HOUSING (SCOTLAND) BILL

EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Housing (Scotland) Bill, introduced in the Scottish Parliament on 26 March 2024.

2. The following other accompanying documents are published separately:

- a Financial Memorandum (SP Bill 45–FM);
- a Policy Memorandum (SP Bill 45–PM);
- a Delegated Powers Memorandum (SP Bill 45–DPM);
- statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 45–LC).

3. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a part of a section or schedule does not seem to require any explanation or comment, none is given.

INTERPRETATION

5. In these notes, the following abbreviations are used—

- "1984 Act" means the Rent (Scotland) Act 1984,
- "1987 Act" means the Housing (Scotland) Act 1987,
- "1988 Act" means the Housing (Scotland) Act 1988,
- "2001 Act" means the Housing (Scotland) Act 2001,
- "2006 Act" means the Housing (Scotland) Act 2006,
- "2014 Act" means the Housing (Scotland) Act 2014,
- "2016 Act" means the Private Housing (Tenancies) (Scotland) Act 2016,
- "assured tenancy" has the meaning it has under the 1988 Act,

- "PRT" means a private residential tenancy under the 2016 Act (and the expressions "private residential tenancies" and "PRTs" refer generally to such tenancies),
- "rent control area" means an area designated by regulations under section 9 of the Bill,
- "Scottish secure tenancy" has the meaning it has under the 2001 Act,
- "the Tribunal" means the First-tier Tribunal for Scotland.

6. The Bill's freestanding text (that is, any provision which does not amend the text of another piece of legislation) is to be interpreted in accordance with the Interpretation and Legislative Reform (Scotland) Act 2010. Among other things, this provides default definitions for certain expressions (such as "document", "functions", "enactment", "local authority", "modify", "person" and "writing"). It also sets out default rules for common situations (such as when something is to be treated as arriving when it is sent by post).

7. Text that the Bill inserts into other legislation is to be interpreted in accordance with the interpretation legislation that applies to that legislation. For example—

- text inserted into the 1984 Act, the 1987 Act or the 1988 Act is to be interpreted in accordance with the Interpretation Act 1978,
- text inserted into the 2001 Act or the 2006 Act is to be interpreted in accordance with the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999,
- text inserted into the 2014 Act or the 2016 Act is to be interpreted in accordance with the Interpretation and Legislative Reform (Scotland) Act 2010.

THE BILL

8. The Bill has 7 Parts.

9. Part 1 makes provision about rent including the designation of rent control areas.

10. Part 2 makes provision about dealing with evictions, including duties to consider delaying evictions and the amount of damages for unlawful evictions.

11. Part 3 makes provision about residential tenants keeping pets and making changes to let property.

12. Part 4 makes provision about other matters relating to tenants including unclaimed tenancy deposits, registration of letting agents, ending joint tenancies, delivery of notices by social landlords and converting assured tenancies into private residential tenancies.

13. Part 5 makes provision about homelessness prevention including duties of relevant bodies, assessment of housing support services and supporting tenants affected by domestic abuse.

14. Part 6 makes provision about other housing matters including mobile homes, fuel poverty and disclosure of information to the new homes ombudsman.

15. Part 7 makes provision about commencement and other ancillary matters.

CROWN APPLICATION

16. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. As such, the freestanding provisions in the Bill (that is, any provision which does not amend the text of another piece of legislation) apply to the Crown in the same way as they apply to everyone else. However, where a provision of the Bill amends the text of another piece of legislation, the Bill does not change how the provision of the other piece of legislation (as textually amended by the Bill) applies to the Crown.

PART 1 – RENT

Chapter 1 – Designation of rent control areas

17. This Chapter makes provisions for the designation of rent control areas within the areas of local authorities.

Rent conditions: assessments and reports

Section 1 - Periodic assessment of rent conditions

18. This section imposes a duty on each local authority to carry out an assessment of rent conditions in its area relating to the level of rent and the rate of rent increases under PRTs or assured tenancies of properties in its area (see the definition of "relevant tenancy" in subsection (5)). Following an assessment of rent conditions in their area, local authorities are required to submit a report to the Scottish Ministers. The first report by each local authority is to be submitted by no later than 30 November 2026 and each subsequent report is to be submitted to the Scottish Ministers at 5 yearly intervals after that. These time periods may be amended by regulations (see subsections (3) and (4)). Local authorities must have regard to any guidance issued by the Scottish Ministers when carrying out an assessment of rent conditions (see section 6(5)).

Section 2 - Reports to Scottish Ministers following periodic assessment

19. This section specifies further detail in relation to the periodic reports that must be prepared by a local authority and submitted to the Scottish Ministers under section 1(1) after it has carried out an assessment of rent conditions in relation to relevant tenancies of properties in its area.

20. The report must set out details of the assessment carried out regardless of whether the local authority recommends that all or part (or parts) of its area should become a rent control area. A rent control area is created by being designated as a rent control area by regulations made by the Scottish Ministers under section 9(1) – see the definition of "rent control area" in subsection (4).

21. Where a local authority recommends that an area is designated as a rent control area, it must set out the reasons for making the recommendation (see subsection (1)(b)(ii)) and include in its report a plan of the area identifying its boundary (see subsection (3)).

22. Local authorities may only recommend that an area should become a rent control area if it is of the opinion that measures to control the amount of rent increases under PRTs of properties in the area is necessary to protect the social and economic interests of tenants in the area (see subsection (2)). PRTs would include any future PRT that, whilst currently a relevant assured tenancy, might at some point be converted into at PRT using the discretionary power in new paragraph 6 of schedule 5 of the 2016 Act (see Notes below on section 40 of the Bill).

Consideration of rent conditions reports

Section 3 - Interim assessment and reports by local authority

23. This section applies where a local authority considers that there has been a significant change in the level of rents, or rate of increase in rents, under relevant tenancies in its area since the submission of its most recent report to the Scottish Ministers under section 1(1). In this case, the local authority may carry out an additional interim assessment of rent conditions in its area (see subsection (2)) and it must inform the Scottish Ministers if it is carrying out an interim assessment of rent conditions (see subsection (3)). In addition, if the Scottish Ministers consider that there has been a significant change in the level of rents, or the rate of increase in rents, under relevant tenancies of properties in the area of a local authority since the local authority submitted its most recent report under section 1(1), the Scottish Ministers may direct the local authority under subsection (5) to carry out an interim assessment of rent conditions of the level of rents or the rate of increases in rent (or both) in its area.

24. After carrying out an interim assessment of rent conditions, the local authority must submit an additional report relating to the interim assessment to the Scottish Ministers as soon as reasonably practicable after completing the assessment or, where the local authority was directed to carry out the assessment by the Scottish Ministers, within any time limit specified in the Scottish Ministers' direction (see subsections (6) and (7)).

25. In carrying out an interim assessment of rent conditions and preparing the follow-up report, a local authority must have regard to any guidance issued by the Scottish Ministers (see sections 6 and 7).

Section 4 - Scottish Ministers to review local authority report

26. This section requires the Scottish Ministers to consider a report received from a local authority following a periodic assessment of rent conditions (under section 1(1)) or a report received from a local authority following an interim assessment of rent conditions (under section 3(6) or (7)) as soon as reasonably practicable after it is received.

Section 5 - Further assessment of rent conditions and report by local authority

27. This section allows the Scottish Ministers (under subsection (2)) to direct a local authority to carry out a further assessment of rent conditions and submit a further report to them where Ministers consider that a local authority's periodic or interim assessment of rent conditions is

inadequate or the local authority did not follow Ministers' guidance in carrying out the assessment or preparing its subsequent report.

Ministerial guidance on local authority assessments and reports

Section 6 - Ministerial guidance on assessments of rent conditions

28. This section provides that the Scottish Ministers may issue guidance to local authorities which local authorities must have regard to when they are carrying out an assessment of rent conditions (see section 1(5)). Subsection (2) sets out some illustrative examples of the kind of things that may be included in the guidance. Subsection (3) requires the Scottish Ministers to consult with local authorities and persons representing the interest of tenants and landlords before issuing their guidance. Subsection (4) requires the Scottish Ministers to publish any guidance.

Section 7 - Ministerial guidance on reports following assessments of rent conditions

29. Under this section the Scottish Ministers may issue guidance to local authorities which local authorities must have regard to when preparing reports (following their assessment of rent conditions) under sections 1(1), 3(6) and (7) and 5(2). Subsection (2) sets out some illustrative examples of the kind of things that may be included in the guidance. Subsection (3) requires the Scottish Ministers to consult with local authorities and persons representing the interest of tenants and landlords before issuing their guidance. Subsection (4) requires the Scottish Ministers to publish any guidance.

Ministers' decision on whether to designate rent control area

Section 8 - Scottish Ministers' duty to report

30. Following receipt of a report on rent conditions from a local authority under section 1(1) or section 3(6) or (7), or following a direction given under section 5(2), the Scottish Ministers must decide under subsection (1) whether all or part of the area of a local authority should become a rent control area and be designated as such by regulations made under section 9(1). Subsection (1) requires the Scottish Ministers to prepare and publish a report stating their decision and the reasons for it. The Scottish Ministers must publish their report as soon as reasonably practicable after receipt of the relevant local authority report and publish their report in an appropriate manner.

