

Housing (Scotland) Bill

Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Note: The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

Group 1: Abolition of right to buy

38, 39, 71, 72, 73

Notes on amendments in this group

Amendment 71 pre-empts amendment 72

Group 2: Allocation of social housing and creation of short Scottish secure tenancies

1, 40, 2, 41, 42, 4

Group 3: Right to representation at the First-tier Tribunal

3

Debate to end no later than 45 minutes after proceedings begin

Group 4: Landlord registration: Letting Code

5

Group 5: Houses let for holiday purposes

45, 48, 67

Group 6: Private rented housing: the repairing standard

6, 7, 46, 47

Debate to end no later than 1 hour 20 minutes after proceedings begin

Group 7: Private rented housing: rent reviews, rent increases and security of tenure

49, 50, 68, 69

Group 8: Private rented housing: Enhanced Enforcement Areas

51, 70

Group 9: Letting agent registration: fit and proper test

52, 53, 8, 9

Debate to end no later than 1 hour 55 minutes after proceedings begin

Group 10: Letting agent registration: duration of registration

54, 55

Group 11: Letting agent registration: removal from register

10, 11, 12, 14, 15, 16

Group 12: Letting Agent Code of Practice

17, 18, 19, 20, 21, 22, 56, 37

Debate to end no later than 2 hours 30 minutes after proceedings begin

Group 13: Enforcement of letting agent code of practice

23, 24, 25, 26

Group 14: Meaning of letting agency work

27, 28

Notes on amendments in this group

Amendment 27 pre-empts amendment 28

Group 15: Mobile home sites with permanent residents

29, 58, 30, 31

Debate to end no later than 3 hours after proceedings begin

Group 16: Tenement management schemes

59, 60, 61, 32, 33, 34

Group 17: Maintenance orders: report on exercise of powers

62

**Group 18: First-tier Tribunal and private rented housing panel membership:
parliamentary procedure**

35, 36

Debate to end no later than 3 hours 35 minutes after proceedings begin

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Group 1: Abolition of right to buy

Alex Johnstone

38 Leave out section 1

Alex Johnstone

39 Leave out section 2

Alex Johnstone

71 In section 85, page 68, line 10, leave out subsection (4)

Mary Fee

72 In section 85, page 68, line 11, leave out <2 years> and insert <1 year>

Alex Johnstone

73 In the long title, page 1, line 1, leave out <the abolition of the right to buy,>

Group 2: Allocation of social housing and creation of short Scottish secure tenancies

John Lamont

1 In section 3, page 2, line 15, at end insert <, and

(d) persons who—

(i) appear to the social landlord to have a particular connection with a locality or community within its area, and

(ii) have unmet housing needs.

(1ZAA) It is for the social landlord to determine what constitutes a “locality” or “community” for the purposes of subsection (1ZA)(d).

(1ZAB) Reference in subsection (1ZA)(d) to a person having a particular connection with a locality or community is a reference to the person having a connection with that locality or community—

(a) because the person is, or in the past was, normally resident in it of the person’s own choice,

(b) because the person is employed in it,

(c) because of family associations, or

(d) because of any other special circumstances.>

Jackie Baillie

40 In section 3, page 2, line 17, leave out from first <the> to end of line 18 and insert <circumstances prescribed in guidance published by the Scottish Ministers apply.”.>

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John Lamont

2 In section 3, page 2, line 18, at end insert—

<() In section 20 of the 1987 Act, sub-paragraph (i) of subsection (2)(a) and the word “or” immediately following it are repealed.>

Alex Johnstone

41 After section 4, insert—

<Factors which may be considered in allocation: age

In section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing)—

(a) subsection (2)(a)(vi) is repealed, and

(b) for subsection (2B) substitute—

“(2B) Where a social landlord takes into account the age of an applicant aged 16 years or over in the allocation of housing falling within subsection (1), the social landlord must nevertheless treat the applicant as protected from unlawful discrimination on the grounds of the protected characteristic of age (within the meaning of Part 2 of the Equality Act 2010 (c.15)).”>

