

Housing (Scotland) Bill

2nd Groupings of Amendments for Stage 2

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;
- a list of any amendments already debated;
- the text of amendments to be debated on the second day of Stage 2 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.**

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Amendments in debating order

Access to register of letting agents

Alex Johnstone

- 59** In section 26, page 18, line 27, after <available> insert <free of charge>

Exemption for solicitor letting agents

Mary Fee

- 134** After section 26, insert—

<Solicitor letting agents: exemption

- (1) The provisions of this Part do not apply to a solicitor letting agent.
- (2) For the purposes of this section, “solicitor letting agent” means a solicitor who holds a valid practising certificate who, or an incorporated practice which—
 - (a) intends to carry out letting agency work, and
 - (b) has notified the Council of the Law Society of Scotland (“the Council”) of that fact.
- (3) A solicitor letting agent must comply with any guidance issued by the Council setting out how solicitor letting agents are to conduct letting agency work in accordance with the standards of practice set out in any code of practice issued under section 41.
- (4) A solicitor letting agent who fails to comply with such guidance will be deemed to be guilty of professional misconduct.>

Registered letting agents: training requirements

Margaret Burgess

- 60** In section 29, page 19, line 30 at end insert <, and
- (c) the applicant meets such training requirements as the Scottish Ministers may by regulations prescribe.
- () Regulations under subsection (2)(c) may, in particular, prescribe—
- (a) the matters on which training must have been undertaken,
 - (b) the persons who must have undertaken training,
 - (c) qualifications which must be held by the applicant or other persons,
 - (d) the period within which training must have taken place.>

Margaret Burgess

- 69** In section 35, page 22, line 24, at end insert <or,

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- () the agent does not meet the training requirements prescribed under section 29(2)(c).>

Register of letting agents: giving of reasons for decisions

Alex Johnstone

- 61 In section 29, page 20, line 10, after <entry,> insert <their reasons for the refusal and>

Alex Johnstone

- 71 In section 35, page 22, line 36, after <decision> insert <and their reasons for that decision>

Register of letting agents: time limit for determining application

Margaret Burgess

- 62 After section 29, insert—

<Time limit for determining application

- (1) This section applies where a person (referred to in this section as the “applicant”) makes an application in accordance with section 27.
- (2) The Scottish Ministers must determine the application under section 29 within 12 months of receiving the application.
- (3) The period mentioned in subsection (2) may be extended by the First-tier Tribunal, on application by the Scottish Ministers, by such period as the Tribunal thinks fit.
- (4) The Tribunal may not extend a period unless the Scottish Ministers apply for the extension before the period expires.
- (5) The applicant is entitled to be a party to any proceedings on an application under subsection (3).
- (6) The decision of the Tribunal on such an application is final.
- (7) If the Scottish Ministers do not determine the application within the period required by this section—
 - (a) on the day by which they were required to determine the application, they are to be treated as having entered the applicant in the register or, as the case may be, having renewed the applicant’s existing entry in the register, and
 - (b) the applicant is to be treated as being removed from the register on the expiry of the period of 12 months beginning with that day unless—
 - (i) before the expiry of the period, the applicant made a subsequent application in accordance with section 27 to renew the applicant’s entry in the register, or
 - (ii) the applicant is otherwise removed from the register in accordance with this Part.
- (8) Where subsection (7) applies the Scottish Ministers must—
 - (a) notify the applicant—

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- (i) that subsection (7) applies, and
 - (ii) of the day on which, in accordance with subsection (7)(a), they are treated as having entered the applicant in the register or, as the case may be, having renewed the applicant's existing entry in the register, and
- (b) enter the name of the applicant in the register or, as the case may be, renew the applicant's existing entry in the register.
- (9) Subject to the modifications in subsection (10), the applicant is for all purposes to be treated as a registered letting agent entered in the register or, as the case may be, whose entry has been renewed by virtue of section 29(2).
- (10) The modifications are—
 - (a) section 34 does not apply,
 - (b) paragraphs (a) and (b) of section 35(1) are to be read as if for the words “no longer” there were substituted “not”, and
 - (c) subsections (1)(b) and (4)(b) of section 38 are to be read as if after the word “under” there were inserted “section (*Time limit for determining application*)(7)(b) or”.>