Section 9 - Power to designate rent control area

31. Having received a report following a periodic assessment of rent conditions (under section 1(1)), an interim assessment of rent conditions (under section 3(2) or (5)) or a further assessment of rent conditions (under section 5(2)) from a local authority, the Scottish Ministers may by regulations made under section 9(1) designate all or part (or parts) of the area of the local authority as a rent control area. But the Scottish Ministers may only designate an area as a rent control area if they are satisfied that restricting the rate of increase in rent payable under PRTs of properties in the area is both necessary and proportionate for the purpose of protecting the social and economic interests of tenants in the area, and is a necessary and proportionate control of landlords' use of their property in the area (see subsection (2)).

32. Regulations may apply only to PRTs of properties (other than exempt properties – see definition of "an exempt property" in subsection (5)) in the designated rent control area and the

regulations must provide that the rent payable under such a PRT may not be increased by more than an amount specified in the regulations. The form in which the amount is specified may include a specified percentage, an amount falling within a specified range, or an amount calculated with reference to other specified factors or criteria (see subsection (3). Any regulations made under subsection (1) may remain in force for a maximum of 5 years (but new regulations may be made covering that area if considered appropriate by the Scottish Ministers under further regulations made in exercise of the power conferred by subsection (1)). Regulations under subsection (1) may not be made by the Scottish Ministers unless a draft of them has been approved by the Scottish Ministers in accordance with the affirmative procedure under section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (see section 52(3)). Regulations under subsection (1) designating an area as a rent control area may not apply in respect of PRTs of an "exempt property" in the area. Subsection (6) defines an "exempt property" as one that may be defined as such (for the whole or part of Scotland) by the Scottish Ministers by regulations made under section 13(1).

Section 10 - Designation of rent control area: consultation

33. Before designating an area as a rent control area by regulations under section 9(1), this section requires the Scottish Ministers to consult with the affected local authority (within whose area the proposed rent control area is situated) and persons who appear to the Scottish Ministers to represent the interests of landlords and tenants in the area and allow 8 weeks for representations to be made in response to the consultation (subsection (1) and (2)(b)). Consultation must relate to the proposed area, the type of rent restriction proposed for the area, and the level of the proposed rent restriction for the area (see subsection (2)(a)). Any draft regulations under section 9(1) must be accompanied by a report for the Scottish Parliament setting out the Scottish Ministers' reasons for proposing the rent control area and the form and level of rent control measures proposed for the area, together with a description of the consultation carried out and any representations received in response to the consultation.

Section 11 - Duty to keep rent control area under review

34. This section requires the Scottish Ministers to keep the operation of any regulations made under section 9(1) under review in relation to each rent control area that is designated under these regulations. Subsection (2) requires Ministers to lay draft regulations to revoke or vary a restriction on the amount by which rent payable under a PRT may be increased in a rent control area as soon reasonably practicable if they consider that the restriction is no longer necessary or appropriate.

Section 12 - Variation of rent controls in existing rent control area: consultation

35. This section requires the Scottish Ministers to consult with the affected local authority and persons representative of landlords and tenants in the area of the local authority before laying draft regulations to amend a restriction on the amount by which rent may be increased in a rent control area as set out in regulations under section 9(1) and allow 8 weeks for representations to be made in response to the consultation (see subsections (2) and (3)).

36. Any draft regulations under section 9(1) must be accompanied by a report for the Scottish Parliament setting out the Scottish Ministers' reasons for proposing the change to existing rent control restrictions in the rent control area, together with a description of the consultation carried out and any representations received in response to the consultation (see subsection (4)).

Properties exempt from or subject to modified restrictions

Section 13 - Properties exempt from rent control area restrictions

37. This section relates to the power of the Scottish Ministers to designate an area as a rent control area by regulations under section 9(1) to which restrictions in rent increases apply in relation to any PRT of a property in the area *unless it is an exempt property*. The Scottish Ministers may make regulations under subsection (1) of this section to define what is an "exempt property" which may be defined with reference to the landlord or tenant of the property or the type of property. Consideration may, for example, be given to exempting a particular type of property or, a property in particular circumstances, where it might be disproportionate to impose the rent control restrictions that would otherwise apply. Regulations may not be made under this section unless consultation has been carried out with persons representative of landlords and tenants (see subsection (3)) and a draft of the regulations has been approved by the Scottish Parliament (see section 52(3)).

Section 14 - Properties subject to modified rent control area restrictions

38. Subsection (1) confers a power on the Scottish Ministers to, by regulations, provide that landlords of certain properties let under a PRT in a rent control area may increase the rent payable under the tenancy by more than would be permitted by regulations under section 9(1), or seek permission (from, say, a rent officer or the Tribunal) to increase the rent payable under the tenancy by more than would be permitted by regulations under section 9(1). The Scottish Ministers may specify the properties to which these regulations apply by reference to a description of the landlord, tenant or property (see subsection (3)).

39. Regulations may not be made under this section unless consultation has been carried out with persons representative of landlords and tenants (see subsection (5)) and a draft of the regulations has been approved by the Scottish Parliament (see section 52(3)).

Power to seek information from landlords and tenants

Section 15 - Information that may be sought by local authority

40. This section (subsection (1)) confers a power on local authorities to ask landlords who are included in the local authority's landlord register (that is prepared and maintained under Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004) for the information specified in subsection (2) about any house that is entered in the landlord's entry in the register. (In section 101(1) of the 2004 Act, "house" is defined as "a building or part of a building occupied or intended to be occupied as a dwelling" and subsection (2) provides that two or more dwellings which share the same toilet, cooking and washing facilities are treated as a single house for the purpose of a local authority's landlord register.)

41. In addition, subsection (3) confers a power on a local authority to obtain the information specified in subsection (2) from tenants of houses that are entered in the landlord register.

42. These powers may be exercised by local authorities for the purpose of exercising their powers under Chapter 1 of Part 1 of the Bill, or for the purpose of assisting the Scottish Ministers in exercising their powers under Chapter 1 of Part 1 of the Bill (see subsection (4)).

43. In making a request for information under subsection (1) or (3), a local authority must have regard to any guidance given by the Scottish Ministers about the form, content or frequency of a request. The guidance could, for example, provide that request must be made in writing (including electronic communication).

44. The Scottish Ministers may by regulations modify the information listed in subsection (2) that may be sought from a registered landlord, or a tenant, under this section (see subsection (7)) and the Scottish Parliament must approve any draft regulations before they can be made by Ministers (see section 52(3)).

Section 16 - Landlord's failure to provide information sought

45. This section provides that where a local authority seeks information from a landlord under section 15(1) and the landlord fails to provide all of the information sought within 28 days of receiving the request, the local authority may apply to the Tribunal seeking an order requiring the landlord to pay no more than £1,000 (see subsections (1) and (5)). And in making such an order, the Tribunal may also order the landlord to provide the information that the landlord has failed to provide (see subsection (6)).

46. The local authority may apply to the Tribunal within 12 months of the landlord receiving the local authority's request for information. But before applying to the Tribunal under subsection (2) for an order against a landlord who has failed to provide all of the information sought within the time limit, the landlord must give the tenant 28 days' notice of the local authority's intention to apply to the Tribunal and give the landlord an opportunity to request a review. And if a review is requested by a landlord, a local authority may not apply to the Tribunal unless, after carrying out the review, the landlord has still not provided all of the requested information and the local authority is satisfied that landlord does not have a reasonable excuse for failing to do so.

Section 17 - Landlord's provision of false information

47. This section enables a local authority that has issued a request for information from a landlord under section 15(1) and the landlord has provided information in response which the local authority considers the landlord must have known to be false in a material way, the local authority may apply to the Tribunal seeking an order requiring the landlord to pay no more than £1,000 (see subsections (1) and (5)).

48. The local authority may apply to the Tribunal within 12 months of the landlord receiving the request for information. But before applying to the Tribunal for an order against a landlord, the local authority must give the landlord 28 days' notice of the intention to apply to the Tribunal and give the landlord an opportunity to request a review. And if a review is requested, a local authority may not apply to the Tribunal unless, after carrying out the review, the local authority is satisfied that the landlord provided information in response to its request under section 15(1) that the landlord must have known to be false in a material way.

Expiry of rent control area: power to modify law

Section 18 - Power to modify law in connection with the expiry of rent control area

49. This section confers a regulation-making power on the Scottish Ministers that can be used by the Scottish Ministers on or in anticipation of the expiry of regulations under section 9(1) that designate a rent control area (which cease to have effect after 5 years).

50. Regulations under subsection (1) may make provision about the methods by which a landlord may increase the rent payable under a PRT or a review or appeal (such as to a rent officer or the Tribunal) in connection with such a rent increase or a decision relating to such a rent increase. Regulations under subsection (1) cease to have effect within 12 months of coming into force unless they are revoked before that (see subsection (3)(b)). Before the regulations may be made, they must be approved by the Scottish Parliament (see section 52(3)) and the Scottish Ministers must consult persons representing landlords and tenants and other persons as the Scottish Ministers consider appropriate (see subsection (2)). Subsection (3)(a) provides that regulations under subsection (1) may modify an enactment (see the definition of "enactment" in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010). This is because it may be necessary to also modify the effect of other existing law as it applies to areas that are not rent control areas to give effect to provision to be made under subsection (1) by making temporary modifications to the law about rent increases in connection with tenancies of properties situated in an area that is no longer being designated as a rent control area.