Mary Fee

42 After section 4, insert—

<Factors which must be considered in allocation: sustainable communities

In section 20 of the 1987 Act (persons to have priority on housing list and allocation of housing), after subsection (2B) insert—

“(2C) In the allocation of housing falling within subsection (1), a social landlord may take into consideration the likely effects of that allocation on the sustainability of particular localities or communities.”>

Margaret Burgess

4 In section 8, page 7, line 7, leave out from <(3)(b)> to end of line 8 and insert <(3)—

(i) the word “and” immediately preceding paragraph (b) is repealed,

(ii) in paragraph (b), after “order” insert “or, as the case may be, has behaved as described in subsection (2)(b)”, and

(iii) after paragraph (b), insert—

“(c) if the notice is served under subsection (2)(b), specify—

(i) the actions of the tenant or other person which the landlord has taken into account, and

(ii) the landlord’s reasons for serving the notice, and

(d) explain the right of appeal conferred by subsection (5).”, and>

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Group 3: Right to representation at the First-tier Tribunal

Jim Hume

3 In section 17, page 13, line 27, at end insert—

<() Tribunal Rules made under the Tribunals (Scotland) Act 2014 (asp 10) must make provision for the legal representation of tenants and occupiers in relation to actions arising from the tenancies and occupancy agreements listed in subsection (1).>

Group 4: Landlord registration: Letting Code

Patrick Harvie

5 After section 21, insert—

<Landlord registration: Letting Code

Landlord registration: the Letting Code

The Scottish Ministers must, no later than the end of the period of 6 months beginning with the day that regulations under section 41(1) setting out the first code of practice come into force, prepare and issue a Letting Code under section 92A of the 2004 Act.>

Group 5: Houses let for holiday purposes

Drew Smith

45 After section 21, insert—

<Landlord registration: houses used for holiday purposes

Landlord registration: houses used for holiday purposes

In section 83(6) (application for registration: use of a house as a dwelling) of the 2004 Act—

(a) after (b) insert “or”,

(b) paragraph (d) and the word “or” immediately preceding that are repealed.>

Drew Smith

48 After section 25, insert—

<Houses let for holiday purposes

Houses let for holiday purposes

(1) The Scottish Ministers may by regulations provide that a local authority may serve a closure notice prohibiting access to premises by any person other than—

(a) a person who habitually resides in the premises, or

(b) the owner of the premises

in the circumstances set out in subsection (2).

(2) The circumstances are that the premises—

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- (a) is situated in the local authority's area,
- (b) has been privately let for holiday purposes—
 - (i) on at least two occasions during which a person occupying or visiting the premises has engaged in antisocial behaviour, and
 - (ii) the authority anticipates further use of those premises that will result in antisocial behaviour.
- (3) Regulations under subsection (1) must include provision for—
 - (a) the form of a closure notice and the means by which it is to be served,
 - (b) the period for which a closure notice can apply,
 - (c) the means by which a closure notice is to be enforced,
 - (d) an appeals mechanism, and
 - (e) such other matters as the Scottish Ministers consider necessary or expedient.
- (4) For the purposes of this section, “antisocial behaviour” has the meaning given by section 81(4) of the 2004 Act.>

Drew Smith

- 67 In section 82, page 67, line 20, at end insert—
<() under section (*Houses let for holiday purposes*)(1),>

Group 6: Private rented housing: the repairing standard

Margaret Burgess

- 6 In section 22B, page 17, leave out lines 24 to 29

Claudia Beamish

- 7 After section 22B, insert—
- <Duty to make provision on energy efficiency standards**
- (1) After section 13 of the 2006 Act insert—
- “13A Duty to make provision on energy efficiency standards**
- (1) The Scottish Ministers must by regulations extend or vary the repairing standard to include provision—
 - (a) setting minimum standards for energy efficiency,
 - (b) the application of those standards where a house forms part only of any premises,
 - (c) establishing a system of inspection to determine whether premises comply with those standards, and
 - (d) for penalties to be imposed on a landlord for failure to comply with those standards.
 - (2) A draft of regulations under subsection (1) must be laid before the Scottish Parliament by 1 April 2015.

