SCOTTISH STATUTORY INSTRUMENTS

2002 No. 318

HOUSING

The Housing (Scotland) Act 2001 (Scottish Secure Tenancy etc.) Order 2002

Made - - - -	*26th June 2002*
Laid before the Scottish Parliament - - - -	*27th June 2002*
Coming into force - -	*30th September 2002*

The Scottish Ministers, in exercise of the powers conferred by section 61A(2)(c) of the Housing (Scotland) Act 1987(**1**), sections 11(1) and (2), 109(2) and 110 of the Housing (Scotland) Act 2001(**2**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Housing (Scotland) Act 2001 (Scottish Secure Tenancy etc.) Order 2002 and shall come into force on 30th September 2002.

Interpretation

2.—(1) In this Order–

"the 1987 Act" means the Housing (Scotland) Act 1987;

"the 2001 Act" means the Housing (Scotland) Act 2001; and

"conversion date" means, in relation to any tenancy, the date on which that tenancy becomes a Scottish secure tenancy.

(2) In determining, for the purposes of this Order, whether a tenant had a right to purchase a house, no account shall be taken of section 61(2)(c) of the 1987 Act.

Specified landlords and tenancies

3.—(1) This article has effect subject to the provisions of articles 4 and 5 below.

(2) Landlords of the descriptions mentioned in column 1 of the Schedule to this Order are specified for the purposes of section 11(1)(b) of the 2001 Act.

(**1**) 1987 c. 26; section 61A was inserted by the Housing (Scotland) Act 2001, section 44.
(**2**) 2001 asp 10.

(3) The date mentioned in column 2 of the Schedule to this Order is specified for the purposes of section 11(1)(e)(i) of the 2001 Act in relation to landlords of the descriptions mentioned in column 1 of that Schedule.

(4) The tenancies mentioned in column 3 of the Schedule to this Order are specified for the purposes of section 11(1)(e)(ii) of the 2001 Act in relation to landlords of the descriptions mentioned in column 1 of that Schedule.

Transitional provisions and savings – right to buy

4.—(1) Where, immediately before the conversion date, a tenant had a right to purchase under section 61 of the 1987 Act, the provisions of the 1987 Act and the 2001 Act shall, after the conversion date and until the earliest of–

(a) the termination of the tenancy (within the meaning of paragraph (3) below);

(b) the assignation of the tenancy; or

(c) the passing of the tenancy by operation of section 22 (succession to Scottish secure tenancy) of the 2001 Act other than to a person referred to in paragraph 2 of Schedule 3 to the 2001 Act,

apply in relation to that tenancy subject to the modifications mentioned in paragraph (2) below.

(2) The modifications mentioned in paragraph (1) above are that–

(a) section 61A and 61B of the 1987 Act shall not apply;

(b) the qualifying period of occupation in relation to the tenant's right to purchase should be as provided for in section 61(2)(c) of the 1987 Act as that provision applied immediately before the conversion date;

(c) the discount in relation to the tenant's right to purchase should be as provided for in section 62(3) of the 1987 Act as that provision applied immediately before the conversion date; and

(d) section 61 of the 1987 Act shall continue to apply as it applied immediately before the conversion date notwithstanding the fact that the landlord under the tenancy is a recognised body within the meaning of section 1(7) (Scottish charities) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**3**).

(3) For the purposes of this article, a tenancy is terminated if it is brought to an end under any of the circumstances listed in section 12(1) of the 2001 Act other than circumstances where–

(a) an order for recovery of possession has been made under section 16(2) of the 2001 Act and the ground on which proceedings for recovery of possession have been raised falls within grounds 9 to 15 of Schedule 2 to the 2001 Act; or

(b) the tenancy is terminated by written agreement between the landlord and the tenant and–

(i) the landlord has made a decision to demolish the house; and

(ii) as a result of that decision, the landlord has made other accommodation available to the tenant.

Transitional provisions and savings - rent and rent determination

5. Sections 55 to 59 of the Rent (Scotland) Act 1984(**4**) and sections 24 and 30(4) of the Housing (Scotland) Act 1988(**5**) shall continue to apply to tenancies to which they applied immediately before the conversion date until–

(**3**) 1990 c. 40.
(**4**) 1984 c. 58.
(**5**) 1988 c. 43.