Chapter 2 – Rent control areas: changes to the 2016 Act

Setting and variation of rent

Section 19 - Setting and variation of rent

51. This section inserts new Part 4A into the 2016 Act in consequence of Chapter 1 of Part 1 of the Bill in relation to the designation of rent control areas. The new Part comprises sections 43A to 43T. The following paragraphs, relating to section 19 of the Bill, refer to these new sections.

52. New section 43A provides that new Part 4A of the 2016 Act applies to PRTs of properties in a rent control area (that are not exempt from the rent control area restrictions by virtue of regulations under section 13(1) of the Bill) and defines each such tenancy as a "current tenancy".

53. New sections 43B to 43D insert key definitions for expressions used in the new Part 4A that are relevant to the provisions restricting the initial setting of rent of PRTs of properties in a rent control area (that are not excluded properties) and other increases in rent of those properties.

54. New section 43E limits the initial rent for a current tenancy of a property in a rent control area if that property was "previously let". A current tenancy was previously let if it is the same or substantially the same as the property let under a PRT or an assured tenancy that ended no more than 12 months before the current tenancy. But a property is not "previously let" if it is excluded because it was purchased by the landlord with vacant possession and the current tenancy is the first PRT of the property granted since the purchase.

55. Subsection (2) provides that, if there was a "relevant rent increase" during the year before the start of the current tenancy, the initial rent may not be more than the final rent under the previous PRT or assured tenancy of the same or substantially the same property (see also subsection (3)). A relevant rent increase is—

- a rent increase during a previous PRT or assured tenancy of the same or substantially the same property, or
- a setting of the initial rent under any such previous tenancy ("tenancy A") that is more than the final rent under an immediately preceding tenancy of that kind that ended no more than 12 months before tenancy A.

56. But the setting of any such initial rent is not a "relevant rent increase" if tenancy A is the first PRT of the property let under that tenancy following the purchase of that property by the landlord with vacant possession.

57. If there was no such relevant rent increase during the year before the start of the current tenancy, the rent at the start of the current tenancy may be an amount that is not more than the final rent under the preceding relevant tenancy as increased by the permitted amount for the area.

58. New section 43F provides that the rent payable under a current tenancy may be increased only in accordance with Chapter 2 of Part 1 of the Bill.

59. New section 43G limits the frequency of rent increases under a PRT of a property in a rent control area. If the let property was "previously let", after the initial rent has been set, the rent may only be increased if the "previous rent increase" (within the meaning of section 43D) was more than a year ago. If the let property was not previously let, the rent may not be increased during the first year of the tenancy except in prescribed circumstances. Thereafter, in both cases, the rent may not be increased more than once in any subsequent 12 month period.

60. New sections 43H and 43I are equivalent to section 20 (no premiums, advance payments, etc.) and section 21 (restriction on diligence) of the 2016 Act in relation to PRTs of properties that are not in rent control areas (or which are exempt properties for the purpose of regulations made under section 13(1) of the Bill). In particular, new section 43H provides that sections 82, 83 and 86 to 90 of the 1984 Act apply in relation to a private residential tenancy as they apply in relation to a tenancy of the kind to which those sections of the 1984 Act apply. These sections of the 1984 Act impose restrictions on, among other things, the payment of any fine, sum or pecuniary consideration, other than rent, and includes any service or administrative fee or charge. New section 43H ensures that these sections of the 1984 Act apply to PRTs in the same way as before even if the let property is situated in a rent control area. New section 43I ensures that the restrictions that apply to PRTs in relation to the recovery of rent under section 21 of the 2016 will also be imposed on any such tenancy in a rent control area.

61. New sections 43J to 43T comprise Chapter 2 of new Part 4A. These new sections make provision for rent variation of let property in a rent control area (that is not an exempt property) and rent variation instigated by the landlord's notice. The new sections are explained below.

62. New section 43J provides that a landlord under a PRT may increase the rent payable under the tenancy by giving the tenant a rent-increase notice but the landlord may not increase the rent by more than an amount that is permitted for the area in which the let property is situated by regulations under section 9(1). Subsection (3) provides that the rent-increase notice given by the landlord to the tenant must specify the rent that will be payable once the increase takes effect, the day when the increase is to take effect, and must comply with any other requirements that may be set out by the Scottish Ministers in regulations. The Scottish Ministers may bring forward regulations which specify the information to be included in the rent-increase notice, the form the notice should take and the way in which the notice must be served on the tenant. Subsection (4) provides that the rent increase will take effect on the effective date unless before that date the landlord withdraws the notice, or the tenant makes a timeous referral to a rent officer or the Tribunal for rent verification. Subsection (5) defines the "effective date" as the later of either the day specified in the rent-increase notice or the day after the day on which the minimum notice period ends. Subsection (6) provides that the minimum notice period is three months or whatever longer period has been agreed between the landlord and tenant. It begins running on the day the rent-increase notice is received by the tenant. Section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out (rebuttable) presumptions as to when a document that has been served by post or electronically is deemed to be received.

63. New section 43K enables the landlord and tenant, by agreement, to change the proposed new rent and to change the date specified in the notice (although the date on which the notice takes effect remains subject to the minimum notice period due to the operation of new section 43J(5), so an agreed change could not dispense with the minimum 3 months' notice). Furthermore, no modification can be agreed which would increase the rent payable under the tenancy by more than the amount that is permitted for the area in which the let property is situated (in regulations made under section 9(1) of the Bill). Subsection (4) outlines that if a tenant and landlord had agreed to change what is in the rent-increase notice but the tenant reconsiders and subsequently refers the notice for verification within the permitted time period, the referral to the rent officer will proceed as if no such agreement to modify the notice had been made. (This will be of relevance when the order-maker requires to know the date on which the increase would have taken effect had a referral not been made.)

64. New section 43L(2) provides that a tenant can refer a case to a rent officer for verification if the tenant considers that the amount of the proposed increase of rent under the tenancy would be an increase of more than the permitted amount (as determined in regulations made under section 9(1) of the Bill) for the rent control area in which the let area is situated ("the permitted amount"). Subsection (1) requires that the tenant first give notice to the landlord of the tenant's views within 21 days of the tenant receiving the rent-increase notice. Subsection (3) requires that an application to a rent officer must be made within 42 days of the landlord receiving notice of the tenant's views, be in the prescribed form and accompanied by the prescribed fee (if any). The tenant must also notify the landlord in the prescribed manner that the case has been submitted for adjudication. Subsection (4) enables the Scottish Ministers to set out in regulations what the prescribed form, manner of notification and fee are.

65. New section 43M gives a rent officer the power to decide, on receipt of a rent verification referral, whether the proposed rent set out in a rent-increase notice would be an increase of more the permitted amount. If the rent officer decides that the proposed rent increase for the tenancy is no more than the permitted amount, the rent officer must make an order determining that the rent

payable under the tenancy is the rent as specified in the rent-increase notice given by the landlord (see subsection (2)). If the rent officer decides that the proposed rent increase for the tenancy is more than the permitted amount, the rent officer may determine the amount of the rent payable under the tenancy is the current rent as increased by the permitted amount. Or, if the permitted amount is zero or the equivalent of zero, the rent officer must order that the rent-increase notice is of no effect (see subsections (3) and (4)).

66. New section 43N enables a rent officer to correct an error in an order issued under section 43M(2) or (3) by issuing a new order.

67. New section 43O enables a landlord or a tenant under a PRT to request a review of an order made by a rent officer under section 43M(2) or (3).

68. New section 43P provides that a new rent officer considering a review is to make a decision on the same basis as the original rent officer (i.e. to decide whether the proposed rent set out in a rent-increase notice would be an increase of more the permitted amount) and has the same order-making powers.

69. New section 43Q enables a tenant to apply to the Tribunal for a determination of whether a relevant rent increase took place less than 12 months previously meaning that in effect the date on which the proposed rent increase would take effect under the rent-increase notice is too soon, or that the rent payable at the start of the tenancy was not determined in accordance with section 43E(2) or (3) meaning that, in effect, the "base rent" on which the proposed rent increase is based has been incorrectly determined. Subsection (2) requires that the tenant first gives notice to the landlord of the tenant's views within 21 days of the tenant receiving the rent-increase notice. Subsection (4) requires that an application to the Tribunal must be made within 42 days of the landlord receiving notice of the tenant's views and be in the prescribed form.

70. New section 43R sets out the Tribunal's decision-making powers.

71. Under subsection (2), if the Tribunal decides, in effect, that the date on which the proposed rent increase is to take effect is too soon, it must make an order providing that the rent-increase notice is of no effect. Or, if the Tribunal decides that the proposed date of increase is not too soon, the Tribunal must decide that the rent is the lower of: (a) the new rent as specified in the rent-increase notice; and (b) the existing rent as increased by the permitted amount for the area in which the let property is situated (as specified in regulations made under section 9(1) of the Bill).

72. Subsection (4)(a) applies if the Tribunal decides that the rent payable at the start of the tenancy was not determined in accordance with section 43E(2) or (3). Section 43(2) and (3) provides that, where the let property was previously let, the rent payable at the start of a tenancy is either to be no more than the amount of rent payable at the end of the previous tenancy, or if 12 or more months have passed since the last "relevant rent increase", that amount as increased by the permitted amount for the area in which the let property is situated.

73. If the Tribunal determines that this "base rent" at the start of the tenancy (which is proposed to be increased by the rent-increase notice) has not been set in accordance with section 43E(2) or

(3), the Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the rent determined by it. The rent determined by the Tribunal cannot be more than what the "base rent" should have been set at (in accordance with section 43E(2) or (3)) as increased by the permitted amount for the area in which the let property is situated (see subsection (5)).