Register of letting agents: monitoring compliance

Margaret Burgess

63 In section 30, page 21, line 4, at end insert—

- <() failed to provide information in accordance with section (*Power to obtain information*) or (*Power to carry out inspections*)(2)(d)(i),
- () obstructed a person acting in the proper exercise of the persons' functions under sections (*Power to carry out inspections*) to (*Inspections: supplemental*),
- () failed to comply with a requirement made by a person who is so acting.>

Margaret Burgess

80 After section 46, insert—

<Monitoring of compliance

Power to obtain information

- (1) The Scottish Ministers may, for the purpose of monitoring compliance with the provisions of this Part, serve a notice on a person who appears to be a letting agent requiring the person to provide them with information specified in the notice.
- (2) The Scottish Ministers may by regulations make further provision about the requiring of information under subsection (1) and, in particular, may make provision about—
 - (a) the form of the notice and manner of service,
 - (b) the time within which information must be provided.
- (3) Nothing in this section authorises the Scottish Ministers to require the disclosure of any information if such disclosure would make the person holding it susceptible under any enactment or rule of law to any sanction or other remedy.>

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Margaret Burgess

81 After section 46, insert—

<Power to carry out inspections

- (1) For the purpose of monitoring compliance with the provisions of this Part, an authorised person may carry out an inspection of premises which appear to be being used for the purpose of carrying out letting agency work.
- (2) For the purposes of carrying out the inspection, the authorised person may—
 - (a) enter and inspect the premises,
 - (b) require the production of any book, document, data or record (in whatever form it is held) and inspect it, and take copies of or extracts from it,
 - (c) take possession of any book, document, data or record (in whatever form it is held) which is on the premises and retain it for as long as the authorised person considers necessary,
 - (d) require any person to—
 - (i) give the authorised person such information as the authorised person considers necessary,
 - (ii) afford the authorised person such facilities and assistance as the authorised person considers necessary.
- (3) Nothing in this section authorises the authorised person to require the disclosure of any information if such disclosure would make the person holding it susceptible under any enactment or rule of law to any sanction or other remedy.
- (4) In this section—

“authorised person” means a person authorised by the Scottish Ministers,

“premises” includes any place and any vehicle, vessel, or moveable structure.>

Margaret Burgess

82 After section 46, insert—

<Warrants for entry

- (1) A sheriff, justice of the peace or stipendiary magistrate may by warrant authorise a person to enter premises (if necessary using reasonable force) for the purpose of carrying out an inspection under section (*Power to carry out inspections*).
- (2) A warrant may be granted under subsection (1) only if the sheriff, justice or magistrate is satisfied by evidence on oath—
 - (a) that there are reasonable grounds for entering the premises in question, and
 - (b) that—
 - (i) entry to the premises has been or is likely to be refused and that notice of the intention to apply for a warrant under this section has been given to the occupier,
 - (ii) a request for entry, or the giving of such notice, would defeat the object of the proposed entry,
 - (iii) the premises are unoccupied, or

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- (iv) the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return.>

Margaret Burgess

83 After section 46, insert—

<Inspections: supplemental

- (1) A person entering any premises under section (*Power to carry out inspections*)(2)(a) or in accordance with a warrant granted under section (*Warrants for entry*) may take on to the premises such other persons and such equipment as the person considers necessary.
- (2) A right to enter any premises conferred by section (*Power to carry out inspections*)(2)(a) may be exercised only at a reasonable time.
- (3) The occupier of the premises concerned must be given at least 24 hours' notice before a person carries out an inspection under section (*Power to carry out inspections*) unless the person carrying out the inspection considers that giving such notice would defeat the object of the proposed inspection.
- (4) A person carrying out an inspection under section (*Power to carry out inspections*) must, if required to do so, produce written evidence of the person's authorisation to carry out the inspection.
- (5) On leaving any premises which a person is authorised to enter by a warrant granted under section (*Warrants for entry*), the person must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as the person found them.
- (6) A person who takes possession of any item under section (*Power to carry out inspections*)(2)(c) must leave a statement on the premises from which the item was removed—
 - (a) giving particulars of what has been taken, and
 - (b) stating that the person has taken possession of it.>

Margaret Burgess

84 After section 46, insert—

<Information and inspection: offence

- (1) It is an offence for a person who has been required to provide information in accordance with section (*Power to obtain information*) or section (*Power to carry out inspections*)(2)(d)(i)—
 - (a) without reasonable excuse, to fail or refuse to provide the information,
 - (b) to knowingly or recklessly make any statement in respect of that information which is false or misleading in a material particular.
- (2) It is an offence for a person—
 - (a) to intentionally obstruct a person acting in the proper exercise of the persons' functions under sections (*Power to carry out inspections*) to (*Inspections: supplemental*),
 - (b) without reasonable excuse, to fail to comply with any requirement made under section (*Power to carry out inspections*)(2)(b) or (d)(ii) by a person who is so acting.

