord must then serve a further notice which informs tenants of any significant changes to the proposals, informs tenants of their right to object to the proposed disposal within such a reasonable period as specified (at least 28 days), explains that the disposal requires the regulator’s consent and explains that the regulator is not permitted to give consent unless satisfied that the majority of tenants voting in a ballot conducted under section 113 wish the disposal to proceed.

128. Section 111A provides that following consultation under section 111, the regulator may refuse consent to the disposal or consent to the disposal subject to tenant authorisation. Tenant authorisation is given when the regulator directs the registered social landlord to conduct a ballot under section 113, or directs the registered social landlord to seek the written agreement of tenants in accordance with section 113A, and then approves the outcome under section 114A. In making its decision, the regulator must have regard to the results of the consultation and may have regard to any information available to it.

129. Section 112 contains provisions to allow the regulator to obtain further information on a proposed disposal before deciding whether to approve under section 114A. The regulator may require the registered social landlord to provide any information the regulator feels is
relevant on the representations and objections made in relation to the proposed disposal and any other information relating to the proposed disposal. It may direct the registered social landlord to carry out, and provide information on, further consultation with tenants.

130. Section 113 requires a registered social landlord proposing to make a disposal, where given a direction under section 111A(2)(a), to conduct a ballot of tenants who will be affected and inform the regulator of the outcome. The registered social landlord must have regard to any guidance issued by Scottish Ministers when conducting the ballot or informing the regulator of the results of the ballot.

131. Section 113A requires a registered social landlord must, where given a direction under section 111A(2)(a), seek the written agreement to the disposal from tenants of houses included in the proposed disposal. The registered social landlord must provide the regulator with information about every written agreement sought.

132. Under section 114, the registered social landlord is not required to give notice under section 111 to, and may exclude from a ballot under section 113 or the agreement process under section 113A, any tenant unaffected by the proposed disposal. A tenant will be unaffected if the registered social landlord expects the tenant to have vacated the house before the disposal is made. The regulator can only consent to a proposed disposal where there are such unaffected tenants if the registered social landlord has served notice on the regulator confirming that the unaffected tenants have all vacated the houses concerned.

133. Section 114A provides that the regulator must approve the disposal if it is satisfied that a majority of tenants voting in a ballot conducted under section 113 wish the disposal to proceed; or it is satisfied that the landlord has obtained the written agreement of a majority of the tenants whose written agreement the landlord was required to seek under section 113A. If the regulator is not satisfied that the majority of tenants are in agreement then it must withdraw the conditional consent granted under section 111A(1)(b). Before making its decision under this section, require the registered social landlord concerned to provide information about either the ballot or the written agreements.

134. Section 115 offers protection to the purchaser in any proposed disposal under Chapter 1 of Part 9A of this Bill. The regulator’s consent for such a disposal will not be invalidated by a failure of the regulator or registered social landlord to comply with any provision of this chapter.

Restructuring of a registered social landlord

135. Section 115A applies the special procedure in sections 110 to 114A of Chapter 1 to restructurings where the regulator’s consent is required under section 93 or 97 and which result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the registered social landlord proposing the restructuring. Section 115A(2) exempts certain restructuring proposals from this requirement.

136. Section 115B offers protection to a purchaser following a restructuring where consent has been given but there is a failure of the regulator or registered social landlord to comply with any provision of the special procedure.
PART 10 – CHANGE OF LANDLORD – SECURE TENANTS

137. This Part of the Bill replaces the provisions in Part III (sections 56 to 64) of the Housing (Scotland) Act 1988 (the “1988 Act”) that deal with a change of secure tenants’ landlord (known as “tenant’s choice”). Those provisions will be repealed by paragraph 3(3) of schedule 2 to the Bill. Section 116 provides for a person that is approved by the regulator under section 117 of the Bill to acquire certain houses from local authority landlords and section 118 sets the criteria that determines which houses are eligible to be acquired.

138. Section 56 of the 1988 Act provides for approved landlords to acquire eligible houses from a public sector landlord defined as one of a number of bodies including islands or district councils, development corporations within the meaning of the New Towns (Scotland) Act 1968, the Scottish Special Housing Association, the Housing Corporation and Scottish Homes. Section 116 replaces “public sector landlord” with “local authority landlord” because the other bodies have been wound up.