74. If the Tribunal decides that the rent payable at the start of the tenancy was in fact determined in accordance with section 43E(2) or (3), the Tribunal must decide that the rent is the lower of: (a) the new rent as specified in the rent-increase notice; and (b) the existing rent as increased by the permitted amount for the area in which the let property is situated.

75. New section 43S deals with what is effectively an underpayment of rent which arises where the effective date of the rent officer's or the Tribunal's decision is later than the date that the rent increase had originally been due to take effect. Throughout the process of making a referral (or application) to a rent officer (or the Tribunal), the tenant will continue to be liable to pay the existing rent as usual. Once the new rent has been determined, subsection (2) provides that if the rent is increased as a result of the application, the tenant must pay the landlord the difference between the old rent over the relevant period and the new rent over the relevant period. The relevant period is the period between the original rent increase date and the date on which the new rent actually takes effect. The tenant will have 28 days within which to pay the landlord the full amount due under this section. If the tenant fails to pay the landlord within this timescale, on day 29 the sum is treated as rent arrears for the purpose of that eviction ground and as having been rent arrears from the date that the final rent determination was made.

76. New section 43T deals with the withdrawal of an application etc. to a rent officer or the Tribunal in relation to—

- a referral to the rent officer under section 43L(2) by the tenant,
- a request for review by one party only under section 43O(1), and
- an application to the Tribunal under section 43Q(1) by the tenant.

77. Subsection (2) requires the rent officer or the Tribunal to whom the application etc. had originally been made to consider the application etc. and make an order under section 43M(2) or (3), 43P(2) or (3), or 43R(2)(b) or (4)(a) or (b). But, where this subsection applies, the order to be made by the rent officer concerned or the Tribunal is restricted to deciding that the rent payable under the tenancy is the lower of: (a) the new rent as specified in the rent-increase notice; and (b) the existing rent as increased by the permitted amount for the area in which the let property is situated.

Information about rent to be included in advertisements

Section 20 - Prospective landlords' duty to include information about rent in advertisements

78. This section inserts a new section 17A into the 2016 Act. It requires a potential landlord who is advertising a property for let in a rent control area (that is likely to give rise to a PRT) to include the information specified in subsection (2) in the written advertisement. The information that must be included varies depending on whether the property was let previously (see subsections (3) and (4)), which affects whether the prospective landlord has information to share about the rent

payable under the recent previous tenancy. Subsection (5) confers power on the Scottish Ministers to by regulations modify the information to be included in an advertisement as mentioned in subsection (2). Subsection (5) also confers a power on the Scottish Ministers to, by regulations, modify the definition of properties that have been let previously. The requirement on prospective landlords to comply with this duty may be taken into account in determining whether the person is a fit and proper person to be included in the landlord register prepared and maintained by a local authority under Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.

Chapter 3 - Other restrictions on rent increases

Frequency of rent increases

Section 21 - Private residential tenancies not in rent control area: frequency of rent increase

79. Section 19 of the 2016 Act provides that the rent payable under a PRT may not be increased more than once in a 12 month period. Section 21 of the Bill modifies this section so that this restriction applies only where the let property is not in a rent control area (in consequence of the changes made by this Bill in relation to rent control areas). It also modifies section 19 so that, where the let property is not in a rent control area, the rent payable may not be increased during the first 12 months of the tenancy except in such circumstances as may be specified by the Scottish Ministers in regulations.

Capping of rent increases on referral or appeal

Section 22 - Private residential tenancies: capping of rent increase

80. This section modifies sections 25, 29 and 34 of the 2016 Act. These sections are in Chapter 2 of Part 4 of the 2016 Act. Paragraph 6(3) of the schedule of the Bill modifies the 2016 Act so that this Chapter applies only in relation to PRTs of let properties that are not in a rent control area or let properties that are in a rent control area but which are exempt from the rent control area restrictions ("exempt properties") by virtue of regulations made under section 13(1) of the Bill.

81. Section 25 of the 2016 Act provides that, where a rent officer receives a referral from a tenant under section 24 of that Act in relation to a PRT, the rent officer must make an order stating that the rent payable under the tenancy is the rent determined by the rent officer in accordance with section 32 of that Act (as the open market rent). Section 29 of the 2016 Act provides that, where an onward appeal is made to the Tribunal against any such order of the rent officer, the Tribunal must make an order stating that the rent payable under the tenancy is the rent determined by the Tribunal in accordance with section 32 (as the open market rent).

82. Section 22 of the Bill modifies sections 25 and 29 so that, if the rent specified in the rent-increase notice that prompted the initial referral to the rent officer is lower than the rent that would otherwise be determined in accordance with section 32 (being the open market rent), the rent officer or the Tribunal (as the case may be) must order that the rent payable under the tenancy is the lower rent as specified in the rent-increase notice.

83. Section 22 of the Bill also makes a consequential modification to section 34 of the 2016 Act so that rent officers and the Tribunal collectively must also make publicly available

information about the rents they have ordered to be payable in accordance with sections 25 and 29 of that Act.

Section 23 - Assured tenancies: capping of rent increase

84. This section modifies section 25 of the 1988 Act. Section 25 provides that, where a notice under section 24 of that Act (proposing a rent under an assured tenancy) has been referred to the Tribunal, the rent under the tenancy is (unless the landlord and the tenant agree otherwise) the rent determined by the Tribunal in accordance with section 25(1) (as the open market rent), together with the appropriate amount in respect of rates where section 25(4) applies.

85. Section 23 of the Bill modifies section 25 so that, if the rent proposed in the notice that led to the referral to the Tribunal is lower than the rent that would otherwise be determined in accordance with section 25 (being the open market rent), the rent to be determined by the Tribunal as payable under the tenancy is to be the lower rent as specified in the notice.

PART 2 – DEALING WITH EVICTIONS

Evictions: duties to consider delay

Section 24 - Private residential tenancies: duty to consider delay to eviction

86. Under section 51 of the 2016 Act, the Tribunal may issue an eviction order against a tenant under a PRT if, on application by the landlord, it finds that an eviction ground applies. The tenancy comes to an end on the day specified in the eviction order.

87. Section 24 of the Bill inserts new section 51A into the 2016 Act. This new section provides that the Tribunal must, when specifying in an eviction order the day when a tenancy comes to an end, consider if it would be reasonable to delay the ending of the tenancy. In doing so, the Tribunal may consider if the absence of a delay would cause the tenant, the tenant's household or the landlord financial hardship or have certain other detrimental effects.

88. The Tribunal may consider, for example, whether disruption caused by the ending of a tenancy during exam periods for school-aged children or University students would have a detrimental effect on the health of the tenant or a member of the tenant's household and, accordingly, whether it would be reasonable to delay the ending of the tenancy. Periods of religious observance and some traditional festive periods could also result in a tenant or a member of the tenant's household experiencing heightened physical, emotional or financial stresses. The Tribunal may also therefore consider, for example, whether the ending of a tenancy during or around any such period might cause the tenant or a member of the tenant's household to experience financial hardship or have a detrimental effect the individual's health and, accordingly, whether it would be reasonable to delay the ending of the tenancy. The Tribunal may also decide that it is reasonable in the circumstances to delay the ending of the tenancy for other reasons.

89. This duty to consider a delay does not apply if the eviction ground is based only on one or more of the eviction grounds named in section 51A(5)(a) to (c). These eviction grounds are: that the tenant is not occupying the let property as the tenant's home, that the tenant has a relevant conviction, and that the tenant has engaged in relevant anti-social behaviour. Each paragraph refers

to the ground of that name in schedule 3 of the 2016 Act (see definition of "eviction ground" in section 78(1) of the 2016 Act).

Section 25 - Scottish secure tenancies etc.: duty to consider delay to eviction

90. A sheriff court, when making an order under section 16(2) or 36(5) of the 2001 Act for the recovery of possession of a house that is let to a tenant under a Scottish secure tenancy or a short Scottish secure tenancy, must specify the date when the right to recover possession takes effect. (See also section 34(6) and 36(7) of the 2001 Act as regards the application of section 16(2) of that Act to "short Scottish secure tenancies", and the meaning given in section 111 of the Act.)

91. Section 25 of the Bill inserts new sections 16A and 36A into the 2001 Act. These new sections provide that the court must, when specifying in an order for recovery of possession the date when the right to recover possession takes effect, consider if it would be reasonable to delay the right to recover possession. In doing so, the court may consider if the absence of a delay would cause the tenant or the tenant's household financial hardship or have certain other detrimental effects. The examples given in paragraph 88 of these Notes are relevant here too. The duty to consider a delay under each section does not apply if the right to recover possession is based only on one or more of the grounds mentioned in subsection (5) of the section.

Section 26 - Assured tenancies: duty to consider delay to eviction

92. This section inserts new section 20A into the 1988 Act. This new section provides that the Tribunal must, when making an order for possession of a house that is let to a tenant under assured tenancy, consider if it would be reasonable to postpone the right to possession for a period. In doing so, the Tribunal may consider if the absence of any such postponement would cause the tenant, the tenant's household or the landlord financial hardship or have certain other detrimental effects. The examples given in paragraph 88 of these Notes are relevant here too. The duty to consider postponing the right does not apply if the ground for possession is based only on one or more of the grounds mentioned in section 20A(5).

