



Housing (Amendment) (Scotland) Act 2018

2018 asp 13

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 31st May 2018 and received Royal Assent on 6th July 2018

An Act of the Scottish Parliament to amend the law on the regulation of social landlords and to reduce the influence of local authorities over registered social landlords.

Regulatory intervention by Scottish Housing Regulator

1 Managers appointed by, or on the requirement of, the Scottish Housing Regulator

- (1) The Housing (Scotland) Act 2010 is amended as follows.
- (2) In section 57 (appointment of manager for housing activities)—
 - (a) in subsection (1)—
 - (i) in paragraph (a), for “is, or is at risk of,” substitute “has failed, or is”,
 - (ii) in paragraph (b), for “to an appropriate standard” substitute “in a way that will rectify the failure”,
 - (b) in subsection (2), for paragraphs (a) and (b) substitute “to manage the landlord's housing activities generally, or such aspects of those activities as are necessary, for the purpose of rectifying the failure which the Regulator considers requires the appointment of the manager.”.
- (3) In section 58 (appointment of manager for financial or other affairs)—
 - (a) for subsection (1) substitute—

“(1) This section applies where the Regulator, having made inquiries or otherwise, considers—

 - (a) that a registered social landlord has failed, or is failing, to comply with—
 - (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment, and

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- (b) that a person needs to be appointed in order to ensure that the landlord manages its financial or other affairs in a way that will rectify the failure.”,
 - (b) in subsection (2), for paragraphs (a) and (b) substitute “ to manage the landlord's financial or other affairs generally, or such aspects of those affairs as are necessary, for the purpose of rectifying the failure which the Regulator considers requires the appointment of the manager. ”.
- (4) In section 59 (appointment of manager under section 57 or 58: supplementary)—
 - (a) in subsection (1), after “including” insert “ , subject to subsection (1A), ”,
 - (b) after subsection (1) insert—

“(1A) The appointment is to be only for so long as is necessary to rectify the failure which gave rise to the manager's appointment.”,
 - (c) for subsection (4) substitute—

“(4) The Regulator may give a manager directions about the rectification of the failure which gave rise to the manager's appointment.

(4A) The manager—

 - (a) must comply with such directions,
 - (b) may be removed by the Regulator on failure to so comply.”.
- (5) In section 87 (extra powers of manager of registered society appointed by the Scottish Housing Regulator)—
 - (a) in subsection (3), for “section 50 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12)” substitute “ section 109 of the Co-operative and Community Benefit Societies Act 2014 ”,
 - (b) in subsection (4), for “section 51 or 52 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12) (and, in particular, has effect subject to section 54 of that Act)” substitute “ section 110 or 112 of the Co-operative and Community Benefit Societies Act 2014 ”.

Commencement Information

II [S. 1](#) in force at 8.3.2019 by [S.S.I. 2018/253](#), [reg. 2\(2\)](#)

2 Registered social landlords: removal, suspension and appointment of officers etc.

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 60 (general power to remove officers), in subsection (1), for paragraph (e) substitute—

“(e) is, because of absence or other failure to act, failing to ensure that the registered social landlord is complying with—

 - (i) a duty imposed by this Act or by any other enactment,
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment.”.
- (3) In section 61 (suspension of officers etc. during or following inquiries), in subsection (1), for paragraphs (a) to (c) substitute—

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- “(a) that the registered social landlord has failed, or is failing, to comply with—
- (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,
- relating to its housing activities or its financial or other affairs.”.
- (4) In section 62 (removal of officers etc. following inquiries), in subsection (1), for paragraphs (a) to (c) substitute—
- “(a) that the registered social landlord has failed, or is failing, to comply with—
- (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,
- relating to its housing activities or its financial or other affairs.”.
- (5) In section 63 (responsible individuals), “misconduct, mismanagement,” is repealed.
- (6) In section 65 (appointment of new officers)—
- (a) in subsection (1)(d), for “for the proper management of the registered social landlord's” substitute “to rectify a failure by the registered social landlord to comply with—
 - (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,
- relating to its ”,
- (b) in subsection (2), after “including” insert “ , subject to subsection (2A), ”,
 - (c) after subsection (2) insert—
- “(2A) Where the officer is appointed by virtue of subsection (1)(d) to rectify a failure to comply with a duty or requirement, the appointment is to be only for so long as is necessary to so rectify the failure.”,
- (d) in subsection (4), for “The” substitute “ Subject to subsection (4A), the ”,
 - (e) after that subsection insert—
- “(4A) Where the officer was appointed by virtue of subsection (1)(d), subsection (2A) applies to the renewal of the appointment as it applies to the appointment.”.
- (7) In section 165 (interpretation), in the definition of “officer”, in paragraph (b), for “section 74 of that Act” substitute “ section 149 of the Co-operative and Community Benefit Societies Act 2014 ”.