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- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

Fit and proper person: criminal record information

Alex Johnstone

- 64 In section 31, page 21, line 8, leave out <may> and insert <must>

Alex Johnstone

- 65 In section 31, page 21, line 12, leave out subsection (2)

Margaret Burgess

- 66 Leave out section 31 and insert—

<Fit and proper person: criminal record information

- (1) This section applies where the Scottish Ministers have reasonable grounds to suspect that the information provided under this Part in relation to material falling within section 30(2) is, or has become, inaccurate.
- (2) In deciding under this Part if a person is a fit and proper person, the Scottish Ministers may have regard to—
- (a) the information referred to in section 113A(3)(a) of the Police Act 1997 (c.50) (prescribed details of every relevant matter relating to the person which is recorded in central records), and
 - (b) whether the person is subject to notification requirements under Part 2 of the Sexual Offences Act 2003 (c.42).>

Alex Johnstone

- 66A As an amendment to amendment 66, line 7, leave out <may> and insert <must>

Letting agent registration number

Alex Johnstone

- 67 In section 32, page 21, line 24, leave out <take all reasonable steps to>

Duration of letting agent registration

Mary Fee

- 135 In section 34, page 22, line 16, leave out <3 years> and insert <1 year>

Mary Fee

- 136 In section 34, page 22, line 17, leave out <3 years> and insert <1 year>

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Register of letting agents: minor and technical amendments

Margaret Burgess

- 68 In section 35, page 22, line 22, leave out first <person> and insert <agent>

Margaret Burgess

- 70 In section 35, page 22, line 29, leave out <applicant> and insert <agent>

Margaret Burgess

- 86 In section 51, page 29, line 18, leave out <“house”, “landlord”,>

Margaret Burgess

- 88 In section 52, page 29, line 24, at end insert—
 <“house” is to be construed in accordance with section 101 of the 2004 Act,
 “landlord” is to be construed in accordance with section 101 of the 2004 Act,>

Margaret Burgess

- 89 In section 52, page 29, line 29, at end insert—
 <“tenant”, in relation to an occupancy arrangement, means the person who under
 the arrangement is permitted to occupy the house.>

Register of letting agents: cancellation of registration on request

Alex Johnstone

- 72 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.>

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Letting agency work without registration

Alex Johnstone

- 73 In section 38, page 24, line 2, at end insert—
<() all contracts for letting agency work concluded between the person and a landlord after the relevant date are void.>

Margaret Burgess

- 74 In section 38, page 24, line 2, at end insert—
<() Subsection (2)(a) does not apply in relation to costs incurred before the relevant date in a case where the person is removed from the register under section 34.>

Margaret Burgess

- 75 In section 39, page 24, line 30, leave out <level 5 on the standard scale> and insert <£50,000>

Letting Agent Code of Practice

Alex Johnstone

- 76 In section 41, page 25, line 7, leave out <may> and insert <must>

Margaret Burgess

- 77 In section 41, page 25, line 8, at end insert—
<() the handling of tenants' and landlords' money by those persons, and
() the professional indemnity arrangements to be kept in place by those persons.>

Patrick Harvie

- 137 In section 41, page 25, line 9, at end insert—
<() 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

- 138 In section 41, page 25, line 9, at end insert—
<() Regulations under subsection (1) must, in particular, include provision about the level of deposit that a letting agent may charge a tenant.>

Patrick Harvie

- 139 In section 41, page 25, line 9, at end insert—
<() 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).>

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Patrick Harvie

140 In section 41, page 25, line 9, at end insert—

- <() 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

141 In section 41, page 25, line 9, at end insert—

- <() 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 payments 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).>

Patrick Harvie

142 In section 41, page 25, line 9, at end insert—

- <() 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).>

Patrick Harvie

143 In section 41, page 25, line 9, at end insert—

- <() Regulations under subsection (1) must, in particular, include provision setting time limits for repairs to a house required to meet the repairing standard set out in Chapter 4 of the 2006 Act.>