Section 27 - Protected tenancies and statutory tenancies: duty to consider delay to eviction

93. This section inserts new section 12ZA into the 1984 Act. This new section provides that the Tribunal must, when making an order for possession of a house that is let to a tenant under a protected tenancy or a statutory tenancy, consider if it would be reasonable to postpone the right to possession for a period. In doing so, the Tribunal may consider if the absence of a postponement would cause the tenant, the tenant's household or the landlord financial hardship or have certain other detrimental effects. The examples given in paragraph 88 of these Notes are relevant here too. The duty to consider postponing the right does not apply if the ground for possession is based only on the ground mentioned in section 12ZA(5).

Damages for unlawful eviction

Section 28 - Unlawful eviction: notification and damages

94. Section 36 of the 1988 Act provides that, where a landlord or any person acting on the landlord's behalf unlawfully deprives a residential occupier of premises from occupying the premises, the landlord is liable to pay the occupier damages in respect of the loss of the right to occupy them. Any action to enforce this liability must be raised in the Tribunal unless the

occupant's claim relates to a Scottish secure tenancy, in which case court proceedings may be raised instead.

95. Section 28 of the Bill amends the 1988 Act so that these damages are to be determined in accordance with a new section 37. This new section provides that the court or, as the case may be, the Tribunal may award damages of between 3 and 36 months' rent. The award may be less than 3 months' rent but only if the court or Tribunal considers it appropriate in all the circumstances.

PART 3 - KEEPING PETS AND MAKING CHANGES TO LET PROPERTY

Section 29 - Private residential tenancies: keeping pets and making changes to let property

96. This section inserts a new Part 5A (containing Chapters 1 and 2) into the 2016 Act.

97. Chapter 1 (keeping pets) comprises sections 64A to 64G—

- Section 64A provides that, where the right of a tenant to keep a pet at a let property is a statutory term of a PRT, the tenant may keep a pet at the let property with the landlord's consent and this consent cannot be unreasonably refused. Where a landlord has consented, the tenant may keep the pet at the let property until the tenancy ends. The landlord's consent to keep the pet may be subject to reasonable conditions. But if the tenancy allows the tenant to do so without consent, no consent is required. (The right to keep a pet at the let property is a statutory term of the tenancy if regulations under section 7 of the 2016 Act specify that it is a term of the tenancy.)
- Section 64B provides that a request for the landlord's consent must be in writing and fulfil any other requirements specified in regulations. The landlord must notify the tenant within 42 days of the request as to whether the landlord consents or refuses to do so. If the consent is subject to conditions, these must be specified and be reasonable. If no such notice is given to the tenant, the landlord is deemed to have refused consent.
- Section 64C provides that a tenant may appeal to the Tribunal against a consent condition on the grounds that it is unreasonable, a refusal of consent or a deemed refusal of consent. Before doing so, the tenant must give notice to the landlord.
- Section 64D sets out the remedies available to the Tribunal when deciding an appeal.
- Section 64E gives a regulation-making power to the Scottish Ministers to make provision about when it is reasonable for a landlord to refuse consent to keep a pet.
- Section 64F gives a regulation-making power to the Scottish Ministers to make provision about when a consent condition on the keeping of a pet is reasonable.
- Section 64G provides that, before laying draft regulations under section 64E and 64F, the Scottish Ministers must consult persons representing tenants and landlords.

98. Chapter 2 (making changes to let property) comprises sections 64H to 64O—

- Section 64H provides that, where the right of a tenant to make changes to a let property is a statutory term of a PRT, the tenant may make a category 1 change without the landlord's consent, and may make a category 2 change with the landlord's consent and this consent cannot be unreasonably refused. The landlord's consent to make a

category 2 change may be subject to reasonable conditions. But if the tenancy allows the tenant to do so without consent, then no consent is required. (The right to make such changes to the let property is a statutory term of the tenancy if regulations under section 7 of the 2016 Act specify that it is a term of the tenancy.)

- Section 64I provides that a request for the landlord's consent must be in writing and fulfil any other requirements specified in regulations. The landlord must notify the tenant within 42 days of the request as to whether the landlord consents or refuses to do so. If the consent is subject to conditions, these must be specified and be reasonable. If no such notice is given to the tenant, the landlord is deemed to have refused consent.
- Section 64J provides that a tenant may appeal to the Tribunal against a consent condition on the grounds that it is unreasonable, a refusal of consent or a deemed refusal of consent. Before doing so, the tenant must give notice to the landlord.
- Section 64K sets out the remedies available to the Tribunal when deciding an appeal.
- Section 64L gives a regulation-making power to the Scottish Ministers to specify particular changes to let property under a private residential property, and each must be categorised as either a category 1 change or a category 2 change. The regulations may specify that any such category does not apply to property of a particular type.
- Section 64M gives a regulation-making power to the Scottish Ministers to make provision about when it is reasonable for a landlord to refuse consent to make a change.
- Section 64N gives a regulation-making power to the Scottish Ministers to make provision about when a consent condition on the making of a change is reasonable.
- Section 64O provides that, before laying draft regulations under section 64L, 64M or 64N, the Scottish Ministers must consult persons representing tenants and landlords.

Section 30 - Scottish secure tenancies etc.: keeping pets

99. This section inserts section 31A to 31D, and Part 1A of schedule 5, into the 2001 Act—

- Section 31A provides that it is a term of every Scottish secure tenancy that the tenant may keep a pet at the house with the landlord's consent and this consent cannot be unreasonably withheld. But if the tenancy allows the tenant to do so without consent, no consent is required. Section 31A also says that the provisions in a new Part 1A of schedule 5 have effect as terms of every Scottish secure tenancy.
- Part 1A provides that where a landlord has consented the tenant may keep the pet at the house until the tenancy ends, but the landlord's consent to keep the pet may be subject to reasonable conditions. It also provides that an application for the landlord's consent must be in writing and fulfil any other requirements specified in regulations. The landlord must intimate its consent or refusal, and any conditions imposed, to the tenant within one month of the application. Any such conditions must be reasonable. If no such intimation is given the landlord is taken to have consented to the application.
- Section 31B gives a regulation-making power to the Scottish Ministers to make provision about when it is reasonable for a landlord to refuse consent to keep a pet.
- Section 31C gives a regulation-making power to the Scottish Ministers to make provision about when a consent condition on the keeping of a pet is reasonable.

- Section 31D provides that, before laying draft regulations under section 31B or 31C, the Scottish Ministers must consult persons representing tenants and landlords.

PART 4 – OTHER MATTERS RELATING TO TENANTS

Unclaimed tenancy deposits

Section 31 - Use of unclaimed deposits

100. Part 4 (tenancy deposits) of the 2006 Act comprises sections 120 to 123. In that Part, references to a "tenancy deposit" and a "tenancy deposit scheme" are construed in accordance with section 120. Section 121 gives a regulation-making power to the Scottish Ministers to set out conditions that a tenancy deposit scheme must meet before it can be approved by them, and to make such further provision about tenancy deposit schemes as they think fit.

101. Section 31 of the Bill modifies the regulation-making power in section 121 so that it can also be used to impose requirements on a person who administers an approved scheme to report to the Scottish Ministers on matters relating to the operation of the approved scheme including matters relating to unclaimed deposits. It also inserts a requirement that any such regulations must include provision to ensure that a tenancy deposit that is held under an approved scheme is not repaid unless a relevant application has been made, within a specified 5-year period, for it to be repaid. "Approved scheme", "scheme administrator", "relevant application", "5-year period" and other relevant terms are defined in new subsection (5) of section 121 or new section 123A.

102. The following sections are also inserted into the 2006 Act—

- Section 122A provides that a tenancy deposit held under a tenancy deposit scheme that has been approved by the Scottish Ministers (an "approved scheme") is to be determined, by the scheme administrator, to be an unclaimed deposit if satisfied that no relevant application was made, within the specified 5-year period, for it to be repaid.
- Section 122B provides that the Scottish Ministers may direct the scheme administrator of an approved scheme to the transfer of any unclaimed deposits to them or another person (a "fund administrator"). The scheme administrator must comply.
- Section 122C provides that transferred unclaimed deposits may be used for certain purposes to support private tenants and to cover reasonable administrative costs. A power is given to the Scottish Ministers to change these purposes by regulations.
- Section 122D provides that the Scottish Ministers must prepare a report on the use of unclaimed deposits that are transferred to them or another person. The report must be published within 3 years of the first day on which requested deposits are transferred. A copy must be laid before the Scottish Parliament as soon as reasonably practicable after publication. To inform any such report, the Scottish Ministers may direct a fund administrator to provide them with a report on the use of any unclaimed deposits that are transferred to the fund administrator.
- Section 122E provides that the Scottish Ministers may, on the application of a former occupant, repay all or part of a tenancy deposit that was transferred to them or another person if they are satisfied that the applicant had a reasonable excuse for not making a relevant application within the 5-year period and would otherwise be entitled to it.

- Section 123A defines various expressions used in Part 4 of the 2006 Act.

Registration of letting agents etc.

Section 32 - Applications for registration

103. This section amends section 30 of the 2014 Act so that, in a case where an applicant for registration as a letting agent is a partnership, a company or a body with some other legal status (other than a sole trader), the application must state the name and address of any person who owns 25% or more of the partnership, company or body. It also amends section 32 of the 2014 Act so that, before refusing an application for registration as a letting agent, the Scottish Ministers must, if they are considering doing this for reasons that differ from or supplement those previously notified, give the applicant a further notice under section 32(6) of the 2014 Act stating that they are considering refusing it and their reasons.