Commencement Information

I2 S. 2 in force at 8.3.2019 by S.S.I. 2018/253, [reg. 2\(2\)](#) (with [regs. 3-5](#))

Changes to legislation: There are currently no known outstanding effects for the Housing (Amendment) (Scotland) Act 2018. (See end of Document for details)

Disposal of land etc. by registered social landlords

3 Disposal of land or other assets by registered social landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 78 (effect of moratorium on disposal of registered social landlord's land), in subsection (2)(b), for “for which the Regulator's consent is not required because of section 108” substitute “ of a type mentioned in paragraphs (a) to (g) and (i) to (k) of section 108(1) ”.
- (3) For section 107 (power to dispose of land or assets) substitute—

“107 Restrictions on power to dispose of land

- (1) A registered social landlord may make a disposal of land to which subsection (2) applies only if the landlord complies with section 110 in relation to the disposal.
 - (2) This subsection applies to a disposal of land, other than a disposal by way of granting security over the land or any interest in it, which will not result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the landlord making the disposal.
 - (3) A registered social landlord may make a disposal of land to which subsection (4) applies only if—
 - (a) the landlord complies with sections 115 to 120 in relation to the disposal, and
 - (b) a majority of tenants—
 - (i) voting in a ballot in relation to the disposal under section 115A(1)(a) wish the disposal to proceed, or, as the case may be,
 - (ii) whose written agreement to the disposal was sought under section 115A(1)(b) have given that agreement.
 - (4) This subsection applies to a disposal of land which will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the landlord making the disposal.
 - (5) This section does not apply where section 108 applies to the disposal.”.
- (4) In section 108 (disposals not requiring consent), in subsection (1)—
 - (a) for “The Regulator's consent under this Part is not required for” substitute “ This section applies to ”,
 - (b) in paragraph (j), for “for which the Regulator's consent is required under Part 8” substitute “ in relation to which Part 8 applies ”.
 - (5) The title of section 108 becomes “ **Disposals not subject to section 107** ”.
 - (6) In section 109 (notification where disposal consent not required), for subsections (1) and (2) substitute—

“(1) A registered social landlord must notify the Regulator of any disposal of land or any other asset as soon as reasonably practicable (and, where section 107(4) applies, no later than 28 days) after the disposal is made.

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- (2) The Regulator may make a determination—
 - (a) dispensing with the notification requirement in subsection (1),
 - (b) where section 107(4) applies, extending the period mentioned in that subsection.”.
- (7) The title of section 109 becomes “ **Notification of disposals** ”.
- (8) In section 110 (tenant consultation: other disposals)—
 - (a) for subsection (1) substitute—
 - “(1) This section applies in relation to disposals of land by registered social landlords to which section 107(2) applies.”,
 - (b) in subsection (2), after “must” insert “ , before making such a disposal ”,
 - (c) after subsection (2) insert—
 - “(3) The Regulator must issue guidance in relation to consultation under subsection (2).
 - (4) A registered social landlord must, in consulting tenants or other persons under subsection (2)(a), have regard to guidance issued by the Regulator under subsection (3).”.
- (9) The title of section 110 becomes “ **Tenant consultation where no change of landlord** ”.
- (10) For section 111 (effect of disposals without consent) substitute—

“111 Effect of disposals in breach of section 107

- (1) A disposal of land by a registered social landlord to which section 107(2) applies is void if the landlord did not comply with section 110(2)(a).
- (2) A disposal of land by a registered social landlord to which section 107(4) applies is void if—
 - (a) the landlord did not comply with section 115 or 115A(1), or
 - (b) a majority of tenants—
 - (i) voting in a ballot in relation to the disposal under section 115A(1)(a) did not wish the disposal to proceed, or, as the case may be,
 - (ii) whose written agreement to the disposal was sought under section 115A(1)(b) did not give that agreement.”.

Commencement Information

I3 S. 3 in force at 8.3.2019 by S.S.I. 2018/253, **reg. 2(2)** (with **reg. 6**)

4 Special procedure where disposal results in change of landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 113 (disposals resulting in change of landlord)—