

Tenants' Rights, Etc. (Scotland) Amendment Act 1984

1984 CHAPTER 18

An Act to amend Parts I and II of the Tenants' Rights, Etc. (Scotland) Act 1980 with respect to the disposal of, and the rights of secure tenants of, dwelling-houses held by local authorities and certain other bodies in Scotland; and for connected purposes.

[24th May 1984]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Calculation of discount and period of occupation. 1980 c. 52.

1.—(1) In section 1 (secure tenant's right to purchase) of the Tenants' Rights, Etc. (Scotland) Act 1980 (in this Act referred to as " the 1980 Act ")—

(*a*) in subsection (3) for the words " 3 years " there shall be substituted the words " 2 years ";

(*b*) in subsection (5)(*b*)—

(i) for the words " 33 " there shall be substituted the words " 32 ";

(ii) for the word " 3 " there shall be substituted the word " 2 "; and

(iii) for the words " 50 per cent." there shall be substituted the words " 60 per cent."; and

(*c*) in paragraph (iii) of the definition of " occupation " in subsection (12) (interpretation), the words " in the discretion of the landlord, " are hereby repealed.

(2) The amendments made by subsection (1) above shall have no effect as regards any application to purchase where the offer to sell was served in accordance with section 2(2) of the 1980 Act (whether by the landlord or, under section 7(3)(*a*) of that Act, by the Lands Tribunal for Scotland) before the date of commencement of this Act.

Additional classes of persons providing dwelling-houses tenancy of which counts in determining the qualifying period for right to purchase and calculation of discount.

2.—(1) At the end of subsection (10) of section 1 of the 1980 Act (persons providing dwelling-houses occupation of which is to be taken into account as regards secure tenant's right to purchase and calculation of discount) there shall be added the following paragraphs—

" (*o*) the Secretary of State, where the dwelling-house was at the material time used for the purposes of a State Hospital provided by him under section 89 of the Mental Health (Scotland) Act 1960 or for the purposes of any hospital provided under corresponding legislation in England and Wales;

(*p*) the Commissioners of Northern Lighthouses;

1960 c. 61.

(*q*) the Trinity House;

(*r*) the Secretary of State, where the dwelling-house was at the material time used for the purposes of Her Majesty's Coastguard;

(*s*) the United Kingdom Atomic Energy Authority;

(*t*) the Secretary of State, where the dwelling-house was at the material time used for the purposes of any function transferred to him under section 1(2) of the Defence (Transfer of Functions) Act 1964 or any function relating to defence conferred on him by or under any subsequent enactment;

1964 c. 15.

(*u*) such other person as the Secretary of State may by order prescribe."

(2) After the said subsection (10) there shall be inserted the following subsection—

" (10A) An order under subsection (10)(*u*) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament."

(3) The amendments made by subsections (1) and (2) above shall have no effect as regards any application to purchase where the offer to sell was served in accordance with section 2(2) of the 1980 Act (whether by the landlord or, under section 7(3)(*a*) of that Act, by the Lands Tribunal for Scotland) before the date of commencement of this Act.

Removal of restriction on reapplication to purchase.

3. Subsection (10) of section 2 of the 1980 Act (restriction on further application to purchase) is hereby repealed.

Power to refuse to sell certain dwelling-houses required for educational purposes.

4.—(1) After section 3A of the 1980 Act there shall be inserted the following section—

Power to refuse to sell certain dwelling-houses required for educational purposes.

"3B.—(1) Where an application to purchase a dwelling-house is served on an islands council as landlord and—

(*a*) the dwelling-house is—

(i) held by the council for the purposes of its functions as education authority; and

(ii) required for the accommodation of a person who is or will be employed by the council for those purposes;

(*b*) the council is not likely to be able reasonably to provide other suitable accommodation for the person mentioned in paragraph (*a*)(ii) above; and

(*c*) the tenant would, apart from this section, have a right under section 1 of this Act to purchase the dwelling-house,

the landlord may, within one month of service of the application to purchase or of the commencement of this section, whichever is the later, serve a notice of refusal on the tenant.