139. Under section 117 the regulator has the power to grant approved status to a person that is not a local authority landlord. Subsection (2) provides that the regulator may give approval for particular reasons, acquisitions, areas or purposes. Different approvals may be given for different cases to enable that person to acquire a house from a local authority. The regulator may grant approval subject to conditions and may vary or revoke an approval.

140. Section 118 provides that an eligible house is a house that is owned by a local authority and occupied by a qualifying tenant. A qualifying tenant is a tenant with a Scottish secure tenancy where an order for recovery of possession has not been granted under section 16(2) of the Housing (Scotland) Act 2001.

141. Section 118(3) makes certain houses exempt from sale to an approved landlord. These are a house that is one of a group which has been provided with facilities (including a call system and the services of a warden), a house that has been specially designed or adapted for elderly or disabled people whose special needs require accommodation of the kind provided by the house, and houses owned by islands local authorities for the purposes of their functions as an education authority, that are required for the accommodation of someone who is employed for those purposes (and where the local authority is not likely to be able to reasonably provide other suitable accommodation for that person). Section 56(5)(c) of the 1988 Act also provides that an area determined by Scottish Ministers as a rural area is not eligible to be acquired by an approved person. Scottish Ministers’ order making power to determine a rural area is repealed by paragraph 3(3) of schedule 2 to the Bill.

142. Section 119 sets out the requirements that an approved person must meet when they apply to a local authority to acquire a house. Section 120 requires the local authority landlord to make an offer to sell the house, or to refuse the application, within two months of the date on which an application is made under section 119.

143. Section 121 sets out the process for determining the market value of an eligible house. The local authority must instruct the district valuer or a qualified valuer nominated by the local authority and accepted by the applicant to determine the market value. The valuer must have regard to the price which the house would realise if sold on the date on which the
application was made on the open market by a willing seller as well as a number of other assumptions. Where a valuer determines that the house would not realise any price if offered for sale on the open market they can take the price to be either a negative value, equal to the amount which would require to be paid to an approved person in order that the approved person would willingly acquire the house, or where an approved person would willingly acquire the house for no consideration, nil, and the market value of the house may accordingly be determined to be a negative value or nil value.

144. Section 122 sets out the conditions of sale of an eligible house to an approved person. It provides for the applicant to be able to request an amendment to the offer to sell if they consider a condition to be unreasonable or wish to have a new condition included in the offer. The applicant may refer the matter to the Lands Tribunal if a local authority landlord refuses a request or fails to respond within one month of the refusal. The Lands Tribunal can uphold, strike out or vary, or insert a new condition in the offer. Where a Lands Tribunal determination results in a variation of the offer to sell, it must order the local authority landlord to make an amended offer to sell to the applicant within two months of its determination.

145. Section 123 sets out requirements in relation to the acceptance of an offer to sell. The applicant may accept an offer to sell within two months of the date on which the offer was made, or the date on which the latest amended offer was made, or the date of a determination by the Lands Tribunal which does not require the local authority to make an amended offer. Where notice of acceptance is not given within the required period, the offer to sell and the application lapse. A notice of acceptance is of no effect unless the qualifying tenant and the applicant have concluded a lease of the house for a period immediately after the acquisition of the house. Giving a notice of acceptance constitutes a sale of the house between the local authority landlord and the applicant on the terms contained in the offer.

146. Section 124 provides for a local authority landlord to refuse an application on the basis that it disputes the applicant’s right to acquire the property or it considers any information in the application to be materially incorrect. It specifies the process for giving notice of refusal and allows the applicant to refer the matter to the Lands Tribunal for a finding in respect of its right to acquire.

147. Where a local authority landlord fails to comply with provisions on the offer to sell provision (section 120), an order made by the Lands Tribunal under section 122(9) or fails to progress an application under any finding made by the Lands Tribunal under section 124(3), the applicant may refer the matter to the Lands Tribunal. Subsection (2) provides that the Lands Tribunal may make an offer to sell to the applicant and this has the same effect as if it is done by the local authority landlord.

148. Section 126 requires a person who acquires property under Part 10 to seek the regulator’s consent for the subsequent disposal of that property. Consent may be given generally, to certain disposals, or for particular purposes. The regulator may place conditions on the consent. Before consenting to a disposal the regulator must be satisfied that the person seeking the consent has consulted tenants of the houses included in the disposal and any other person that the regulator requires the person to consult. This section does not apply to a
disposal by a registered social landlord which is required to seek consent under Part 9 of the Bill.