Mary Fee

144 In section 41, page 25, line 9, 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) —

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- (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

130 In section 41, page 25, line 11, at end insert—

- <() Regulations for the first code of practice under subsection (1) must be laid before the Parliament no later than the end of the period of one year beginning with the day of Royal Assent.>

Margaret Burgess

126 In section 82, page 54, line 21, at end insert—

- <() under section 41(1) which set out the first code of practice or replace the code of practice,>

Patrick Harvie

127 In section 82, page 54, line 21, at end insert—

- <() under section 41(1),>

Enforcement of Code of Practice

Patrick Harvie

131 In section 43, page 25, line 25, after <tenant> insert <, third party authorised by a tenant>

Margaret Burgess

78 In section 43, page 25, line 25, leave out <or landlord> and insert <, a landlord or the Scottish Ministers>

Patrick Harvie

132 In section 43, page 25, line 28, after <tenant> insert <or third party authorised by a tenant>

Margaret Burgess

79 In section 43, page 25, line 32, at end insert—

- <() in relation to an application by the Scottish Ministers, any letting agent.>

Patrick Harvie

133 In section 43, page 26, line 7, at end insert—

- <() must provide that rent may not be charged to or recovered from a tenant from a date specified in the enforcement order until such time as the order has been complied with,>

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Mary Fee

145 In section 46, page 26, line 39, at end insert—

- <(4) The Scottish Ministers must remove from the register a letting agent who commits an offence under subsection (1).
- (5) Where the Scottish Ministers remove a person from the register under subsection (4) they must note that fact in the register.
- (6) The Scottish Ministers may by regulations make such further provision as they consider appropriate in connection with the consequences of the removal of a letting agent under subsection (4) for tenants of properties managed by that agent.>

Meaning of letting agency work

Alex Johnstone

85 In section 51, page 29, line 10, leave out from <or> to end of line 13

Margaret Burgess

87 In section 51, page 29, line 21, leave out from <modify> to end of line 22 and insert <—

- (a) provide that “letting agency work” does not include things done—
 - (i) on behalf of a specified body, or
 - (ii) for the purpose of a scheme of a specified description, or
- (b) otherwise modify the meaning of “letting agency work” for the time being in this section.
- (4) A scheme falling within a description specified by the Scottish Ministers under subsection (3)(a)(ii) must be—
 - (a) operated by a body which does not carry on the scheme for profit, and
 - (b) for the purpose of assisting persons to enter into leases or occupancy agreements.>

Margaret Burgess

128 In section 82, page 54, line 22, leave out <51(3)> and insert <51(3)(b)>

Part 1A site licence: site inspection before issue or renewal

Mary Fee

146 In section 55, page 32, line 16, at end insert—

- <(3A) Where subsection (3B) applies, the local authority must visit the site before determining whether to issue or renew a Part 1A site licence.

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- (3B) This subsection applies where a person has made a relevant permanent site application for a site in respect of which the local authority has, at any time in the period of 3 years ending with the date of the application, received from a tenant or an authorised representative of a tenant a complaint about the management of that site.>

Part 1A site licences: giving of reasons for local authority decision

Margaret Burgess

90 In section 55, page 33, line 4, at end insert—

- <(4) Before refusing to consent to the transfer under subsection (2), the authority must give to the applicant a notice stating that—
- (a) it is considering refusing the application and its reasons for doing so, and
 - (b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (5) In making its decision under this section the local authority must consider the application and any representations made in accordance with subsection (4)(b).>

Margaret Burgess

92 In section 55, page 35, line 3, at end insert—

- <(4) A local authority must give to the persons mentioned in subsection (3) its reasons for making a decision mentioned in subsection (2).”.>

Margaret Burgess

96 In section 58, page 36, line 26, leave out <and its reasons for doing so>

Margaret Burgess

97 In section 58, page 36, line 28, at end insert—

- <(5) Where a local authority revokes a licence under this section, the authority must give to the person who held the licence its reasons for doing so.”.>

Part 1A site licence: time limit for determining application

Margaret Burgess

91 In section 55, page 33, line 12, leave out <within 12 months of receiving the application.> and insert <before the time limit specified under subsection (2A).