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- (3) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as appear to them to be appropriate.”.
- (2) In section 191(5) of the 2006 Act, after “section” insert “13A,”.>

Malcolm Chisholm

46 Before section 23, insert—

<Enforcement of landlord contributions to maintenance

- (1) In section 15 of the 2006 Act (application of duty in relation to flats etc.), after subsection (2) insert—
 - “(3) A landlord is to be treated as having failed to comply with the repairing standard if the landlord fails to pay the landlord’s share of the cost of repairs to any part of the premises which the landlord is responsible for maintaining in common with others.”.
- (2) In section 28(1) of the 2006 Act (the repairing standard: offences)—
 - (a) the words from “comply” to “order” become paragraph (a),
 - (b) after paragraph (a) insert “, or
 - (b) fails to pay the landlord’s share of the cost of repairs to any part of the premises which the landlord is responsible for maintaining in common with others,”.>

Malcolm Chisholm

47 In section 23, page 18, line 31, at end insert—

- <() the owner of an adjoining property,
- () an organisation providing advice services relating to housing,>

Group 7: Private rented housing: rent reviews, rent increases and security of tenure

James Kelly

49 After section 25, insert—

<Rent reviews and rent increases

Rent reviews and rent increases

- (1) The Scottish Ministers must by regulations make provision that, in relation to a tenancy of a dwelling-house other than a tenancy granted by a social landlord—
 - (a) prohibits a landlord from reviewing the rent payable under such a tenancy before the expiry of the period of one year since the previous such review,
 - (b) specifies the maximum amount by which the total of the rent payable under such a tenancy may be increased at each review, and
 - (c) makes such further provision in connection with the matters described in paragraphs (a) and (b) as the Scottish Ministers consider necessary or expedient for the purposes of those matters.

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- (2) The Scottish Ministers must lay before the Scottish Parliament a draft Scottish statutory instrument containing regulations under subsection (1) by 1 April 2015.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as appear to them to be appropriate.
- (4) Regulations under subsection (1) may modify, or disapply any provision of, any enactment (including this Act).>

James Kelly

50 After section 25, insert—

<Security of tenure

Security of tenure

- (1) The Scottish Ministers must by regulations make provision that, in relation to a tenancy of a dwelling-house other than a tenancy granted by a social landlord—
 - (a) establishes that the period of such a tenancy will be at least 3 years,
 - (b) permits the tenant to terminate the tenancy on giving the landlord notice of one month,
 - (c) permits the landlord to terminate the tenancy on giving the tenant notice of two months if—
 - (i) the tenant has such arrears of rent as may be prescribed,
 - (ii) the tenant has acted in such antisocial manner as may be prescribed,
 - (iii) the tenant otherwise breaches the terms of the tenancy agreement,
 - (iv) the landlord wishes to sell the dwelling-house,
 - (v) the dwelling-house is required as the principal residence of the landlord or a member of the landlord's family, or
 - (vi) the landlord intends to refurbish or change the use of the dwelling-house, and
 - (d) makes such further provision in connection with the matters described in paragraphs (a) to (c) as the Scottish Ministers consider necessary or expedient for the purposes of those matters.
- (2) The Scottish Ministers must lay before the Scottish Parliament a draft Scottish statutory instrument containing regulations under subsection (1) by 1 April 2015.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as appear to them to be appropriate.
- (4) Regulations under subsection (1) may modify, or disapply any provision of, any enactment (including this Act).>