Section 33 - Duty to inform: change of circumstances

104. Section 37 of the 2014 Act provides that a registered letting agent must notify the Scottish Ministers as soon as practicable if any information provided as part of the application process for registration becomes inaccurate. Section 30(2)(f) of the 2014 Act provides that an application for registration as a letting agent must include such other information as the Scottish Ministers may specify in regulations. Section 33 of the Bill modifies section 37 of the 2014 Act to give a regulation-making power to the Scottish Ministers to specify when information required by regulations under section 30(2)(f) is relevant information for the purpose of section 37. It also modifies section 37 of the 2014 Act so that the duty to notify the Scottish Ministers if relevant information becomes inaccurate also applies to information provided by a registered letting agent to the Scottish Ministers in accordance with a notice under sections 52(1) of the 2014 Act (for the purpose of monitoring compliance with regulatory requirements relating to letting agents).

Section 34 - Revocation of registration: where agent no longer exists

105. This section amends section 39 of the 2014 Act so that the Scottish Ministers may also remove a registered letting agent from the corresponding register if they are satisfied that the agent no longer exists, and the duties to notify an agent of certain matters apply only if this is possible. It also amends section 39 so that, before removing a registered letting agent from the corresponding register, the Scottish Ministers must, if they are considering doing this for reasons that differ from or supplement those previously notified, give the agent a further notice under section 39(6) stating that they are considering removing the agent and their reasons.

Section 35 - Removal from register on application: notification of agent

106. This section amends section 40 of the 2014 Act so that the duty to notify a registered letting agent of the decision taken on an application for removal from the corresponding register applies only if this is possible. This would not be possible, for example, if the agent no longer exists.

Section 36 - Note on register where entry refused or removed: duration

107. Section 42 of the 2014 Act requires the Scottish Ministers to note in the register of letting agents if a person's entry in it or a renewal of the person's entry has been refused, and if a person

has been removed from the register. Section 36 of the Bill amends section 42 so that any such note must remain on the register for 3 years (instead of 12 months).

Section 37 - Power to obtain information and carry out inspections

108. Section 52 of the 2014 Act provides that the Scottish Ministers may, for the purpose of monitoring compliance with the provisions in Part 4 of that Act, 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. Section 37(2) of the Bill amends section 52 so that, despite any such notice, a person is not required to provide such information to the extent that the person would be entitled to refuse to provide the information in or for the purposes of proceedings in a court in Scotland.

109. Section 53 of the 2014 Act provides that, for the purposes of carrying out an inspection of premises which appear to be being used for the purpose of carrying out letting agency work, any person may be required to give such information as an authorised person considers necessary. Section 37(3) of the Bill amends section 53 so that, despite any such requirement, a person is not required to give such information to the extent that the person would be entitled to refuse to give the information in or for the purposes of proceedings in a court in Scotland.

Ending joint tenancies

Section 38 - Private residential tenancies: ending a joint tenancy

110. This section modifies sections 48 and 49 of the 2016 Act and inserts a new section 48A.

111. Section 48 is modified so that, in the case of a joint tenancy, one of the joint tenants may bring to an end a PRT by giving the landlord a notice in accordance with that section. Section 48 is also modified so that the tenancy does not come to an end on the day stated in the notice if, before that day, the interest of the joint tenant is assigned to another person.

112. New section 48A provides that, where a notice to bring an end to a PRT under section 48 is given by a joint tenant, the notice has no effect unless, at least 2 months before, a pre-notice is given by the joint tenant to every other joint tenant and the landlord. A regulation-making power is given to the Scottish Ministers to specify other requirements that must be met by a pre-notice. Any subsequent notice to bring the tenancy to an end under section 48 also has no effect unless it is given within 28 days of the end of the 2-month pre-notice period and is accompanied by a statement that a pre-notice has been given to every other joint tenant in accordance with subsection (1)(a) of the new section. A regulation-making power is given to the Scottish Ministers to enable them to provide that a notice under section 48(1) must also be accompanied by such evidence in support of the statement as they may specify.

113. Section 49 is modified so that, where a notice to bring an end to a PRT under section 48 states a day on which the tenancy is to end which is before the end of the minimum notice period, the landlord and the tenant may agree in writing to the tenancy ending on that day. But, in the case of a joint tenancy, the tenant here means all of the joint tenants.

Delivery of notices etc.

Section 39 - Social landlords: delivery of notices etc.

114. This section modifies section 40 of the 2001 Act to provide that a notice or document authorised or required by Chapter 1 (Scottish secure tenancies) of Part 2 of the 2001 Act may be given to a person by sending it to that person's proper address by means of a postal service which provides for the delivery of the notice or other document to be recorded. It also inserts new subsection (1A) which provides that the delivery of any such notice or document may be recorded in a way that evidences that the notice or document was delivered to the person's proper address, including in a way that evidences this without the need for the person to confirm the delivery.

115. This section also inserts new subsections (3) and (4) into section 40 of the 2001 Act so that notice of an increase in rent or other charges under section 25(1) of the 2001 Act may also be given by sending it to the tenant using electronic communications including, for example, by email. But this is only allowed if the landlord and the tenant agree in writing beforehand that the tenant may be given the notice in this way and in an electronic form specified by tenant for the purpose.

Converting older tenancies

Section 40 - Assured tenancies: power to convert

116. This section inserts new paragraph 6 into schedule 5 of the 2016 Act. This new paragraph gives the Scottish Ministers the power to, by regulations, appoint a day (at least 12 months after the regulations come into force) on which a relevant assured tenancy under the 1988 Act ceases to be an assured tenancy and becomes a PRT. But the regulations cannot convert a tenancy that is an assured tenancy into a private assured tenancy if the tenancy is also another type of tenancy that cannot be a PRT by virtue of schedule 1 of the 2016 Act. The new paragraph also provides that where any such tenancy becomes a PRT under this power, the immediately preceding terms of the tenancy are unchanged so far as they are consistent with the 2016 Act. Before laying draft regulations to appoint a day, the Scottish Ministers must consult representatives of tenants and landlords under assured tenancies.

PART 5 - HOMELESSNESS PREVENTION

Duties of relevant bodies

Section 41 - Duties of relevant bodies in relation to homelessness

117. This section modifies sections 24, 28, 32, 33 and 43 of the 1987 Act, and also inserts new sections 36A to 36D and 43A.

118. Section 24(2B) is modified to take account of changes made to section 28 of the 1987 Act that also allow a relevant body to make an application under that section for accommodation or for assistance in obtaining accommodation in respect of a person. Subsection (4) is also modified so that, for the purposes of the 1987 Act, a person is threatened with homelessness if it is likely that the person will become homeless within 6 months.

119. Section 28 is modified so that an application may be made to a local authority by a relevant body in respect of a person (for accommodation or assistance to secure accommodation). But any such application by a relevant body must be made in accordance with new sections 36B or 36C.

120. In section 32, subsection (2) is modified so that, where a local authority is satisfied that an applicant is threatened with homelessness unintentionally, the local authority must take reasonable steps to remove or, where this is not possible, minimise the threat of homelessness, and to secure that accommodation is available for occupation by the applicant. New subsection (2ZA) provides that the local authority must take reasonable steps to secure that the accommodation occupied by the applicant, when the application is made, continues to be available for occupation and, only if that accommodation will no longer continue to be available, that other accommodation is available for occupation by the applicant. In a case falling within subsection (2) (as mentioned above), new subsection (2C) requires the local authority to give the applicant advice and assistance of such type as may be prescribed where the local authority considers it appropriate for the purposes of removing or minimising the threat of homelessness and securing that accommodation continues to be, or is otherwise, available for occupation by the applicant.

121. Where a local authority receives an application for accommodation or for assistance in obtaining accommodation under section 28 of the 1987 Act, section 33 makes provision for the referral of the application to another local authority (including a local authority in England or Wales) if certain conditions are met. But the Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022 (S.S.I. 2022/356) modified section 33 so that a Scottish local authority cannot refer any such application to another Scottish local authority. Section 41(5) of the Bill inserts a new subsection (7) into section 33 of the 1987 Act so that a Scottish local authority will not be able to refer an application to a local authority in England or Wales in a case where the application is made in respect of a person by a relevant body. This will avoid extending the existing duty on local authorities in England and Wales (created by section 34(2) of the 1987 Act) by also obliging those authorities to deal with referrals of applications from relevant bodies.

122. Section 43 is modified so as to define "appropriate local authority" and "relevant body".

123. The new sections inserted into the 1987 Act make provision as follows—

- Section 36A provides that if a relevant body, when assessing the needs of a person in the exercise of its functions, has reason to believe that the person may be homeless or threatened with homelessness, the body must ask the person if this is the case. The relevant body must also ask if the person is aware of any application having been made for accommodation or assistance in getting it under section 28 of the 1987 Act, and whether the person consents to the body making such an application if appropriate.
- Section 36B provides that, if the relevant body has been informed or otherwise has reason to believe that the person is homeless, the body must make an application under section 28 of the 1987 Act to the appropriate local authority in respect of the person; but only if satisfied that this is appropriate and that it has the person's consent.
- Section 36C provides that, if the relevant body has been informed or otherwise has reason to believe that the person is threatened with homelessness, the body must take such action as it considers appropriate to remove that threat or, where this is not possible, to minimise it (other than by making an application under section 28). If the

body is satisfied that it is unable to take action itself to remove the threat, it must also make an application under section 28 the appropriate local authority in respect of the person; but only if satisfied that this is appropriate and that it has the person's consent.