149. Section 127 provides for the extension of time periods referred to in Part 10 of the Bill where the applicant or local authority gives notice of the extension before the end of the time period.

**PART 10A – CHARITABLE REGISTERED SOCIAL LANDLORDS**

150. Section 127A requires the SHR and the Office of the Scottish Charity Regulator to agree how they will work together and exchange information to avoid duplication and unnecessary demands on RSLs in carrying out their respective regulatory functions. It puts onto a formal basis the working relationship that already exists between the two regulators and the “memorandum of understanding” between them.

**PART 10B - SOCIAL LANDLORDS: LONG LEASES AND HERITABLE SECURITIES**

151. Amendments by sections 127B and 127C to sections 8 and 11 respectively of the Land Tenure Reform (Scotland) Act 1974 exempt social landlords and their connected bodies (as defined in sections 149 and 150) from the “20 year rules”. This means that social landlords (and their connected bodies) will be able to lease property for periods that exceed 20 years. This will only apply to leases to social landlords. Leases by social landlords will remain subject to the rules.

152. Section 11 of the 1974 Act gives the debtor in a security certain rights to redeem it after 20 years have elapsed. Social landlords (and their connected bodies) will also have the option to give up their right to redeem debt under this rule. A social landlord might, for example, wish to do so to participate in a long-term bond issue.

**PART 11 – RIGHT TO BUY: REFORMS**

153. This part amends existing provisions on right to buy in the Housing (Scotland) Act 1987 (“the 1987 Act”) and inserts some new provisions. In general, tenants who currently have the right to buy will continue to do so on existing terms. Part 11 ends the right to buy for new supply social housing and new tenants, reforms existing pressured area designation provisions and limits the purchase of police houses.

**Re-accommodated persons: protection of right to buy**

154. The amendment made by section 128 to section 61 of the 1987 Act ensures that, under the circumstances provided for, the right to buy entitlements of tenants who are re-accommodated by their landlord and experience a break in occupation as a result are protected for all social housing let under a Scottish secure tenancy.

155. Paragraph (a) adds an additional two circumstances to those already included within section 61(2)(c) of the 1987 Act in order to ensure that a tenant who is accommodated by
such landlords under the circumstances provided for (see sub-paragraph (c)), is not deemed to have incurred a break in continuous occupation.

156. The effect of paragraph (b) is to ensure that breaks in occupation of a tenancy resulting from the circumstances provided for should be disregarded for the purposes of determining the period of occupation. That is, any period beginning with the termination of a tenancy in terms of section 18(2), 20(3) or 22(3) of the 2001 Act, and ending with the person being re-accommodated in pursuance of sections 19(3)(b), 21(3)(b) or 22(6) of the 2001 Act should be disregarded.

157. Paragraph (c) adds an additional two categories of person providing accommodation referred to in section 61(2)(c) (occupation requirement for exercise of right to purchase) to the list of landlords included in section 61(11) of the 1987 Act. The category in new section 61(11)(ab) includes those persons who provide accommodation to a tenant in instances where the tenant is required to move by their landlord under the circumstances provided for. The category in new section 61(11)(ac) includes those persons who provide accommodation to a tenant in instances where the tenant’s existing house is to be demolished and the tenant agrees to move at their landlord’s request.

**Limitation on right to buy: new tenants**

158. Section 129 inserts a new section 61ZA into the 1987 Act to extend the range of circumstances under which the right to buy cannot be exercised to include new tenants to the social housing sector. This is intended to ensure that tenants taking up a Scottish secure tenancy for the first time (following commencement of section 129) and those returning to the social rented sector after a break will not have the right to buy over any property they rent from a social landlord.

159. Subsection (1) of new section 61ZA sets out the tenancies which are not included in this limitation. These are tenancies of properties let under a Scottish secure tenancy created on or after the commencement date of section 129 of the Bill, where the tenant has since that date continuously been occupying a house let by a social landlord or a landlord mentioned in section 61(11), or occupying living accommodation provided as mentioned in section 61(11)(ab), (ac) or (n).