- (2A) The Scottish Ministers must, by regulations subject to the negative procedure, specify a time limit for the purposes of each application to which this section applies (and in doing so may specify different limits for different applications or types of application).>

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Duration of Part 1A site licence

Margaret Burgess

- 93 In section 56, page 35, line 15, leave out <3> and insert <5>

Duty to inform where change: period and offence

Margaret Burgess

- 94 In section 57, page 35, line 32, leave out <as soon as practicable after> and insert <before the end of the period of 28 days beginning with the day on which>

Margaret Burgess

- 95 In section 57, page 35, line 35, at end insert—

<(4) Where a local authority requests information under subsection (3), the licence holder must provide the information before the end of the period of 28 days beginning with the day on which the request is made.”.>

Margaret Burgess

- 107 In section 63, page 39, line 34, at end insert—

<(1A) It is an offence for a person, without reasonable excuse—

- (a) to fail to notify a local authority in accordance with 32K(1) and (2), or
- (b) to fail to provide information in accordance with section 32K(3) and (4).>

Margaret Burgess

- 108 In section 63, page 39, line 35, after <(1)> insert <or (1A)>

Power to make provision in relation to decisions and appeals

Margaret Burgess

- 98 In section 60, page 37, leave out lines 18 to 23 and insert—

<() the procedure to be followed in relation to—

- (i) the issue, renewal, transfer, transmission and revocation of a Part 1A site licence,
- (ii) appeals under section 32M,

() the determination and consequences of an appeal under section 32M.>

Margaret Burgess

- 99 In section 60, page 37, line 34, after <section> insert <32G or>

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Margaret Burgess

- 100 In section 60, page 37, line 36, after <section> insert <32G or>

Margaret Burgess

- 101 In section 60, page 37, line 38, after <section> insert <32G or>

Margaret Burgess

- 102* In section 60, page 37, line 39, leave out from <and> to end of line 2 on page 38, and insert—
<() the time limits for the giving of reasons under section 32I(4) and 32L(5),>

Margaret Burgess

- 103 In section 60, page 38, leave out lines 4 to 6

Margaret Burgess

- 104 In section 60, page 38, leave out line 9

Part 1A site licence: fit and proper person test

Margaret Burgess

- 105 In section 61, page 38, line 31, at end insert—
<() committed a breach of an agreement to which the Mobile Homes Act 1983 applies,>

Mary Fee

- 147 In section 61, page 38, line 31, at end insert—
<() contravened any guidance issued by the Gas and Electricity Markets Authority established under section 1(1) of the Utilities Act 2000 (c.27) on the resale of gas and electricity,>

Mary Fee

- 148 In section 61, page 38, line 31, at end insert—
<() contravened any guidance issued by Scottish Water on the resale of water,>

Margaret Burgess

- 106 After section 62, insert—

<Fit and proper person: information sharing

After section 32P of the 1960 Act (inserted by section 62), insert—

“32PA Fit and proper person: information sharing

- (1) A local authority may, for the purpose of another local authority deciding under this Part if a person is a fit and proper person, provide to that other authority information which falls within subsection (2).

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- (2) Information falls within this subsection if the local authority holding the information considers that—
 - (a) it is likely to be relevant to the other authority’s decision under this Part as to whether a person is a fit and proper person, and
 - (b) it ought to be provided for that purpose.
- (3) Subsections (1) and (2) apply despite any duty of confidentiality owed to any person in respect of the information by the authority disclosing the information.”.>

Power to vary maximum fine

Margaret Burgess

- 109** In section 63, page 40, leave out lines 27 to 33

Improvement notices and penalty notices

Margaret Burgess

- 110** In section 64, page 41, line 18, at end insert—

- <() The period specified in an improvement notice under subsection (2)(c) must begin on the later of—
 - (a) the day on which the period during which the person may make an appeal under subsection (3) expires, or
 - (b) where such an appeal is made, the day on which the appeal is finally determined or abandoned.>

Margaret Burgess

- 111** In section 64, page 41, line 34, leave out from <unless> to end of line 40

Margaret Burgess

- 112** In section 65, page 43, leave out lines 15 and 16

Margaret Burgess

- 113** In section 65, page 43, line 22, at end insert—

- <() The period specified in a penalty notice under subsection (2)(c) must begin on the later of—
 - (a) the day on which the period during which the person may make an appeal under subsection (6) expires, or
 - (b) where such an appeal is made, the day on which the appeal is finally determined or abandoned.>