James Kelly

68 In section 82, page 67, line 20, at end insert—

<() under section (*Rent reviews and rent increases*)(1),>

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James Kelly

- 69 In section 82, page 67, line 20, at end insert—
<() under section (*Security of tenure*)(1),>

Group 8: Private rented housing: Enhanced Enforcement Areas

Drew Smith

- 51 After section 25, insert—
<Private rented housing: Enhanced Enforcement Areas

Private rented housing: Enhanced Enforcement Areas

- (1) The Scottish Ministers must by regulations provide a scheme whereby a local authority may apply to the Scottish Ministers for additional discretionary powers to enable it to target enforcement action at an area characterised by poor conditions in houses subject to tenancies and occupancy agreements of the type mentioned in section 17(1) (“private rented housing”).
- (2) The scheme under subsection (1) must provide—
 - (a) that a local authority may apply to the Scottish Ministers for an area to be designated as an Enhanced Enforcement Area where it considers that the area is characterised by—
 - (i) an overprovision or a concentration of private rented housing that appears to the local authority to be—
 - (A) of a poor environmental standard,
 - (B) overcrowded, and
 - (ii) a prevalence of antisocial behaviour, as defined by section 81(4) of the 2004 Act,
 - (b) where the Scottish Ministers agree to designate an area as an Enhanced Enforcement Area, that the local authority will acquire such additional discretionary powers as the Scottish Ministers consider necessary or expedient, to be exercised for prescribed purposes, including in relation to—
 - (i) the checks it may carry out before entering a relevant person on the register of landlords that it maintains under Part 8 of the 2004 Act,
 - (ii) authority to inspect dwellings let by a landlord who is entered on that register,
 - (c) where the Scottish Ministers agree to designate an area as an Enhanced Enforcement Area, that—
 - (i) the local authority must take steps to advertise the fact that the designation has been granted,
 - (ii) the designation will apply for a period of five years commencing from the date on which the Scottish Ministers notify a local authority of its decision,
 - (iii) the local authority may make a further application for the area to be designated as an Enhanced Enforcement Area before the expiry of its first designation.

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- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) local authorities,
 - (b) persons or bodies who appear to them to represent the interests of—
 - (i) landlords,
 - (ii) tenants,
 - (c) such other persons or bodies as they consider appropriate.
- (4) The Scottish Ministers must lay before the Scottish Parliament a draft Scottish statutory instrument containing regulations under subsection (1) by 1 April 2015.
- (5) Regulations under subsection (1) may modify, or disapply any provision of, any enactment (including this Act) for the purposes of this section.>

Drew Smith

- 70 In section 82, page 67, line 20, at end insert—
<() under section (*Private rented housing: Enhanced Enforcement Areas*)(1),>

Group 9: Letting agent registration: fit and proper test

Margaret Burgess

- 52 In section 30, page 25, line 29, at end insert—
<() Material which shows that a person has a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 (c.53) does not fall within subsection (2).>

Margaret Burgess

- 53 In section 31A, page 26, leave out lines 13 to 17 and insert <the information which would be included in a criminal conviction certificate (within the meaning of section 112 of the Police Act 1997 (c.50)) in relation to that person.>

Margaret Burgess

- 8 In section 35, page 27, line 20, after <agent> insert <is not, or>

Margaret Burgess

- 9 In section 35, page 27, line 22, after <27> insert <or in accordance with the duty in section 33, is not, or>

Group 10: Letting agent registration: duration of registration

Mary Fee

- 54 In section 34, page 27, line 14, leave out <3 years> and insert <1 year>

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Mary Fee

- 55 In section 34, page 27, line 15, leave out <3 years> and insert <1 year>

Group 11: Letting agent registration: removal from register

Margaret Burgess

- 10 After section 35, insert—

<Removal from register on application

- (1) A registered letting agent may apply to the Scottish Ministers to be removed from the register.
- (2) The application must be accompanied by a fee of such amount (if any) as the Scottish Ministers may determine.
- (3) The Scottish Ministers must remove a registered letting agent from the register if, having considered an application under this section, they are satisfied that—
 - (a) the registered letting agent is no longer carrying out letting agency work, and
 - (b) it is otherwise appropriate to remove that agent from the register.
- (4) The Scottish Ministers must, as soon as practicable after making their decision under this section, notify the agent who made the application of—
 - (a) their decision,
 - (b) in the case of a decision to remove the agent from the register, the date of removal from the register, and
 - (c) in the case of a decision not to remove the agent from the register, their reasons for that decision.>