160. Subsection (2) sets out the circumstances where an interruption in continuous occupation should be disregarded (where a tenant’s tenancy has been terminated under section 18(2), 20(3) or 22(3) of the Housing (Scotland) Act 2001 and the tenant is then re-accommodated in pursuance of section 19(3)(b), 21(3)(b) or 22(6) of that Act) and also provides discretion for a landlord to disregard an interruption in occupation, where it appears to the landlord to result from circumstances outwith the control of the tenant.

**Pressured areas: amendments**

161. Section 130 amends the existing pressured area provision in section 61B of the 1987 Act to extend the maximum designation period from 5 to 10 years, to allow particular housing types as well as particular areas to be designated as pressured and to allow local
authorities (rather than Scottish Ministers) to designate, revoke or amend pressured area and housing type designations, without requiring Scottish Ministers’ approval.

162. Subsection (2) amends section 61C of the 1987 Act and sets out the process which local authorities should follow when designating a pressured area or housing type. Before making, amending or revoking a designation, local authorities have to take such steps as are reasonable to publicise its proposal to make, amend or revoke designations and its reasons for so proposing. They must consult every registered social landlord holding houses for housing purposes in the part of their area covered by the proposals and such bodies representing the interests of tenants and other residents in that part and such other persons as the authority thinks fit. Local authorities proposing to make, amend or revoke pressured area or housing type designations should have regard to guidance issued by Scottish Ministers about how they should do it, the information they should take into account before doing so and the terms of such designations.

Limitation on right to buy: new supply social housing

163. Section 131 inserts a new section 61F into the 1987 Act to extend the range of circumstances (set out in sections 61A to E) under which the right to buy cannot be exercised to include new supply social housing. A new supply social house is defined in subsection (3) as a house which is let under a Scottish secure tenancy created on or after the relevant day (which is the day on which section 131 comes into force), but which was not so let on or before 25 June 2008 or was acquired by the landlord on or after 25 June 2008.

164. Subsection (2) of the new section provides that the limitation on exercising the right to buy over new supply social housing does not apply in the following circumstances:

- Where a Scottish secure tenant who has a right to buy moves to a new supply social house from another house, following an order for recovery of possession under section 16(2) of the Housing (Scotland) Act 2001, on any of the grounds set out in paragraphs 9 to 15 of schedule 2 to that Act.
- Where a Scottish secure tenant who has a right to buy moves to a new supply social house from another house where the landlord has erroneously brought the tenancy / joint tenancy to an end and re-possessed the house because the landlord believes that the tenant is/tenants are/ are not occupying the house; or where the tenant of a house that has been designed for a person with special needs dies and as a result the landlord is required to re-accommodate a person who would otherwise have qualified to succeed to the tenancy.
- Where a tenant’s short Scottish secure tenancy is converted into a Scottish secure tenancy under section 37 of the 2001 Act.
- Where a Scottish secure tenant who has a right to buy moves to a new supply social house from another house without the landlord having given the tenant seven days notice before the creation of the Scottish secure tenancy to which the
new supply social house is subject, or where the landlord acquired the house from
the tenant at least seven days before the missives for acquisition were concluded,
that they will lose the right to buy over that new supply house.

**Police housing**

165. Section 131A inserts a new section 69A into the 1987 Act to permit local authority
landlords to refuse applications from tenants, who would otherwise have the right to buy
under section 61 of the 1987 Act, to purchase their house where that house is held by the
authority for the purposes of a police force and it is necessary to retain the house for
operational purposes. Subsections (3) and (4) of the new section set out matters which the
landlord must consider when deciding whether or not to refuse a tenant’s application.

**PART 12 – REGISTRATION OF PRIVATE LANDLORDS**

166. Section 132 explains that the provisions in this Part make amendments to the system
of landlord registration contained in Part 8 of the Antisocial Behaviour etc. (Scotland) Act
2004 (“the 2004 Act”).

167. Section 133 amends section 88(2) of the 2004 Act, which requires a registered person
to give notice to the local authority of the appointment of an agent, by inserting three
subsections after subsection (2). Subsection (2A) requires the notice to be accompanied by
any fee determined by the local authority and subsection (2B) provides that no fee shall be
payable if, when the notice is given, the person appointed is entered in the register as a
relevant person or another relevant person’s entry in the register states that the person
appointed acts for the other relevant person. Subsection (2C) gives Scottish Ministers the
power to prescribe by regulations the fees for this purpose, how the fees are to be calculated,
and the circumstances in which no fee is to be paid.