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Guidance on operation of Part 5

Margaret Burgess

114 In section 70, page 49, line 6, at end insert—

<32Z5A Guidance

- (1) The Scottish Ministers may, after consulting such persons as they consider appropriate, publish guidance about the operation of this Part.
- (2) A local authority must have regard to any guidance published when carrying out its functions under this Part.>

Agreements to which the Mobile Homes Act 1983 relates

Margaret Burgess

115 In section 70, page 49, leave out lines 7 to 12

Margaret Burgess

116 After section 71, insert—

<Agreements to which the Mobile Homes Act 1983 applies

In Schedule 1 to the Mobile Homes Act 1983 (c.34)—

(a) after paragraph 1, insert—

“1A (1) The right to station the mobile home under in paragraph 1 is not affected by—

- (a) the expiry of a Part 1A site licence in accordance with section 32J(1)(b)(ii) of the 1960 Act,
- (b) the refusal to issue or renew a Part 1A site licence under section 32D of the 1960 Act,
- (c) the revocation of a Part 1A site licence under section 32L of the 1960 Act, or
- (d) the expiry of a site licence in accordance with section 71(2) of the Housing (Scotland) Act 2014 (asp 00).

(2) Sub-paragraph (1) applies in relation to agreements that were made at any time before the day on which that sub-paragraph comes into force (as well as in relation to agreements made on or after that day).

(3) In this paragraph—

“the 1960 Act” means the Caravan Sites and Control of Development Act 1960 (c.62), and

“Part 1A site licence” has the same meaning as in section 32Z5 of the 1960 Act.”, and

(b) in paragraph 23, after sub-paragraph (1)(a) insert—

“(aa) no regard may be had to any costs paid, or to be paid, by the owner in connection with expenses recovered by a local authority under—

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- (i) section 32Z2(2) of the Caravan Sites and Control of Development Act 1960,
 - (ii) subsection (1)(a) or (c) of section 32Z3 of that Act, or
 - (iii) section 32Z4 of that Act,
- (ab) no regard may be had to any costs paid, or to be paid, by the owner in connection with the owner being convicted of an offence under Part 1A of the Caravan Sites and Control of Development Act 1960.”.>

Tenement management schemes

Jim Eadie

- 7 In section 72, page 50, line 36, after <2004”.> insert—
- <() for subsection (3), substitute—
- “(3) The repayable amount is recoverable in—
- (a) 30 equal annual instalments payable on the same date (specified in the charge) in each calendar year, or
 - (b) monthly instalments over such shorter period of time as the local authority determines to be reasonable in the circumstances.
- (3A) Where a local authority determines a repayment period under subsection (3)(b), it must provide the owner of, or any other person interested in, any living accommodation subject to the repayment charge with assistance under section 71(1).”.>

Malcolm Chisholm

- 35 In section 72, page 50, line 36, after <2004”.> insert—
- <() in subsection (4), after the word “register” where it second appears, insert “, and on its being so registered has priority over all existing and future burdens on the same living accommodation”.>

Discharge of costs notices applying to owners of property

Margaret Burgess

- 117 After section 72, insert—
- <**Notice of potential liability for costs: notice of discharge**
- (1) In section 10A of the Title Conditions (Scotland) Act 2003 (asp 9) (notice of potential liability for costs: further provision), after subsection (3) insert—
- “(3A) The owner of a burdened property may apply to register a notice (a “notice of discharge”) if—
- (a) a notice of potential liability for costs in relation to the property has not expired,

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- (b) the liability for costs under section 10(2) to which the notice of potential liability relates has, in relation to the property which is the subject of the application, been fully discharged, and
 - (c) the person who registered the notice of potential liability for costs consents to the application.
- (3B) A notice of discharge—
 - (a) must be in the form prescribed by order made by the Scottish Ministers, and
 - (b) on being registered, discharges the notice of potential liability for costs as it applies to the property which is the subject of the application.”.
- (2) In the Tenements (Scotland) Act 2004—
 - (a) in section 13 (notice of potential liability for costs: further provision), after subsection (3) insert—
 - “(3A) The owner of a flat may apply to register a notice (a “notice of discharge”) if—
 - (a) a notice of potential liability for costs in relation to the flat has not expired,
 - (b) the liability for costs under section 12(2) to which the notice of potential liability relates has, in relation to the flat which is the subject of the application, been fully discharged, and
 - (c) the person who registered the notice of potential liability for costs consents to the application.
 - (3B) A notice of discharge—
 - (a) must be in the form prescribed by order made by the Scottish Ministers, and
 - (b) on being registered, discharges the notice of potential liability for costs as it applies to the flat which is the subject of the application.”, and
 - (b) in section 29(1) (interpretation), in the definition of “register” after “costs” insert “, a notice of discharge”.>

