



Housing (Scotland) Act 2010

2010 asp 17

PART 5

REGULATORY INTERVENTION

Registered social landlords: asset protection

66 Restrictions on dealings during or following inquiries

- (1) This section applies if the Regulator, when making or having made inquiries, considers—
- (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs,
 - (b) that the interests of a registered social landlord's tenants need protection,
 - (c) that a registered social landlord's assets need protection, or
 - (d) that a registered social landlord's financial viability is in jeopardy.
- (2) The Regulator may—
- (a) direct the registered social landlord not to—
 - (i) undertake particular transactions, or
 - (ii) make payments of a particular nature or amount, without the Regulator's consent, or
 - (b) direct a bank or other person not to dispose of any money, securities or other assets it holds for the registered social landlord without the Regulator's consent.
- (3) It is an offence for a person to fail to comply with a direction.
- (4) A person guilty of such an offence is liable on summary conviction to—
- (a) imprisonment for a term not exceeding 3 months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.

67 Transfer of assets following inquiries

- (1) This section applies if the Regulator, having made inquiries, considers—
 - (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs, or
 - (b) that a registered social landlord's viability is in jeopardy for financial or governance reasons or because it cannot provide housing services to an acceptable standard.
- (2) In either case the Regulator must also consider that a transfer of some or all of a registered social landlord's assets would improve the management of the assets.
- (3) The Regulator may direct the registered social landlord to transfer some or all of its assets to another registered social landlord.
- (4) The Regulator must—
 - (a) before making a direction, consult—
 - (i) the tenants of any houses it proposes to transfer, and
 - (ii) any secured creditor whom the Regulator knows to hold security over those houses, and
 - (b) when making a direction, have regard to any views expressed by those consulted by such time as the Regulator may specify.
- (5) A transfer of assets under a direction must be made on terms specified in, or determined in accordance with, the direction.
- (6) Those terms must however—
 - (a) in the case of a transfer of some (but not all) of a registered social landlord's assets, set the price at not less than the amount which the Regulator, having obtained an independent valuation, considers the assets would fetch if sold by a willing seller to a willing registered social landlord, and
 - (b) in the case of a transfer of all of a registered social landlord's assets, provide for the settlement or transfer of all the transferor's proper debts and liabilities in respect of the assets (whether secured or not).
- (7) The Regulator may direct the transfer of assets from a registered social landlord which is a charity only if the recipient registered social landlord is a charity which the Regulator, after consulting the Office of the Scottish Charity Regulator, considers has the same or similar charitable purposes (within the meaning of section 7(2) of the Charities and Trustee Investment (Scotland) Act [2005 \(asp 10\)](#)).
- (8) The Regulator may direct the transfer of assets which the registered social landlord is under a duty to apply in accordance with section 19(1) of the Charities and Trustee Investment (Scotland) Act [2005 \(asp 10\)](#) only if the Regulator—
 - (a) consults with the Office of the Scottish Charity Regulator, and
 - (b) after doing so, considers that the recipient registered social landlord will secure the proper application of those assets for the purposes which were set out in the transferor registered social landlord's entry in the Scottish Charity Register immediately before its removal from that register.