



Housing (Scotland) Act 2010

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PART 10

SPECIAL PROCEDURE FOR DISPOSALS AND RESTRUCTURING RESULTING IN CHANGE OF LANDLORD

CHAPTER 1

DISPOSALS BY A REGISTERED SOCIAL LANDLORD

113 Disposals resulting in change of landlord

- (1) This Chapter applies to a disposal of land by a registered social landlord—
 - (a) for which the Regulator's consent under Part 9 is required, and
 - (b) as a result of which a tenant under a Scottish secure tenancy will cease to be a tenant of the registered social landlord making the disposal.
- (2) Where this Chapter applies, the special procedure set out in sections 114 to 121 applies to the disposal.
- (3) Where this Chapter applies to only a part of a disposal of land, it applies to that part as to a separate disposal.

114 Regulator's initial decision

The Regulator may, having regard to any information available to it—

- (a) refuse consent to the disposal, or
- (b) direct the registered social landlord to consult with tenants in accordance with section 115.

115 Consultation with tenants

- (1) A registered social landlord proposing to make a disposal must, after a direction given by the Regulator under section 114, serve a notice on the tenants of each house included in the proposed disposal—

Status: This is the original version (as it was originally enacted).

- (a) specifying to whom the proposed disposal is to be made,
 - (b) explaining the likely consequences of the disposal for the tenants,
 - (c) informing them of their right to make representations to the registered social landlord within such reasonable period (of not less than 28 days) as may be specified, and
 - (d) including such other details about the proposed disposal as the landlord considers appropriate.
- (2) The registered social landlord must, after considering any timeous representations made in pursuance of the notice served under subsection (1), serve a further notice on the tenants concerned—
- (a) informing them—
 - (i) of any significant changes to the proposed disposal, and
 - (ii) of their right to object to the proposed disposal within such reasonable period (of not less than 28 days) specified in the notice, and
 - (b) explaining that the disposal requires the Regulator’s consent.

116 Regulator’s consent

- (1) Following consultation under section 115, the Regulator may—
- (a) refuse consent to the disposal, or
 - (b) consent to the disposal, subject to tenant authorisation.
- (2) Tenant authorisation is given when—
- (a) the Regulator—
 - (i) directs the registered social landlord to conduct a ballot under section 118, or
 - (ii) directs the registered social landlord to seek the written agreement of tenants in accordance with section 119, and
 - (b) the outcome is approved by the Regulator under section 121.
- (3) The Regulator when making its decision under subsection (1)—
- (a) must have regard to the results of the consultation under section 115, and
 - (b) may have regard to any other information available to it.
- (4) Where the disposal is to a person other than a registered social landlord, the Regulator must not consent unless it is satisfied that a disposal to a registered social landlord is not appropriate.
- (5) A consent under this section may be subject to such conditions as the Regulator thinks fit.
- (6) Nothing in section 121 affects the Regulator’s general discretion to refuse consent to a disposal under this section on grounds relating to whether a disposal is supported by tenants.

117 Further information

The Regulator may, before making its decision under section 121—

- (a) require the registered social landlord concerned to provide any information—

- (i) about representations and objections made by tenants and others in relation to the proposed disposal, or
 - (ii) otherwise relating to the proposed disposal,which the Regulator considers relevant,
- (b) direct the registered social landlord concerned—
 - (i) to carry out further consultation with tenants in addition to that carried out under section 115, and
 - (ii) to give the Regulator such information about that consultation as it may require.

118 Ballot

- (1) A registered social landlord must, where given a direction to do so by the Regulator, conduct a ballot of tenants of houses included in the proposed disposal on the question of whether the tenants wish the disposal to proceed.
- (2) The registered social landlord must inform the Regulator of the results of the ballot. The registered social landlord must, when conducting the ballot and informing the Regulator of the results, have regard to any guidance issued by Ministers about such matters.

119 Written agreements

- (1) A registered social landlord must, where given a direction to do so by the Regulator, seek the written agreement to the disposal from tenants of houses included in the proposed disposal.
- (2) The registered social landlord must provide the Regulator with information about every written agreement sought.

120 Unaffected tenants

- (1) In this section, “unaffected tenant” means a tenant of a house included in a proposed disposal of land who the registered social landlord expects to have vacated the house before the disposal is made.
- (2) The registered social landlord—
 - (a) need not give notice (or further notice) under section 115 to an unaffected tenant, and
 - (b) may exclude an unaffected tenant from any ballot conducted under section 118, and
 - (c) where directed to seek the written agreement of tenants under section 119, need not seek the agreement of an unaffected tenant.
- (3) But, where a registered social landlord does not give such a notice or so excludes a tenant from the ballot or does not seek the tenant’s written consent, the Regulator must not decide whether to give approval under section 121 unless the registered social landlord has served notice on the Regulator confirming that the tenants concerned have all vacated the houses concerned.

121 Regulator’s approval

- (1) Where a direction is made under section 116(1)(b), the Regulator must—
 - (a) approve the disposal if satisfied—
 - (i) that a majority of tenants voting in a ballot conducted under section 118 wish the disposal to proceed, or as the case may be,
 - (ii) that the landlord has obtained the written agreement of a majority of the tenants whose written agreement the landlord was required to seek under section 119, or
 - (b) if not so satisfied, withdraw the conditional consent it gave under section 116(1)(b).
- (2) The Regulator may, before making its decision under this section, require the registered social landlord concerned to provide information about—
 - (a) the ballot conducted under section 118, or
 - (b) the written agreements sought under section 119.

122 Purchaser protection

Failure by the Regulator or by a registered social landlord to comply with any provision of this Chapter in relation to a disposal does not invalidate the Regulator’s consent to the disposal.

CHAPTER 2

RESTRUCTURING OF A REGISTERED SOCIAL LANDLORD

123 Restructuring resulting in change of landlord

- (1) This Chapter applies to a restructuring by a registered social landlord—
 - (a) in relation to which the Regulator’s consent is required under section 97 or 101, and
 - (b) as a result of which a tenant under a Scottish secure tenancy will cease to be a tenant of the registered social landlord proposing the restructuring.
- (2) Despite subsection (1), this Chapter does not apply where—
 - (a) a registered society converts into a company in accordance with section 52 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965, or
 - (b) the registered social landlord in respect of which a court order is made under section 899 or 900 of the Companies Act 2006 (c.46) is being wound up or is in administration.
- (3) The special procedure set out in sections 114 to 121 of Chapter 1 applies in relation to a restructuring to which this Chapter applies as it applies in relation to a disposal to which Chapter 1 applies.

124 Purchaser protection

Failure by the Regulator or by a registered social landlord to comply with any provision of sections 114 to 122 of Chapter 1 in relation to a restructuring does not invalidate the Regulator's consent to the restructuring.