- Section 36D provides that a relevant body must, in the exercise of its functions, have regard to the need to prevent homelessness and any relevant guidance issued by the Scottish Ministers.
- Section 43A gives a regulation-making power to the Scottish Ministers to modify the meaning of "relevant body". Where they propose to make regulations under this section to add a body to the definition, they must consult the person or a representative.

Assessment of housing support services

Section 42 - Assessment of housing support services

124. Section 89 of the 2001 Act provides that a local authority, when required to do so by the Scottish Ministers, must assess housing provision and the provision of related services in its area. Section 42 of the Bill provides that any such assessment must, in particular, assess the needs of persons in the area for, and the availability of, services that must be provided in accordance with section 32B(4) of the 1987 Act and other housing support services.

125. The services that must be provided under section 32B(4) are specified in regulations. The Housing Support Services (Homelessness) (Scotland) Regulations 2012 (S.S.I. 2012/331) specify the following services insofar as they are relevant to enabling a person to occupy, or to continue to occupy, residential accommodation as the person's sole or main residence—

- advising or assisting a person with personal budgeting, debt counselling or in dealing with welfare benefit claims,
- assisting a person to engage with individuals, professionals or other bodies with an interest in that person's welfare,
- advising or assisting a person in understanding and managing their tenancy rights and responsibilities, including assisting a person in disputes about those rights and responsibilities,
- advising or assisting a person in settling into a new tenancy.

126. Other "housing support services" (as defined by section 91(8) of the 2001 Act) include any service which provides support, assistance, advice or counselling to an individual with particular needs with a view to enabling that individual to occupy, or to continue to occupy, as a person's sole or main residence, residential accommodation (other than such excepted accommodation as may be specified in regulations by the Scottish Ministers).

Tenants affected by domestic abuse

Section 43 - Local authorities etc.: consideration of domestic abuse

127. This section modifies section 20, 24 and 33 of the 1987 Act.

128. Section 20 provides that a social landlord must, in relation to all houses held by it for housing purposes, secure that when selecting tenants a reasonable preference is given to certain persons including homeless persons and persons threatened with homelessness. In the allocation of such housing, a social landlord must, where certain circumstances apply, take no account of the ownership of, or value of, heritable property owned by the applicant, any person who normally resides with the applicant or any person who it is proposed will reside with the applicant. One such circumstance is where it is probable that occupation of the property will lead to abuse from someone residing in the property or who previously resided with the person. Section 43(2) of the Bill modifies this so that it just has to be probable that occupation of the property will lead to abuse, with the meaning of abuse extended to include domestic abuse by a partner or ex-partner within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021.

129. Section 24(3) provides that a person is homeless if, among other things, the person has accommodation but it is probable that occupation of it will lead to abuse including from someone who previously resided with the person. Section 43(3) of the Bill modifies this so that it just has to be probable that occupation of the accommodation will lead to abuse, with the meaning of abuse extended to include domestic abuse by a partner or ex-partner within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021.

130. Section 33 provides that, if a Scottish local authority is satisfied that an applicant under section 28 of the 1987 Act is homeless unintentionally and that certain conditions are met, the local authority may refer any such application made by the homeless person to a local authority in England or Wales. One of the conditions for referral is that neither the applicant nor any person who might reasonably be expected to reside with the applicant ("person A") will run the risk of abuse in the other local authority's area from a person with whom, but for the risk of abuse, person A might reasonably be expected to reside, or from a person with whom person A formerly resided. Section 43(4) of the Bill modifies this so that there just needs to be a risk that occupation of accommodation in the other local authority's district will lead to abuse, with the meaning of abuse extended to include domestic abuse by a partner or ex-partner within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021.

Section 44 - Social landlords: pre-action requirement where domestic abuse is a factor in rent arrears

131. Section 14 of the 2001 Act provides that a landlord under a Scottish secure tenancy may raise proceedings by way of summary cause for recovery of possession of the house. Such proceedings may not be raised unless the landlord has, among other things, served a notice on the tenant specifying the ground on which the proceedings are raised. Where such proceedings are to include the ground that rent lawfully due from the tenant has not be paid, the notice must not be served unless the landlord has complied with pre-action requirements in section 14A of that Act.

132. Section 44 of the Bill inserts a new pre-action requirement into section 14A. This applies where a social landlord considers that a tenant has experienced or is experiencing domestic abuse and that this explains or partly explains why the rent lawfully due from the tenant has not been paid. In these circumstances the landlord must take such action to support the needs of the tenant arising in connection with rent arrears as the landlord considers reasonable having regard to its domestic abuse policy under section 56A of the 2001 Act (inserted by section 45 of the Bill). In addition, the landlord must provide the tenant with details of such other support that may be

available to the tenant in relation to domestic abuse as the landlord considers appropriate in the circumstances. In this context, "domestic abuse" means abusive behaviour within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021.

Section 45 - Social landlords: policies about supporting tenants affected by domestic abuse

133. This section inserts new Chapter 4 into Part 2 (tenants of social landlords) of the 2001 Act. Chapter 4 comprises section 56A. This section provides that each local authority landlord and registered social landlord must prepare a "domestic abuse policy" on how it will exercise its functions in relation to the needs of tenants who the landlord has reason to believe have experienced, are experiencing or are at risk of domestic abuse, with a view to preventing homelessness. The policy must include a description of the action that the landlord must take in relation to the needs of a tenant in the circumstances mentioned in section 14A(6A) of the 2001 Act (inserted by section 44 of the Bill). In this context, "domestic abuse" means abusive behaviour within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021. A landlord must have regard to its policy under section 56A when exercising its functions. The landlord must also have regard to any related guidance issued by the Scottish Ministers.

PART 6 - OTHER HOUSING MATTERS

Mobile homes

Section 46 - New pitch fees: considerations

134. This section modifies section 2B and schedule 1 of the Mobile Homes Act 1983 ("the 1983 Act)". The 1983 Act applies to any agreement under which a person is entitled to station a mobile home on land forming part of a protected site and to occupy the mobile home as the person's only or main residence. The terms in Part 1 of schedule 1 are implied terms of each such agreement and a sheriff may, on application by either party to the agreement within the relevant period, order that terms concerning the matters mentioned in Part 2 of the schedule are also to be implied terms. The sheriff has jurisdiction to determine any question arising under the 1983 Act or any agreement to which it applies, including any question arising about a pitch fee review.

135. The Scottish Ministers may amend Parts 1 and 2 of schedule 1 using an order-making power in section 2B. Section 46(2) of the Bill modifies section 2B so that they can also use the order-making power to make provision to substitute a different economic index (used in connection with the setting new pitch fees) for the one mentioned in paragraph 23(1)(b) of the schedule. It also inserts a new subsection (4A) so that a second or subsequent order under section 2B may provide that any such new economic index applies in relation to any agreement to which the 1983 Act applies.

136. Section 46(3) of the Bill modifies paragraphs 20, 22, 23 and 32 of schedule 1—

- Paragraph (a) modifies paragraph 20 in a case where an application is made to the sheriff under paragraph 17(1) or 19(1) of the schedule for an order determining a new pitch fee and the court is satisfied that a portion of the new pitch fee proposed by the owner has been calculated to compensate a person for the change made by the Bill to the economic index in paragraph 23 of the schedule or any future change made to it. In any such case the sheriff cannot include this compensatory portion in the new pitch fee determined by the sheriff.

- Paragraph (b) modifies paragraph 22, which sets out what is to be taken into account when determining the amount of a new pitch fee in relation to a mobile home on a protected site, so that regard must be had to any direct effect of a relevant enactment on the costs payable by the owner in relation to the maintenance or management of the protected site. But no regard is to be had to any actual or anticipated financial loss arising as a result of a change made by the Bill to the economic index in paragraph 23 of the schedule or any future change to it.
- Paragraphs (c) and (d) modify paragraphs 23 and 32 so that, when determining the amount of a new pitch fee, there is a presumption that the new pitch fee will not increase or decrease by a percentage that is more than the change in the consumer prices index (rather than the retail prices index) since the last review date, unless this would be unreasonable having regard to matters mentioned in paragraph 22(1).

Section 47 - Meaning of "protected site"

137. This section modifies the meaning of "protected site" in section 5(1) of the 1983 Act so that it has the same meaning as in Part 1 of the Caravans Sites Act 1968. Accordingly, a protected site is any land in respect of which a site licence is required under the Caravan Sites and Control of Development Act 1960 (or would be if there were no exemption for local authority sites). But it does not include land in respect of which the relevant planning permission or site licence—

- is expressed to be granted for holiday use only, or
- is otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation.

Fuel poverty

Section 48 - Fuel poverty strategy: consultation

138. This section modifies section 7 of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 ("the Fuel Poverty Act"). The modification to subsection (1) makes it clear that, in reviewing the fuel poverty strategy, the Scottish Ministers must consult such persons as they consider appropriate including those listed in subsection (2). New subsection (4A) provides that the duty to consult the persons mentioned in paragraphs (a) and (c) to (f), respectively, of subsection (2) may be met by consulting persons representing the interests of those persons.