Alex Johnstone

- 11 After section 35, insert—

<Cancellation of registration on request

- (1) Where subsection (2) applies, the Scottish Ministers must, on receipt of an application by a registered letting agent, remove the registered letting agent from the register.
- (2) This subsection applies where the Scottish Ministers are satisfied that—
 - (a) the registered letting agent has made adequate arrangements with respect to the agent's letting agency work, and
 - (b) it is otherwise appropriate to remove the registered letting agent from the register.>

Margaret Burgess

- 12 In section 38, page 28, line 37, at end insert—

<(d) remove a person from the register under section (*Removal from register on application*).>

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Margaret Burgess

- 14 In section 38, page 29, line 4, after <34> insert <or (*Removal from register on application*)>

Margaret Burgess

- 15 In section 38, page 29, line 17, after <(1)(b)> insert <or (d)>

Margaret Burgess

- 16 In section 38, page 29, line 18, leave out <under section 34>

Group 12: Letting Agent Code of Practice

Patrick Harvie

- 17 In section 41, page 30, line 14, at end insert—
<() The code of practice set out in regulations under subsection (1) must, in particular, include provision about the level of advance rent that a letting agent may charge a tenant.>

Patrick Harvie

- 18 In section 41, page 30, line 14, at end insert—
<() The code of practice set out in regulations under subsection (1) must, in particular, include provision about the level of deposit that a letting agent may charge a tenant.>

Patrick Harvie

- 19 In section 41, page 30, line 14, at end insert—
<() The code of practice set out in regulations under subsection (1) must, in particular, include provision requiring a letting agent to provide a tenant with standard tenancy documents as defined by section 30B of the Housing (Scotland) Act 1988 (c.43).>

Patrick Harvie

- 20 In section 41, page 30, line 14, at end insert—
<() The code of practice set out in regulations under subsection (1) must, in particular, include provision prohibiting a letting agent from discriminating against a prospective tenant on socio-economic grounds.>

Patrick Harvie

- 21 In section 41, page 30, line 14, at end insert—
<() The code of practice set out in regulations under subsection (1) must, in particular, include provision prohibiting a letting agent from discriminating against a prospective tenant on the grounds that the prospective tenant (or an individual whom the prospective tenant intends will reside or lodge with the prospective tenant) is in receipt of a payment under the Social Security Contributions and Benefits Act 1992 (c.4), the Jobseekers Act 1995 (c.18) or the Welfare Reform Act 2012 (c.5).>

THIS IS NOT THE MARSHALLED LIST

Patrick Harvie

22 In section 41, page 30, line 14, at end insert—

- <() The code of practice set out in regulations under subsection (1) must, in particular, include provision prohibiting a letting agent from discriminating against a prospective tenant on the grounds of the immigration status of the prospective tenant (or an individual whom the prospective tenant intends will reside or lodge with the prospective tenant).>