Home maintenance framework duty

Jim Eadie

9 After section 73, insert—

<Home maintenance framework

(1) Before section 42 of the 2006 Act, insert—

“Home maintenance framework

41A Home maintenance framework

- (1) Where any premises consist of two or more houses, the owners of those houses must prepare jointly a framework (a “home maintenance framework”) in relation to any part of the premises which is owned in common by those owners.

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- (2) A home maintenance framework must set out how the maintenance and repair of such parts of the premises will be managed and must in particular include—
 - (a) arrangements for an annual inspection of any roof areas owned in common by the owners,
 - (b) a payment plan or other arrangements to fund maintenance and repairs to any part of the premises which is owned in common, and
 - (c) arrangements for the appointment of a responsible person or agent to manage the implementation of the framework.”
- (2) In section 42 of the 2006 Act, after subsection (2) insert—

“(2A) Where any premises consist of two or more houses, the local authority may consider for the purposes of subsection (2)(b) that those houses are unlikely to be maintained to a reasonable standard if it appears to the authority that a satisfactory home maintenance framework has not been prepared under section 41A in relation to the houses.”.>

Maintenance plans: areas

James Kelly

56 In section 75, page 51, line 25, at end insert—

- <() In section 44(1) of the 2006 Act (maintenance plans for two or more houses), after “premises,” insert “and any garden area associated with the premises.”.>

Charging orders

Margaret Burgess

118 After section 76, insert—

<Charging orders

- (1) In Schedule 9 to the 1987 Act (recovery of expenses by charging order)—
 - (a) in paragraph 4, sub-paragraph (b)(i) is repealed, and
 - (b) for paragraph 6, substitute—

“6 Every annuity charged by a charging order may be recoverable as a debt due to the person for the time being entitled to it.”.
- (2) In section 108(2) of the Civic Government (Scotland) Act 1982 (c.45) (recovery of expenses by charging order), for the words from “modifications” to “paragraph” in the last place where it appears substitute “modification, that is to say, in sub-paragraph (b)(ii) of paragraph 4 of that Schedule”.
- (3) In section 19(3) of the Crofters (Scotland) Act 1993 (c.44) (priority of sums due), the words “heads (i), (ii) and (iii) of” are repealed.>

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First-tier Tribunal and private rented housing panel: disqualification from membership

Margaret Burgess

119 After section 77, insert—

<First-tier Tribunal: disqualification of members from exercise of certain functions

- (1) This section applies to the following functions and jurisdictions of the First-tier Tribunal—
 - (a) a function or jurisdiction of the sheriff transferred to the Tribunal under section 17 or by virtue of Part 1 of schedule 1,
 - (b) a function conferred on the Tribunal, by virtue of Part 3 and Parts 2 to 4 of schedule 1, by—
 - (i) the 2004 Act,
 - (ii) the 2006 Act,
 - (c) a function conferred on the Tribunal by or under Part 4.
- (2) A member of the First-tier Tribunal is disqualified from exercising a function or jurisdiction to which this section applies if the member is—
 - (a) a member of the House of Commons,
 - (b) a member of the Scottish Parliament,
 - (c) a member of the European Parliament,
 - (d) a Minister of the Crown,
 - (e) a member of the Scottish Government.
- (3) The Scottish Ministers may by order modify subsection (2) by—
 - (a) adding a disqualification to,
 - (b) varying the description of a disqualification for the time being mentioned in,
 - (c) removing a disqualification from,that subsection.>

Margaret Burgess

120 After section 77, insert—

<Private rented housing panel: disqualification from membership

In Schedule 4 to the Rent (Scotland) Act 1984, after paragraph 1 insert—

- “1A(1) A person is disqualified from appointment to, and from remaining a member of, the private rented housing panel if the person is or becomes—
- (a) a member of the House of Commons,
 - (b) a member of the Scottish Parliament,
 - (c) a member of the European Parliament,
 - (d) a Minister of the Crown,
 - (e) a member of the Scottish Government.
- (2) The Scottish Ministers may by order modify sub-paragraph (1) by—

