



# Housing (Scotland) Act 2010

## 2010 asp 17

### PART 9

#### DISPOSAL OF LAND OR ASSETS BY REGISTERED SOCIAL LANDLORDS

#### **[<sup>F1</sup>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.]

#### **Textual Amendments**

- F1** S. 107 substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(3), 11(2)**; [S.S.I. 2018/253](#), **reg. 2(2)** (with [reg. 6](#))

#### **108 [<sup>F2</sup>Disposals not subject to section 107]**

- (1) [<sup>F3</sup>This section applies to] a disposal—

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2010, Part 9. (See end of Document for details)*

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- (a) by way of a lease under a Scottish secure tenancy (or what would be such a tenancy but for schedule 1 to the Housing (Scotland) Act 2001 (asp 10)),
  - (b) by way of a lease under a short Scottish secure tenancy,
  - (c) by way of a lease under an assured tenancy or an assured agricultural occupancy,
  - (d) by way of a lease under what would be an assured tenancy but for any of paragraphs 3 to 8 and 12 of schedule 4 to the Housing (Scotland) Act 1988 (c.43),
  - [<sup>F4</sup>(da) by way of a lease under what would be a private residential tenancy but for—
    - (i) any of paragraphs 2 to 6 or 20 of schedule 1 of the Private Housing (Tenancies) (Scotland) Act 2016, and
    - (ii) paragraph 14 of that schedule.]
  - (e) by way of an occupancy arrangement,
  - <sup>F5</sup>(f) .....
  - (g) made in pursuance of a direction given by the Regulator under section 67 or 106,
  - (h) for which the Regulator's consent is required under section 78,
  - (i) made in implementation of agreed proposals under section 86 or 87,
  - (j) arising from a restructuring [<sup>F6</sup>in relation to which Part 8 applies], or
  - (k) of such type and made in such manner as the Regulator may determine.
- (2) For the purposes of subsection (1)(e) an occupancy arrangement is an arrangement other than a lease—
- (a) under which a person has the lawful right to occupy living accommodation (within the meaning of section 194 of the Housing (Scotland) Act 2006 (asp 1)) which forms part of premises or a group of premises owned by the landlord, and
  - (b) where the occupants of the premises share with each other one or more of—
    - (i) a toilet,
    - (ii) personal washing facilities, or
    - (iii) facilities for the preparation or provision of cooked food.
- (3) Before making, revising or withdrawing a determination under subsection (1)(k), the Regulator must consult—
- (a) Ministers,
  - (b) registered social landlords or their representatives, and
  - (c) secured creditors of registered social landlords or their representatives.
- (4) The Regulator must make arrangements for bringing a determination (and any revision or withdrawal) to the attention of those affected by it.

#### Textual Amendments

- F2** S. 108 title substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(5)**, 11(2); S.S.I. 2018/253, reg. 2(2)
- F3** Words in s. 108(1) substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(4)(a)**, 11(2); S.S.I. 2018/253, reg. 2(2)
- F4** S. 108(1)(da) inserted (1.12.2017) by [The Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(Consequential Provisions\) Regulations 2017 \(S.S.I. 2017/405\)](#), regs. 1, **3(2)**

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- F5** S. 108(1)(f) repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 2 para. 18(3)**; [S.S.I. 2014/264](#), art. 2, **sch.** (with art. 4)
- F6** Words in s. 108(1)(j) substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(4)(b)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)

#### Commencement Information

- I1** S. 108(1)(2)(4) in force at 1.4.2012 by [S.S.I. 2012/39](#), art. 2, **Sch. 1** (with Sch. 2)
- I2** S. 108(3) in force at 1.4.2011 for specified purposes by [S.S.I. 2011/96](#), art. 2, **Sch.**
- I3** S. 108(3) in force at 1.4.2012 in so far as not already in force by [S.S.I. 2012/39](#), art. 2, **Sch. 1** (with Sch. 2)

## 109 [F7] Notification of disposals

- [F8(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.
- (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.]
- (3) A determination may be given generally or for particular purposes (and different determinations may be issued for different social landlords or for different areas or properties).
- (4) Before issuing, revising or withdrawing a general determination, the Regulator must consult—
- (a) Ministers,
  - (b) tenants of social landlords or their representatives,
  - (c) registered social landlords or their representatives, and
  - (d) secured creditors of registered social landlords or their representatives.
- (5) The Regulator need not consult on a specific determination relating only to one or more particular registered social landlords or properties.

#### Textual Amendments

- F7** S. 109 title substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(7)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)
- F8** S. 109(1)(2) substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(6)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)

#### Commencement Information

- I4** S. 109(1)-(3) (5) in force at 1.4.2012 by [S.S.I. 2012/39](#), art. 2, **Sch. 1** (with Sch. 2)
- I5** S. 109(4) in force at 1.4.2011 for specified purposes by [S.S.I. 2011/96](#), art. 2, **Sch.**
- I6** S. 109(4) in force at 1.4.2012 in so far as not already in force by [S.S.I. 2012/39](#), art. 2, **Sch. 1** (with Sch. 2)

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## 110 [F9] **Tenant consultation where no change of landlord**

[F10] (1) This section applies in relation to disposals of land by registered social landlords to which section 107(2) applies.]

(2) The registered social landlord must [F11, before making such a disposal] —

- (a) consult—
  - (i) tenants of any houses included in the disposal, and
  - (ii) any other person whom the Regulator requires the landlord to consult, and
- (b) inform the Regulator of the views expressed by those consulted.

[F12] (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).]

### Textual Amendments

- F9** S. 110 title substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(9)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)
- F10** S. 110(1) substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(8)(a)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)
- F11** Words in s. 110(2) inserted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(8)(b)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)
- F12** S. 110(3)(4) inserted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(8)(c)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)

### Commencement Information

- I7** S. 110 in force at 1.4.2012 for specified purposes by [S.S.I. 2012/39](#), art. 2, **Sch. 1** (with [Sch. 2](#))

## [F13] **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.]

### Textual Amendments

- F13** S. 111 substituted (8.3.2019) by [Housing \(Amendment\) \(Scotland\) Act 2018 \(asp 13\)](#), **ss. 3(10)**, 11(2); [S.S.I. 2018/253](#), reg. 2(2)

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## **112 De-registered bodies**

This Part applies in relation to a disposal of land by a body removed from the register of social landlords as if that body were still registered. But it only so applies in relation to land held by the body before it was so removed.

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### **Commencement Information**

**I8** S. 112 in force at 1.4.2012 by [S.S.I. 2012/39](#), art. 2, [Sch. 1](#) (with [Sch. 2](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2010, Part 9.