(2) A refusal by the landlord under subsection (1) above shall contain sufficient information to demonstrate that the conditions mentioned in paragraphs (*a*) and (*b*) of that subsection are fulfilled in relation to the dwelling-house."

(2) In subsection (2) of section 2 of the 1980 Act, for the words " or 3A " there shall be substituted the words " , 3A or 3B ".

Right to carry out repairs: premises occupied under contract of employment.

5. In paragraph (*b*) of section 10(4) of the 1980 Act (certain provisions of Part II of the 1980 Act to apply to certain tenancies of premises occupied under contracts of employment), for the words " , 17 " there shall be substituted the words " to 17A ".

Recovery of possession of dwelling-houses required for educational purposes.

6.—(1) In section 15(2)(*b*) of the 1980 Act (circumstances in which the court shall make an order for recovery of possession of certain dwelling-houses), for the word " 14 " there shall be substituted the word " 15 ".

(2) After paragraph 14 of Part I of Schedule 2 to the 1980 Act there shall be inserted the following paragraph—

" 15.—(*a*) The landlord is an islands council; and

(*b*) the dwelling-house is—

(i) held by the council for the purposes of its functions as education authority; and

(ii) required for the accommodation of a person who is or will be employed by the council for those purposes; and

(*c*) the council cannot reasonably provide a suitable alternative dwelling-house for the accommodation referred to in sub-paragraph (*b*)(ii) above; and

(*d*) the tenant (or any one of joint tenants) is, or at any time during the tenancy has been or, where the tenancy passed to the existing tenant under section 13(1) of this Act, the previous tenant at any time during the tenancy was, employed by the council for the purposes of its functions as education authority and such employment has terminated or notice of termination has been given. "

Right to carry out repairs.

7. After section 17 of the 1980 Act there shall be inserted the following words—

" *Repairs*

Right to carry out repairs.

17A.—(1) The Secretary of State may by regulations make a scheme entitling a tenant under a secure tenancy, subject to and in accordance with the provisions of the scheme—

(*a*) to carry out to the dwelling-house which is the subject of the secure tenancy repairs which the landlord is under an obligation to carry out; and

(*b*) after carrying out the repairs, to recover from the landlord such sums (not exceeding the costs that would have been incurred by the landlord in carrying out the repairs) as may be determined by or under the scheme.

(2) Regulations under this section may make different provision with respect to different cases or descriptions of case and may make such procedural, incidental, supplementary or transitional provision as may appear to the Secretary of State to be necessary or expedient.

(3) Without prejudice to the generality of subsection (2) above, regulations under this section—

(*a*) may provide for any question arising under the scheme to be determined in such manner as the regulations may specify; and

(*b*) may provide that where a tenant under a secure tenancy makes application under the scheme the obligations of the landlord in respect of repairs to the dwelling-house shall cease to apply for such period and to such extent as may be determined by or under the scheme.

(4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament."

Interpretation and repeals.

8.—(1) Expressions used in sections 1 to 4 of this Act and in Part I of the 1980 Act have the same meaning in those sections as in that Part.

(2) The enactments specified in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, and section 13(12)(*b*) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 shall be deemed never to have had effect.

1981 c. 59.

Citation, commencement and extent.

9.—(1) This Act may be cited as the Tenants' Rights, Etc. (Scotland) Amendment Act 1984.

(2) This Act shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

(3) This Act applies to Scotland only.

SCHEDULE

Section 8(2).

REPEALS

Chapter	Short title	Extent of repeal
1980 c. 52.	Tenants' Rights, Etc. (Scotland) Act 1980.	In section 1(12), in paragraph (iii) of the definition of "occupation", the words "in the discretion of the landlord,".
		Section 2(10).
1981 c. 23.	Local Government (Miscellaneous Provisions) (Scotland) Act 1981.	In Schedule 3, paragraph 40(*c*).
1981 c. 59.	Matrimonial Homes (Family Protection) (Scotland) Act 1981.	Section 13(12)(*b*).