



# Housing (Scotland) Act 2001

## 2001 asp 10

### PART 3

#### REGULATION OF SOCIAL LANDLORDS

#### CHAPTER 1

#### REGISTERED SOCIAL LANDLORDS

##### *Registration*

#### **57 The register of social landlords**

- (1) The Scottish Ministers are to maintain a register of social landlords and are to keep it open for public inspection at all reasonable times.
- (2) A body to which subsection (3) applies is, by virtue of this subsection, registered as a social landlord.
- (3) This subsection applies to—
  - (a) every housing association which, immediately before the commencement of subsection (2), was registered in the register of housing associations maintained under section 3 of the Housing Associations Act 1985 (c. 69), and
  - (b) any other body which, by order made by the Scottish Ministers, is to be treated as being a housing association so registered.
- (4) The Scottish Ministers must, not later than one month before the date on which subsection (2) is to come into force, notify every body appearing to them to be one to which that subsection will apply of that fact and of the effect of that subsection.

#### **58 Eligibility for registration**

- (1) A body is eligible for registration as a social landlord if it is—
  - (a) a society registered under the Industrial and Provident Societies Act 1965 (c. 12) which has its registered office for the purposes of that Act in Scotland and satisfies the conditions in subsection (2), or

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- (b) a company registered under the Companies Act 1985 (c. 6) which has its registered office for the purposes of that Act in Scotland and satisfies those conditions.
- (2) The conditions are that the body does not trade for profit and is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of—
- (a) houses to be kept available for letting,
  - (b) houses for occupation by members of the body, where the rules of the body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the body, or
  - (c) hostels,
- and that any additional purposes or objects are among those specified in subsection (3).
- (3) The permissible additional purposes or objects are—
- (a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for its residents, either exclusively or together with other persons,
  - (b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease or on shared ownership terms,
  - (c) constructing houses to be disposed of on shared ownership terms,
  - (d) managing houses which are held on leases or other lettings (not being houses falling within subsection (2)(a) or (b)) or blocks of flats,
  - (e) providing services of any description for owners or occupiers of houses in—
    - (i) arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works,
    - (ii) arranging property insurance,
  - (f) encouraging and giving advice on the formation of registered social landlords or providing services for, and giving advice on the running of, such landlords and other voluntary organisations concerned with housing, or matters connected with housing.
- (4) A body is not ineligible for registration by reason only that its powers include power—
- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within subsection (2) or (3),
  - (b) to repair, improve or convert any commercial premises acquired as mentioned in paragraph (a) or to carry on for a limited period any business so acquired,
  - (c) to repair or improve houses, or buildings in which houses are situated, after the tenants have exercised, or claimed to exercise, acquisition rights.
- (5) The Scottish Ministers may by order amend the permissible purposes, objects and powers specified in subsections (3) and (4), but any such amendment which restricts or limits those purposes, objects or powers has no effect in relation to a body registered as a social landlord when the order was made.
- (6) In this section—
- “acquisition rights” means rights to purchase under section 61 of the 1987 Act,

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“block of flats” means a building containing two or more flats which are held on leases or other lettings and which are occupied or intended to be occupied wholly or mainly for residential purposes,

“disposed of on shared ownership terms” means disposed of under a shared ownership agreement (defined in section 83(3)),

“letting” includes the grant of a right or permission to occupy,

“residents”, in relation to a body, means persons occupying the houses or hostels provided or managed by the body,

“voluntary organisation” means an organisation whose activities are not carried on for profit.

## **59 Registration**

- (1) The Scottish Ministers may register as a social landlord any body which is eligible for such registration.
- (2) An application for registration must be made in such manner, and accompanied by such fee (if any), as the Scottish Ministers may determine.
- (3) As soon as may be after registering a body which is an industrial and provident society as a social landlord the Scottish Ministers must give notice of the registration to the Financial Services Authority, which must record the registration.
- (4) A body which at any time is, or was, registered as a social landlord is, for all purposes other than rectification of the register, to be conclusively presumed to be, or to have been, at that time a body eligible for registration as a social landlord.

## **60 Removal from the register**

- (1) A body which has been registered as a social landlord is not to be removed from the register except in accordance with this section.
- (2) If it appears to the Scottish Ministers that a body which is on the register of social landlords—
  - (a) is no longer a body eligible for such registration,
  - (b) has ceased to exist or does not operate, or
  - (c) meets the criteria for removal from the register established under section 61,the Scottish Ministers may, after giving the body at least 14 days' notice, remove it from the register.
- (3) In the case of a body which appears to the Scottish Ministers to have ceased to exist, or not to operate, notice under subsection (2) is deemed to be given to the body if it is served at the address last known to the Scottish Ministers to be the principal place of business of the body.
- (4) A body which is registered as a social landlord may request the Scottish Ministers to remove it from the register and the Scottish Ministers may do so if they are satisfied that the body meets the criteria for removal established under section 61.
- (5) As soon as may be after removing a body which is an industrial and provident society from the register of social landlords the Scottish Ministers must give notice of the removal to the Financial Services Authority, which must record the removal.