168. Section 134 makes provision in relation to public access to information about landlord
registration on the register. Subsection (1) amends section 88A(1) of the 2004 Act to require
a local authority to provide confirmation of whether a registration application in relation to a
specific house has been made but not yet determined and information on whether a person
was refused entry to, or removed from, the register as being not fit and proper to act as a
landlord or because the person’s agent was found to be not fit and proper. Subsection (2)
inserts a new section 92ZA into the 2004 Act. This requires a local authority to note in its
register the fact that a person was refused entry to, or removed from, the register as being not
fit and proper to act as a landlord, or because the person’s agent was found to be not fit and
proper. This note must be made when the appeal procedure has been exhausted and must be
removed after 12 months or sooner if the person is subsequently registered.

169. Section 135 increases the maximum fine level in section 93(7) of the 2004 Act, for
offences relating to acting as an unregistered landlord, from level 5 on the standard scale to
£20,000.

170. Section 136 inserts new section 97A into the 2004 Act. Section 97A contains powers
for a local authority to obtain information to enable or assist it to carry out its functions under
Part 8. This information can be obtained from various specified persons. The local authority
can serve a notice on such a person requiring him or her to provide information on the nature
of his or her interest in the house; specified information about other people with an interest in the house or who act in relation to a lease or occupancy arrangement; and other information about the house or such a person that can be reasonably requested. Any person who is required to provide such information and fails to do so, or knowingly or recklessly provides false or misleading information, is guilty of an offence and is subject to a fine on summary conviction not exceeding level 2 on the standard scale.

**PART 13 – AMENDMENT OF HOUSING (SCOTLAND) ACT 2006**

171. Section 137 explains that the provisions in this Part make miscellaneous amendments to the Housing (Scotland) Act 2006 (the “2006 Act”).

172. Section 138 removes the need for local authorities to submit draft Housing Renewal Area (HRA) designation orders to Scottish Ministers for approval. Local authorities will still be required to give notice of their decision not to proceed with an HRA following public consultation on a draft designation order, and to give notice when an HRA is made. It also adds a requirement for local authorities to consult various interested parties before making any modification to an HRA which it thinks is significant.

173. Subsection (1) of section 139 extends the situations in which local authorities can pay missing shares into a maintenance account to include making a payment of a missing share on behalf of owners who are unwilling to pay. Subsection (2) enables local authorities to recover the cost of devising a maintenance plan where an owner fails to submit a satisfactory plan within the time specified in the maintenance order, and costs arising from the variation of a plan, from the owner of the house concerned. Subsection (3) amends section 61 of the 2006 Act to allow a local authority to recover from owners any expenses incurred in registering documents related to maintenance orders and plans, including the cost of registration, any administrative expenses, and interest at a reasonable rate. Local authorities will also be able to issue a repayment charge in respect of these costs. Subsection (4) allows local authorities to recover the costs of registering a repayment charge or the discharge of a repayment charge. This includes the cost of the registration, plus any related administrative expenses and interest at a reasonable rate, and can include the issue of a further repayment charge.

174. Section 140 amends section 71 of the 2006 Act to extend the situations in which local authorities can provide assistance under section 71 of the 2006 Act to include demolition.

175. Section 141 amends the houses in multiple occupation (HMO) licensing regime in the 2006 Act. Subsection (1) amends section 125 of the 2006 Act to give the Scottish Ministers the power to specify by order additional categories of multi-occupancy living accommodation as licensable HMOs. Any such category must meet the usual requirement of a licensable HMO that there are three or more occupants being members of more than two families. However, it does not necessarily have to be a house or premises in terms of the 2006 Act, nor does it have to be the only or main residence of the occupants. Before making such an order, the Scottish Ministers must consult relevant persons. Subsection (2) inserts into the 2006 Act new section 129A. This gives a local authority the discretionary power to refuse to consider an application for an HMO licence if it considers that occupation of the accommodation as an HMO would be a breach of planning control. If the applicant subsequently obtains planning...
permission or a certificate of lawful use or development and makes a further application for a licence within 28 days, no fee may be charged in relation to that application (as provided for by new section 129A(4)). If an application is refused before an existing licence for the HMO has expired, the existing licence will expire either on its normal expiry date (had an application for a new HMO licence not been made) or on such later date as the local authority considers reasonable in the circumstances.

