

Housing (Scotland) Bill

3rd 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 third 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.**

Groupings of amendments

Tenement management schemes

149, 153, 154, 150, 151, 7, 152, 35

Discharge of costs notices applying to owners of property

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Home maintenance framework duty

9

Maintenance plans: areas

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Charging orders

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

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Scottish Housing Regulator: transfer of assets following inquiries

121, 122, 123, 124

Registered social landlord disposals and restructuring

155, 129

Amendments already debated

Abolition of right to buy

With 12 – 42, 43, 44, 45

Notes on amendments in this group

Amendment 42 pre-empts amendments 43 and 44

Amendments 43 and 44 are direct alternatives

Short Scottish secure tenancy created on antisocial behaviour grounds

With 50 – 39, 40

Scottish starter tenancy

With 51 – 57

Enforcement of repairing standard

With 6 – 41

Rent reviews and rent increases – private rented housing

With 33 – 37

Security of tenure – private rented housing

With 34 – 38

Houses let for holiday purposes

With 55 – 58

Letting Agent Code of Practice

With 76 – 126, 127

Meaning of letting agency work

With 85 – 128

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Amendments in debating order

Tenement management schemes

Sarah Boyack

- 149** In section 72, page 50, leave out lines 8 to 13 and insert <the principle that, unless an alternative determination appears to the authority to be reasonable in the circumstances, every owner is liable in equal shares for the scheme costs.>

Sarah Boyack

- 153** In section 72, page 50, line 14, after <section> insert <where subsection (1)(a) applies>

Sarah Boyack

- 154** In section 72, page 50, line 15, at end insert—
- <() Before making a payment under this section where subsection (1)(b) applies, a local authority must publish notice of its intention to pay the missing share in two or more newspapers (of which one must, if practicable, be a local newspaper) circulating in the locality in which the tenement is situated.>

Sarah Boyack

- 150** In section 72, page 50, line 22, at end insert—
- <4B Power to permit registered social landlord to pay share of housing costs**
- (1) The Scottish Ministers may by regulations make provision that permits a registered social landlord which is the owner, or is responsible for the maintenance, of any part of a tenement building to—
- (a) pay a sum representing an owner’s share of scheme costs in circumstances equivalent to those set out in section 4A(1),
- (b) recover payments made under such provision from the owner who failed to pay a share of any scheme costs, and
- (c) make in favour of itself a charge to recover any such payments.
- (2) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as appear to them to be appropriate.
- (3) Regulations under subsection (1) may modify, or disapply any provision of, any enactment (including this Act).”,>

Sarah Boyack

- 151** In section 72, page 50, line 25, at end insert—
- <() in section 32(2) (orders and regulations), after “except” insert “regulations under section 4B or”,>

Jim Eadie

- 7** In section 72, page 50, line 36, after <2004”,> insert—
- <() for subsection (3), substitute—
- “(3) The repayable amount is recoverable in—

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- (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).”,>

Sarah Boyack

152 In section 72, page 50, line 36, after <2004”,> insert—

<() for subsection (3), substitute—

“(3) The repayable amount is recoverable in instalments at such frequency, and over such period of time not exceeding 30 years, as the local authority determines to be reasonable in the circumstances.

(3A) The local authority must provide the owner of, or any other person with an interest in, any living accommodation subject to the repayment charge with assistance under section 71(1).

(3B) The Scottish Ministers may publish guidance on the factors to be considered by the local authority in determining what frequency and period is reasonable for the purposes of subsection (3).

(3C) The local authority must have regard to any guidance published under subsection (3B).”,>

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

155 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 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.

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

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.”.

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- (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”.>