

2012 No. 91 (C. 10)

HOUSING

**The Housing (Scotland) Act 2010 (Commencement No. 7 and
Transitional Provision) Order 2012**

Made - - - - - *14th March 2012*

Laid before the Scottish Parliament *16th March 2012*

Coming into force - - - *1st April 2012*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 161(2)(a) and 166(2) of the Housing (Scotland) Act 2010(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Housing (Scotland) Act 2010 (Commencement No. 7 and Transitional Provision) Order 2012 and comes into force on 1st April 2012.

Appointed day

2. 1st August 2012 is the day appointed for the following provisions of the Housing (Scotland) Act 2010 to come into force, in so far as not already in force:—

- (a) section 153 (tenant protection: repossession orders); and
- (b) section 155 (Scottish secure tenancy: rent arrears pre-action requirements).

Transitional provision

3. Notwithstanding the commencement of section 155(a) of the Housing (Scotland) Act 2010, section 14(2A)(b) (proceedings for possession) of the Housing (Scotland) Act 2001 does not apply to proceedings in respect of which a notice under section 14(2) of that Act was served on the tenant and any qualifying occupier before 1st August 2012 and is in force at the time the proceeding are raised.

(a) 2010 asp 17.

(b) Section 14(2A) was inserted by section 155(a)(i) of the Housing (Scotland) Act 2010.

Amendment of the Housing (Scotland) Act 2010 (Commencement No. 6, Transitional and Savings Provisions) Order 2012

4. In paragraph 18(f) of Schedule 2 to the Housing (Scotland) Act 2010 (Commencement No. 6, Transitional and Savings Provisions) Order 2012^(a) (transitional and savings provisions: insolvency etc.), for “schedule 7” substitute “schedule 8”.

KEITH BROWN

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
14th March 2012

^(a) S.S.I. 2012/39.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings sections 153 and 155 of the Housing (Scotland) Act 2010 (“the 2010 Act”) into force on 1st August 2012, in so far as they are not already in force.

Section 153 amends the Housing (Scotland) Act 2001 (“the 2001 Act”) to provide landlords with discretion to retain tenants in their existing tenancies where agreement has been reached about rent arrears following a court decree for eviction. Section 155 amends the 2001 Act to require landlords to comply with pre-action requirements before commencing court proceedings where the ground of possession includes that a tenant has rent arrears.

Article 3 of the Order makes a transitional provision in respect of proceedings where a notice under section 14(2) of the 2001 Act which is in force at the time the proceedings are raised was served before 1st August 2012. The effect is that the duties under section 14(2A) of the 2001 Act, to comply with pre-action requirements before serving a notice and to confirm to the court that pre-action requirements have been complied with before raising proceedings, do not apply to cases based on notices in existence before the commencement made by this Order.

Article 4 amends paragraph 18(f) of Schedule 2 to the Housing (Scotland) Act 2010 (Commencement No. 6, Transitional and Savings Provisions) Order 2012 to substitute a reference to schedule 8 of the 2001 Act for an incorrect reference to schedule 7 of that Act.

On the coming into force of sections 153 and 155 of the 2010 Act in terms of this Order, the following provisions of the 2010 Act will remain uncommenced:—

- (a) section 110 (partially) (tenant consultation: other disposals);
- (b) sections 145 to 147 (duties to collect and publish information); and
- (c) section 158 (partially) (housing support).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 143 (partially)	3rd January 2011	S.S.I. 2010/444
Sections 138 to 141, 143 (in so far as not already in force), 144, 148 to 151, 152(1) and (2), 154, 156 and 164, and schedule 2, paragraph 2	1st March 2011	S.S.I. 2011/96
Section 162 (partially)	1st March 2011	S.S.I. 2011/96
Section 153(a) (partially)	20th March 2011	S.S.I. 2011/181
Sections 1, 2, 3(2), 5(1)(a), (2) and (3), 6(2), 7 to 12, 15 to 17, 18(1) and (2), 19, 31 to 33, 39, 46(2) and 47(2), and schedule 2, paragraphs 6, 8, 9 and 10	1st April 2011	S.S.I. 2011/96
Partially, sections 4, 24 to 26, 28, 35, 36, 50, 51, 54, 68, 73(3), 108(3), 109(4) and 162	1st April 2011	S.S.I. 2011/96
Section 152(3)	4th April 2011	S.S.I. 2011/96
Section 142	30th June 2011	S.S.I. 2011/96
Section 157 and section 158 (partially)	7th October 2011	S.S.I. 2011/339

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Partially, sections 153 and 155	22nd February 2012	S.S.I. 2012/19
In so far as not already in force, sections 1 to 109, 111 to 137, 159 to 167 and schedules 1 and 2	1st April 2012	S.S.I. 2012/39
Section 110 (partially)	1st April 2012	S.S.I. 2012/39

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