PART 14 – MISCELLANEOUS

Protection of unauthorised tenants

176. Section 142 provides increased protection for “unauthorised tenants”, who are at risk of losing their home following repossession action against their landlord, by bringing the protection recognised through the Tamroui case (a Sheriff Court decision, Tamroui v Clydesdale Bank plc 1997 (SLT (Sh.Ct.) 20)) onto a statutory basis.

177. It confirms that any decree for repossession of a property granted in favour of a lender in proceedings under the Conveyancing and Feudal Reform (Scotland) Act 1970 or the Heritable Securities (Scotland) Act 1894 is not a warrant for the ejection of an assured tenant under the Housing (Scotland) Act 1988. This means that after obtaining a repossession decree against the borrower/landlord, the lender must raise further proceedings to evict any assured tenant under the 1988 Act. It also ensures consistent application of the (as yet uncommenced) Bankruptcy and Diligence (Scotland) Act 2007 in relation to this principle of the requirement to get a separate decree of eviction against any assured tenant.

Tenant protection: repossession orders

178. Section 142A amends section 16 of the Housing (Scotland) Act 2001 to provide landlords with discretion to retain tenants in their existing tenancies where agreement has been reached about payment of rent arrears after a court has granted a decree for eviction.

179. By requiring the courts to set a second date after which the decree can no longer be relied upon to evict the tenant, this amendment will create a “window of opportunity” during which the landlord can either exercise the right to terminate the tenancy and evict the tenant, or simply allow the decree to lapse and the existing tenancy to continue (the option to carry out a “technical eviction” where the existing tenancy is terminated and a new tenancy started will also continue to exist should the landlord wish to use this option). This amendment removes the current legislative requirement to terminate the tenancy in all cases on the date set by the court for recovery of possession.

180. Setting a latest date by which the decree must be implemented ensures that the decree cannot be held indefinitely over a tenant’s head.

Police accommodation not to be Scottish secure tenancy

181. Section 142B amends schedule 1 to the Housing (Scotland) Act 2001, which sets out those tenancies which are not Scottish secure tenancies, to ensure that tenancies of police houses are not Scottish secure tenancies. It does so by amending paragraph 2 of that schedule.
to provide that a tenancy of a house which is created on or after the relevant day (which is the
day on which section 142B comes into force) is not a Scottish secure tenancy where the
house is held by the local authority landlord for the purposes of a police force (subparagraph
(2)(a)) or is let expressly on a temporary basis pending its being so required (subparagraph
(2)(b)).

182. New subparagraph (3) provides that subparagraph (2)(a) does not prevent a tenancy
from being a Scottish secure tenancy in the following circumstances:

- Where the tenant moved to the house following an order for recovery of
  possession under section 16(2) of the Housing (Scotland) Act 2001, on any of the
grounds set out in paragraphs 9 to 13 and 15 of schedule 2 to that Act.
- Where the tenant moved to the house from another house where the landlord
  erroneously terminated the previous tenancy in the belief that the tenant was not
  occupying the house; or where the tenant of a house that has been designed for a
  person with special needs dies and as a result the landlord is required to re-
  accommodate the tenant.
- Where the tenant was re-accommodated by the landlord in the house after moving
  from another house, the tenancy of which was terminated by written agreement
  between the landlord and tenant following the landlord’s decision to demolish
  that other house.
- Where a tenant’s short Scottish secure tenancy is converted into a Scottish secure
  tenancy under section 37 of the 2001 Act.
- Where the tenant occupied that or another police house under a Scottish secure
  tenancy immediately before the creation of the tenancy and agreed to terminate
  that Scottish secure tenancy without being given at least 28 days notice before so
  agreeing that the new tenancy would not be a Scottish secure tenancy.

Scottish secure tenancy: rent arrears pre-action requirements

183. Section 142C makes greater contact between tenants and social landlords in rent
arrears eviction cases a legal requirement. In terms of the new section 14(2A) of the Housing
(Scotland) Act 2001, landlords will be required to comply with pre-action requirements
(where the tenancy is a Scottish Secure Tenancy), before sending a pre-action notice to the
tenant. Before the proceedings commence, the landlord must confirm to the court (in the form
prescribed by regulations) that the pre-action requirements have been complied with. This
applies to all cases where proceedings include the ground that rent lawfully due from the
tenant has not been paid.