Mary Fee

56 In section 41, page 30, line 14, at end insert—

- <() A person who carries out letting agency work must comply with the Letting Agent Code of Practice.
- () Regulations under subsection (1) must, in particular, include provision—
- (a) requiring that all deposits received by a letting agent must be paid to a tenancy deposit scheme approved under the Tenancy Deposit Schemes (Scotland) Regulations 2011 (SSI 2011/176),
 - (b) prohibiting a letting agent from charging a prospective tenant, tenant or former tenant any fee, charge or premium before, during or after the end of a tenancy, apart from rent and a tenancy deposit within the meaning of section 120 of the 2006 Act,
 - (c) setting out any measures that the Scottish Minister consider necessary to ensure that letting agents comply with duties under the Equality Act 2010 (c.15),
 - (d) prohibiting a letting agent from discriminating against a prospective tenant on the basis that the prospective tenant (or a person whom the prospective tenant intends will reside or lodge with the prospective tenant)—
 - (i) is in receipt of a payment under the Social Security Contributions and Benefits Act 1992 (c.4), the Jobseekers Act 1995 (c.18) or the Welfare Reform Act 2012 (c.5), or
 - (ii) is responsible for the care of a child.>

Patrick Harvie

37 In section 82, page 67, line 28, at end insert—

- <() The Scottish Ministers must, before the end of the period of 18 months beginning with the day of Royal Assent, lay before the Scottish Parliament a draft Scottish statutory instrument containing regulations under section 41(1) setting out the first code of practice.>

Group 13: Enforcement of letting agent code of practice

Patrick Harvie

23 In section 43, page 30, line 30, after <tenant,> insert <a third party acting on behalf of a group of tenants,>

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Patrick Harvie

24 In section 43, page 30, line 36, at end insert—

<() in relation to an application by a third party on behalf of a group of tenants, each letting agent appointed by the landlords of those tenants to carry out letting agency work in relation to the houses occupied (or to be occupied) by the tenants,>

Patrick Harvie

25 In section 43, page 31, line 14, at end insert—

<() must provide that the letting agent must pay to the tenant compensation amounting to not less than the amount of rent that the tenant has paid during the period beginning with the day on which the landlord has been determined to have first failed to comply with the code and ending with the day on which the landlord complies with the enforcement order,>

Patrick Harvie

26 In section 43, page 31, line 15, after <such> insert <further>

Group 14: Meaning of letting agency work

Alex Johnstone

27 In section 51, page 36, line 25, leave out from <or> to end of line 28

Margaret Burgess

28 In section 51, page 36, line 26, leave out from <repairing> to <house> in line 27 and insert <managing a house (including in particular collecting rent, inspecting the house and making arrangements for the repair, maintenance, improvement or insurance of the house)>

Group 15: Mobile home sites with permanent residents

Margaret Burgess

29 In section 61, page 46, line 37, at end insert—

<() contravened a direction made under section 37 of the Gas Act 1986 (c.44) (maximum prices for reselling gas),

() contravened a direction made under section 44 of the Electricity Act 1989 (c.29) (maximum prices for reselling electricity),

() contravened a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002 (asp 3) (charges schemes) as it applied to the person by virtue of section 30(1) of that Act (maximum charges for services provided with help of Scottish Water),>

THIS IS NOT THE MARSHALLED LIST

Margaret Burgess

58 In section 61, page 47, line 2, at end insert—

<() Material which shows that a person has a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 (c.53) does not fall within subsection (2).>

Margaret Burgess

30 In section 67, page 53, leave out lines 24 and 25

Margaret Burgess

31 Before section 70, insert—

<Offences by bodies corporate etc. under Part 1A of the 1960 Act

After section 32Z4 of the 1960 Act (inserted by section 69), insert—

“Miscellaneous

32Z4A Offences by bodies corporate etc.

(1) Where—

- (a) an offence under this Part has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual, or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual (as well as the body corporate, partnership or, as the case may be, other unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, the members,
- (b) in relation to a Scottish partnership, a partner,
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.”.>

Group 16: Tenement management schemes

Sarah Boyack

59 In section 72, page 59, line 23, leave out <notify> and insert <give notice to>

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Sarah Boyack

60 In section 72, page 59, line 31, at end insert—

<4B Guidance on operation of sections 4 and 4A

- (1) The Scottish Ministers must publish guidance about the operation of sections 4 and 4A.
- (2) Before publishing guidance under this section, the Scottish Ministers must consult such persons as they consider appropriate.
- (3) Local authorities must have regard to any guidance published under this section.
- (4) The Scottish Ministers must lay a copy of any guidance published under this section before the Scottish Parliament.”.>