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- (a) adding a disqualification to,
 - (b) varying the description of a disqualification for the time being mentioned in,
 - (c) removing a disqualification from,
- that sub-paragraph.
- (3) An order under sub-paragraph (2) is subject to the negative procedure.”.>

Scottish Housing Regulator: transfer of assets following inquiries

Margaret Burgess

- 121 In section 79, page 53, line 20, leave out <Subsection (4)> and insert <A duty on the Regulator to consult in accordance with paragraph (i) or (ii) of subsection (4)(a)>

Margaret Burgess

- 122 In section 79, page 53, line 27, leave out <the duties under subsection (4)> and insert <that duty>

Margaret Burgess

- 123 In section 79, page 53, line 28, at end insert—
- <(4B) The Regulator must—
 - (a) issue guidance on subsection (4A), such guidance to include—
 - (i) the circumstances in which it considers that subsection (4A) is likely to apply,
 - (ii) the actions it expects to take in those circumstances, and
 - (iii) how, in those circumstances, it intends to communicate with any of the persons mentioned in paragraph (b) who are affected by its actions, and
 - (b) before issuing or revising any guidance, consult—
 - (i) tenants of registered social landlords or their representatives,
 - (ii) registered social landlords or their representatives, and
 - (iii) secured creditors of registered social landlords or their representatives.>

Margaret Burgess

- 124 In section 79, page 53, line 28, at end insert—
- <(4C) Where the Regulator proposes to direct a transfer of some (but not all) of a registered social landlord's assets, the Regulator must—
 - (a) before making a direction, obtain an independent valuation of those assets, and
 - (b) when making a direction, have regard to that valuation.”.>

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Registered social landlord disposals and restructuring

Margaret Burgess

125 After section 79, insert—

<**Registered social landlord becoming a subsidiary of another body**

(1) After section 104 of the 2010 Act insert—

“Registered social landlord becoming a subsidiary of another body

104A Registered social landlord becoming a subsidiary of another body

(1) This section applies to a registered social landlord which is—

- (a) a registered society, or
- (b) a registered company.

(2) An arrangement under which the registered social landlord is to become a subsidiary of a body of which it is not currently a subsidiary has effect only if the Regulator consents to that arrangement before it is completed.

(3) Chapter 3 of Part 10 makes provision for Regulator consent for the purpose of this section.”.

(2) After section 124 of the 2010 Act insert—

“CHAPTER 3

REGISTERED SOCIAL LANDLORD BECOMING A SUBSIDIARY OF ANOTHER BODY

124A Regulator’s consent

(1) The special procedure set out in sections 114 to 121 of Chapter 1 applies in relation to an arrangement to which the Regulator’s consent is required under section 104A as it applies in relation to a disposal to which Chapter 1 applies.

(2) The Regulator may determine that the special procedure is not to apply where the Regulator considers that proposed arrangement will result in there being no reduction in the amount of control that the registered social landlord has over its own affairs.

(3) The Regulator must determine that the special procedure is not to apply or is to cease to apply where the Regulator considers that—

- (a) the registered social landlord’s viability is in jeopardy for financial reasons,
- (b) a person could take a step in relation to the registered social landlord which would require to be notified to the Regulator under section 73, and
- (c) the determination under this subsection would substantially reduce the likelihood of a person taking such a step.

(4) Where the Regulator makes a determination under subsection (2) or (3), the Regulator may give or refuse consent to the arrangement.

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124B Purchaser protection

Failure by the Regulator or by a registered social landlord to comply with any provision of sections 114 to 121 of Chapter 1 in relation to an arrangement under which the registered social landlord is to become a subsidiary of a body of which it is not currently a subsidiary does not invalidate the Regulator's consent to the arrangement.”.

- (3) In section 164 of the 2010 Act (connected bodies), the definition of “subsidiary” is repealed.
- (4) In section 165 of the 2010 Act (interpretation), after the definition of “social landlord” insert—

““subsidiary” has the same meaning as in the Companies Act 2006 (c.46) or, as the case may be, the Co-operative and Community Benefit Societies and Credit Unions Act 1968 (c.55),”.>

Margaret Burgess

129 In schedule 2, page 65, line 29, at end insert—

<() In section 124, for “122” substitute “121”.>