Section 49 - Periodic reports: periods, consultation and publication etc.

139. This section modifies sections 9 to 11 of the Fuel Poverty Act. Section 9 is modified so that the reporting period for the first periodic report ends with 31 December 2024. Section 10 is modified so that, in preparing a periodic report under section 9, the Scottish Ministers must consult such persons as they consider appropriate including the Scottish Fuel Poverty Advisory Panel. Section 11 is modified so that the Scottish Ministers must publish each periodic report, and lay a copy before the Scottish Parliament, within 6 months after the reporting period for the report ends.

Section 50 - Advisory panel: removal of funding cap

140. This section modifies section 15 of the Fuel Poverty Act so that there is no limit on the financial resources that the Scottish Ministers may provide to support the operation of the Scottish Fuel Poverty Advisory Panel (established by section 14 of that Act).

New homes ombudsman

Section 51 - Disclosure of information to new homes ombudsman

141. Section 20 of the Scottish Public Services Ombudsman Act 2002 provides that the Ombudsman may disclose relevant information to a person or body specified in the first column of schedule 5 of the 2002 Act if it relates to a matter specified in the second column. Section 51 of the Bill modifies that schedule so that the Ombudsman may also disclose relevant information to the new homes ombudsman (see section 137(3) of the Building Safety Act 2022) if it appears to the Ombudsman that it relates to a matter of which the new homes ombudsman could exercise any function conferred by the new homes ombudsman scheme (see section 136 of that Act).

PART 7 - FINAL PROVISIONS

Section 52 - Regulations

142. This section makes further provision about the regulation-making powers given to the Scottish Ministers under the Bill. In particular, it allows regulations to make different provision for different purposes and areas, and to make ancillary provision of the types mentioned.

143. But this section does not apply to commencement regulations as they are covered by section 56 instead (see paragraphs 150 to 152 of these Notes). This section also does not apply to regulation-making powers which the Bill inserts into other Acts as they are subject to separate provision under those Acts.

144. Further information can be found in the Delegated Powers Memorandum for the Bill.

Section 53 - Ancillary provision

145. This section empowers the Scottish Ministers to make, by regulations, ancillary provision for the purposes of, in connection with, or to give full effect to the Act or any provision made under it.

146. Regulations under this section may modify any enactment (including the Bill itself once enacted). The word "enactment" is defined in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 and includes Acts of the Scottish or UK Parliaments as well as secondary legislation.

147. If regulations under this section textually amend an Act then they are subject to the affirmative procedure, but otherwise they are subject to the negative procedure (see sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Section 54 - Interpretation

148. This section defines what is meant by "the 2016 Act", "First-tier Tribunal" and "private residential tenancy" where these expressions are used in the Bill (but not where these expressions appear in text that is inserted by the Bill into other legislation).

Section 55 - Minor and consequential modifications

149. This section introduces schedule 1 which contains minor and consequential modifications.

Section 56 - Commencement

150. This section sets out when the provisions of the Bill, once enacted, will come into force (i.e. take effect).

151. The sections in Part 7 of the Bill, except for section 55, will come into force automatically on the day after the Bill receives Royal Assent. The other provisions of the Bill, including section 55, will be commenced in accordance with regulations made by the Scottish Ministers under this section. Such regulations may include transitional, transitory or saving provision related to commencement and may make different provision for different purposes. In particular, this allows different provisions to be commenced on different days.

152. Regulations under this section will, unless exercised in conjunction with powers under other sections, be laid before the Scottish Parliament but will not be subject to any parliamentary procedure (see section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Section 57 - Short title

153. This section provides for the resulting Act (if the Bill is passed and given Royal Assent) to be known as the Housing (Scotland) Act 2025.

SCHEDULE - MINOR AND CONSEQUENTIAL AMENDMENTS

Rent (Scotland) Act 1984

Paragraph 1

154. Under section 89A of the 1984 Act, as read with section 20(1) of the 2016 Act, the Scottish Ministers may, by regulations, make provision about sums which may be charged in connection with the grant, renewal or continuance of a PRT. The regulations may, in particular, specify categories of sum that are not to be treated as a premium for the purposes of Part 8 of the 1984 Act. Paragraph 1 of this schedule modifies section 89A so that any such regulations may include ancillary provision of the type mentioned and may modify any enactment (including section 90(3) of the 1983 Act which describes certain deposits as not being premiums).

Housing (Scotland) Act 1988

Paragraph 2

155. This paragraph modifies section 53(2) of the 1988 Act in consequence of subsections (6) and (7) of new section 20A of that Act (inserted by section 26(2) of the Bill). Subsection (7) provides that regulations made under new section 20A(6) are subject to the affirmative procedure. Accordingly, the modification to section 53(2) ensures that the negative procedure does not apply.

Housing (Scotland) Act 2001

Paragraph 3

156. This paragraph modifies section 109 of the 2001 Act. Sub-paragraph (2)(a) inserts a new subsection (2A) so that regulations under paragraph 8B in Part 1A of schedule 5 of that Act (inserted by section 30(3) of the Bill) may specify the content and form of, and manner of giving, an application under paragraph 8A of that Part. Sub-paragraph (2)(b) and (c) modifies subsections (4) and (6) so that regulations under sections 16A(6), 31B(1), 31C(1) and 36A(6) of the 2001 Act (inserted by section 25(2) and (3) and 30(2) of the Bill) are subject to the negative procedure. Sub-paragraph (3) modifies the title of schedule 5 of the 2001 Act to take account of section 30(3) of the Bill.

Housing (Scotland) Act 2006

Paragraph 4

157. This paragraph modifies section 182(2)(b) of the 2006 Act to remove an unnecessary (repeated) word. It also modifies section 191(5) so that regulations under new section 122C(4) of the 2006 Act (inserted by section 31(3) of the Bill) are subject to the affirmative procedure.

Housing (Scotland) Act 2014

Paragraph 5

158. Section 36 of the 2014 Act requires a registered letting agent to take all reasonable steps to ensure that the agent's letting agent registration number is included in, among other things, any communication in relation to the agent's letting agency work or a communication of a type specified by order. This paragraph modifies the meaning of communication here so that it includes electronic communications sent to, or placed on, a website by or on behalf of the agent.

Private Housing (Tenancies) (Scotland) Act 2016

Paragraph 6

159. This paragraph modifies Part 4 (including the repeal of section 24(2) and Chapter 3), sections 73, 76, 77 and 78 and schedule 2 of the 2016 Act.

160. Sub-paragraphs (2) and (3) make changes to the title and application of Part 4 in consequence of new Part 4A (inserted by section 19 of the Bill).

161. Sub-paragraph (4) repeals section 24(2) in consequence of sub-paragraph (3).

162. Sub-paragraph (5) repeals Chapter 3 of Part 4 as it is no longer needed in consequence of alternative provision for the designation of rent control areas under Chapter 1 of Part 1 of the Bill.

163. Sub-paragraph (6) modifies section 73 so that an error in completing a notice, referral, application or request (as the case may be) under new sections 43J(1), 43L(2), 43O(1), 64B(1), 64B(2), 64C(2), 64I(1), 64I(2) or 64J(2) (inserted by sections 19(2) and 29(2) of the Bill) does not make the document invalid unless the error materially affects the effect of the document.

164. Sub-paragraph (7) modifies section 76 so that ancillary regulations under subsection (1) of that section may modify any enactment (including other subordinate legislation).

165. Sub-paragraph (8) modifies section 77 as follows—

- Paragraph (a) modifies subsection (1) so that a power to make regulations conferred by the 2016 Act also includes the power to make different provision for different areas.
- Paragraph (b) modifies subsection (2) so that regulations under new sections 43J(3)(b), 48A(3)(c), 64B(1)(b), 64B(3)(d), 64C(3), 64I(1)(b), 64I(3)(d) or 64J(3) of the 2016 Act (inserted by sections 19(2), 29(2) and 38(3) of the Bill) may specify the content and form of, and manner of giving, any notice, pre-notice or request (as the case may be) to which the regulation-making power relates.
- Paragraph (c) modifies subsection (3) so that regulations under new sections 17A(5), 19(1)(a), 43B(4), 43G(1)(b)(i), 51A(6), 64E(1), 64F(1), 64L(1), 64M(1) and 64N(1) and paragraph 6(1) of schedule 5 of the 2016 Act (inserted by sections 19(2), 20(2), 21(2)(a), 24(2), 29(2) and 40(2) of the Bill) are subject to the affirmative procedure.
- Paragraph (d) modifies subsection (4) so that regulations under new sections 43J(3)(b), 43L(3), 43O(2)(b), 43Q(4)(a), 48A(1)(b)(ii), 48A(3)(c), 64B(1)(b), 64B(3)(d), 64C(3), 64I(1)(b), 64I(3)(d) and 64J(3) of the 2016 Act (inserted by sections 19(2), 29(2) and 38(3) of the Bill) are subject to the negative procedure.

166. Sub-paragraph (9) modifies section 78 to add definitions for "2025 Act", "rent control area" and "rent-increase notice".

167. Sub-paragraph (10) modifies paragraph 2 of schedule 2 in consequence of new Part 4A of the 2016 Act (inserted by section 19(1) of the Bill).

This document relates to the Housing (Scotland) Bill (SP Bill 45) as introduced in the Scottish Parliament on 26 March 2024

HOUSING (SCOTLAND) BILL

EXPLANATORY NOTES

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