Sarah Boyack

61 In section 72, page 60, line 10, at end insert—

<(3) After section 174 of the 2006 Act, insert—

“174A Repayment charges: registered social landlords

- (1) The Scottish Ministers may by regulations make provision allowing a registered social landlord to make in favour of itself a charge to recover a sum which—
 - (a) the registered social landlord is entitled to recover from an owner of a flat in a tenement, and
 - (b) represents the owner’s share of scheme costs as determined in accordance with section 4A(3) of the 2004 Act.
- (2) Regulations under subsection (1) may, in particular—
 - (a) apply (with or without modifications), or make provision similar to, any provision of or made under this Part,
 - (b) prescribe conditions which must apply before a charge can be made in relation to a sum mentioned in subsection (1), including conditions relating to—
 - (i) the registered social landlord which may make a charge,
 - (ii) the circumstances leading to the sum becoming recoverable by the registered social landlord,
 - (c) modify the Tenement Management Scheme or its operation,
 - (d) make provision about rights of appeal which apply in relation to—
 - (i) the decision to impose a charge,
 - (ii) the terms of the charge.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) such bodies representing local authorities,
 - (b) such bodies representing registered social landlords,
 - (c) such other persons,

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as they think fit.

(4) Regulations under subsection (1) may modify any enactment (including this Act).

(5) In this section—

“owner of a flat in a tenement” is to be construed in accordance with the definition of “owner” in section 28 of the 2004 Act,

“registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010 (asp 17),

“Tenement Management Scheme” has the same meaning as in the 2004 Act, and

“the 2004 Act” means the Tenements (Scotland) Act 2004 (asp 11).”.

(4) In section 191(5) of the 2006 Act (affirmative procedure for regulations), for “or 121(1)” substitute “, 121(1) or 174A(1)”.>

Margaret Burgess

32 After section 76, insert—

<Repayment charges: recovery of repayable amount

(1) In section 172 of the 2006 Act (repayment charges)—

(a) in subsection (1)—

(i) the word “and” immediately preceding paragraph (b) is repealed, and

(ii) after paragraph (b), insert—

“(c) providing that the repayable amount is payable in the number of equal annual instalments and on the date in each year determined under subsection (3)(a),

(d) providing that in default of such payment each instalment, together with any amount recoverable in respect of that instalment under subsection (6A), is to be separately recoverable as a debt, and

(e) providing that if immediately after the final instalment falls due any balance of the repayable amount remains unpaid, that balance is immediately due for repayment and is recoverable as a debt.”,

(b) for subsection (3), substitute—

“(3) The local authority must—

(a) determine—

(i) the number of equal annual instalments, being no fewer than 5 and no more than 30, in which the repayable amount is to be paid, and

(ii) the date in each year on which the instalment becomes due, and

(b) notify the owner of its determination under paragraph (a).” , and

(c) after subsection (4), insert—

THIS IS NOT THE MARSHALLED LIST

“(4A) The owner of a property who is liable for the repayable amount does not, by virtue only of ceasing to be such an owner, cease to be liable for the repayable amount.”.

(2) After section 172 of the 2006 Act, insert—

“172A Repayment charge: appeals to the sheriff

- (1) A person aggrieved by a determination under section 172(3)(a)(i) may appeal to the sheriff.
- (2) On an appeal under this section the sheriff may make such order relating to the number of annual instalments as the sheriff thinks fit.
- (3) The decision of the sheriff on appeal under this section is final.”.>

Margaret Burgess

33 In section 76A, page 62, line 21, at end insert—

<() in paragraph 2, the words “, and shall commence from the date of the order and be payable for a term of 30 years to the local authority” are repealed,

() after paragraph 2, insert—

“2A The local authority must—

(a) determine—

- (i) the term of the charging order, being no fewer than 5 years and no more than 30 years, and
- (ii) the date in each year on which the annuity is payable, and

(b) notify the owner of its determination under paragraph (a).