184. New section 14(2A) requires the landlord to specify in its pre-action notice to the
tenant the steps it has taken to comply with the pre-action requirements.

185. The pre-action requirements are set out in new section 14A of the 2001 Act, inserted
by section 142C(b). These are listed in subsections (2) to (7). There is a power to issue
guidance in subsection (8) and subsection (9) allows Ministers to make further provision
about the pre-action requirements. Section 142C(c) makes any such order making further provision about the pre-action requirements subject to affirmative procedure.

**Local authority duties on homelessness: armed forces**

186. Section 143 amends section 27 of the Housing (Scotland) Act 1987. Section 27 currently specifically prohibits a person or household forming a local connection with an area due to employment or residence in it as a result of service in the armed forces. In contrast civilian residence or employment forms such a connection. The duties of a local authority to a homeless person are affected by whether the person has a local connection with that authority. This amendment will allow persons serving in the regular armed forces of the Crown, and those who live with them, to form a local connection in the area they have lived or worked in.

**Vacant dwellings: use of information obtained for council tax purposes**

187. Section 143A amends Schedule 2 to the Local Government Finance Act 1992 and section 129(8)(a) of the Local Government Act 2003 to allow local authorities to use information obtained for council tax purposes to identify vacant dwellings in their area.

**Duty to assess and provide housing support needs of person who are homeless or threatened with homelessness**

188. Section 143B places a duty on local authorities to assess housing support needs of, and provide support services to, persons who are homeless or threatened with homelessness by inserting new section 32B into the Housing (Scotland) Act 1987. Section 32B(1) requires the local authority to conduct the necessary inquiries to assess the applicant’s need for housing support services where it has reason to believe that the applicant may be in need of such services while subsection (2) requires the local authority to assess the needs of any person residing with the applicant. Subsection (3) requires the local authority to provide the required housing support services for the duration that it has deemed to be necessary through its assessment.

189. Subsection (4) requires Scottish Ministers to prepare and issue guidance on how local authorities are to carry out the inquiries and the nature and duration of the provision of housing support needs. This guidance must be issued within 12 months of the commencement of section 143B following consultation with organisations representing local authorities and other appropriate persons (subsection (5)). Subsection (6) requires local authorities to take account of that guidance in assessing the need for, and in the provision of, housing support services.

**PART 15 – SUPPLEMENTARY AND FINAL PROVISIONS**

**Offences by bodies corporate etc.**

190. Section 144 sets out the position where an offence is committed by a social landlord, a body corporate, a Scottish partnership or an unincorporated association. It provides that where the offence was committed with the consent of or if it is attributable to any neglect of a
relevant individual (defined in subsection (2)) of these bodies, the individual, as well as the offender, is also guilty of an offence.

**Formal communications**

191. Section 145 deals with formal communications. A formal communication is any notice, notification, direction, consent, order, licence, application (other than to a court) or decision that is served, given or made under the Bill or for the purposes of the Bill. There is provision about how such communications are to be made and served.

**Orders**

192. Section 146 sets out the general provisions applying to subordinate legislation to be made under the Bill.

**Minor and consequential amendments**

193. Section 147 introduces schedule 2 which makes changes to other legislation required as a consequence of the Bill.

**Ancillary provisions**

194. Section 148 gives the Scottish Ministers a free-standing power to make orders containing such ancillary provision as is necessary or expedient for the purposes or in consequence of the Bill.

**Connected bodies**

195. Section 149 defines what is meant by a body that is connected to a registered social landlord or a local authority landlord. A body is considered to be connected if the registered social landlord or local authority landlord is able to direct the body in accordance with its wishes and if the connected body can direct the registered social landlord or local authority landlord in accordance with its wishes. A body that is a subsidiary of a social landlord (including a registered social landlord or local authority landlord), a body which has a social landlord as a subsidiary, and a body which is the subsidiary of a body of which the social landlord is a subsidiary, is also a connected body. “Subsidiary” has the same meaning in section 149 of the Bill as in the Companies Act 2006 (c.46) or, as the case may be, the Friendly and Industrial Provident Societies Act 1968 (c.55).

**Interpretation**

196. Section 150 clarifies the meaning of various expressions used in the Bill.

**Commencement**

197. Section 151 allows the Scottish Ministers to set different dates to commence different provisions of the Bill.
Short title

198. Section 152 gives the short title of the Bill.