2B Section 187 of the Housing (Scotland) Act 2006 (asp 1) applies to a notification under paragraph 2A(b) as if the notification were a formal communication referred to in section 187(1) of that Act.”, and

() after paragraph 3, insert—

“3A A charging order must provide—

- (a) that the annuity is payable for the term and on the date in each year determined under paragraph 2A(a),
- (b) that in default of payment of an annuity, the annuity is to be separately recoverable as a debt, and
- (c) that if immediately after the final annuity falls due any balance of the expenses charged by the order remains unpaid, that balance is immediately due for repayment and is recoverable as a debt.

3B(1) A person aggrieved by a determination under paragraph 2A(a)(i), may appeal to the sheriff.

(2) On an appeal under this paragraph the sheriff may make such order relating to the term of the charging order as the sheriff thinks fit.

(3) The decision of the sheriff on appeal under this paragraph is final.”.>

THIS IS NOT THE MARSHALLED LIST

Margaret Burgess

- 34 In section 76A, page 62, leave out lines 23 to 25 and insert—
- <() after paragraph 5, insert—
- “5A The owner of the premises on which an annuity has been charged by a charging order does not, by virtue only of ceasing to be such an owner, cease to be liable for each annuity charged.”, and
- () paragraph 6 is repealed.>

Group 17: Maintenance orders: report on exercise of powers

Sarah Boyack

- 62 After section 74, insert—
- <Maintenance orders: report on exercise of powers under section 42
- After section 42 of the 2006 Act (maintenance orders) insert—
- “42A **Report on exercise of powers under section 42**
- (1) As soon as reasonably practicable after the end of the relevant period, the Scottish Ministers must prepare a report setting out how, in relation to the relevant period, local authorities have exercised the power in section 42.
- (2) A report under this section must, in particular, include—
- (a) the number of maintenance orders issued by each local authority,
 - (b) the number of such orders that relate to premises that consist of two or more houses,
 - (c) the number of maintenance plans approved by each local authority under section 46(1)(a),
 - (d) the number of such plans that relate to premises that consist of two or more houses,
 - (e) the number of maintenance plans rejected by a local authority where the authority substitutes a plan of its own devising under section 46(1)(b)(ii),
 - (f) the number of maintenance plans devised by each local authority under section 46(1)(c),
 - (g) the number of maintenance plans relating to three or more houses not approved by each local authority by virtue of section 46(3),
 - (h) the number of maintenance plans varied by each local authority under section 47(3)—
 - (i) on the application of an owner,
 - (ii) of its own accord,
- in the relevant period.
- (3) A report under this section must also include such other matters as the Scottish Ministers consider necessary or expedient for the purposes of monitoring the use and operation of maintenance orders.

THIS IS NOT THE MARSHALLED LIST

- (4) A report prepared under this section must be laid before the Scottish Parliament.
- (5) In this section, “relevant period” means—
 - (a) in relation to the first report under this section, the period beginning with the day of commencement of section 42 of this Act and ending on the day before the day of commencement of section (*Maintenance orders: report on exercise of powers under section 42*) of the Housing (Scotland) Act 2014, and
 - (b) in relation to further reports under this section, each subsequent period of 3 years beginning with the day of commencement of section (*Maintenance orders: report on exercise of powers under section 42*) of the Housing (Scotland) Act 2014.>

Group 18: First-tier Tribunal and private rented housing panel membership: parliamentary procedure

Margaret Burgess

- 35** In section 77B, page 64, line 16, leave out <negative> and insert <affirmative>

Margaret Burgess

- 36** In section 82, page 67, line 24, at end insert—
<() under section 77A(3),>