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## **61 Criteria for registration or removal from register**

- (1) The Scottish Ministers must establish (and may from time to time vary) criteria to be satisfied by a body seeking registration as a social landlord; and in deciding whether to register a body the Scottish Ministers must have regard to whether those criteria are met.
- (2) The Scottish Ministers must establish (and may from time to time vary) criteria to be satisfied where a body seeks to be removed from the register of social landlords; and in deciding whether to remove a body from the register the Scottish Ministers must have regard to whether those criteria are met.
- (3) Before establishing or varying any such criteria the Scottish Ministers must consult—
  - (a) such bodies representing registered social landlords,
  - (b) such bodies representing tenants of registered social landlords, and
  - (c) such other persons,as they think fit.
- (4) The Scottish Ministers must publish the criteria for registration and the criteria for removal in such manner as they think fit.

## **62 Appeal against decision on registration or removal**

- (1) A body which is aggrieved by a decision of the Scottish Ministers—
  - (a) not to register it as a social landlord, or
  - (b) to remove or not to remove it from the register of social landlords,may appeal against the decision to the Court of Session.
- (2) If an appeal is brought against a decision relating to the removal of a body from the register, the Scottish Ministers must not remove the body from the register until the appeal has been finally determined or is withdrawn.
- (3) As soon as may be after an appeal is brought against a decision relating to the removal of a body which is an industrial and provident society from the register, the Scottish Ministers must give notice of the appeal to the Financial Services Authority.

### *Regulation*

## **63 Regulation of registered social landlords**

Schedule 7, which makes provision about the regulation of registered social landlords, has effect.

## **64 Insolvency etc. of registered social landlords**

Schedule 8, which makes provision about the insolvency etc. of registered social landlords, has effect.

*Disposal of land and related matters*

**65 Power of registered social landlord to dispose of land**

- (1) A registered social landlord has power by virtue of this section, but not otherwise, to dispose, in such manner as it thinks fit, of land held by it.
- (2) Subsection (1)—
  - (a) is without prejudice to Part III (the right to buy) of the 1987 Act,
  - (b) has effect subject to sections 66 to 68 and 76 of, and schedules 7 and 9 to, this Act.

**66 Consent required for disposal of land by registered social landlord**

- (1) The written consent of the Scottish Ministers is required for any disposal of land by a registered social landlord under section 65.
- (2) The consent of the Scottish Ministers may be given—
  - (a) generally to all registered social landlords or to a particular landlord or description of landlords,
  - (b) in relation to particular land or a particular description of land,
  - (c) in relation to a particular disposal or a particular description of disposal,and may be given subject to conditions.
- (3) In considering whether to give consent under this section the Scottish Ministers must have regard to the views expressed by those consulted under section 68.
- (4) A disposal by a landlord which requires consent under this section is valid in favour of a person claiming under the landlord despite that consent not having been given; and a person dealing with the landlord, or with a person claiming under the landlord, is not concerned to see or inquire whether any such consent has been given.
- (5) Where at the time of its removal from the register of social landlords a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered social landlord.
- (6) In this section, “disposal” means sale, lease, heritable security, charge or any other disposal.

**67 Disposals not requiring consent**

- (1) Section 66 does not apply to a disposal by a registered social landlord by way of—
  - (a) a lease under a Scottish secure tenancy, or what would be a Scottish secure tenancy but for schedule 1,
  - (b) a lease under a short Scottish secure tenancy,
  - (c) a lease under an assured tenancy or an assured agricultural occupancy,
  - (d) a lease under what would be an assured tenancy but for any of paragraphs 3 to 8 and 12 of Schedule 4 to the 1988 Act, or
  - (e) a disposal under Part III (the right to buy) of the 1987 Act.
- (2) The Scottish Ministers may by order specify additional disposals to which section 66 does not apply.

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- (3) In this section, “assured agricultural occupancy” has the same meaning as in Part I of the Housing Act 1988 (c. 50).

## **68 Disposals of land: consultation with tenants**

- (1) This section applies where a registered social landlord proposes to make a disposal of land under section 65 other than—
- (a) a disposal which does not require the consent of the Scottish Ministers under section 66,
  - (b) a disposal to which schedule 9 applies, or
  - (c) a disposal of an interest by way of security for a loan.
- (2) Where this section applies, the landlord must consult—
- (a) the tenants of those of its houses included in the disposal, and
  - (b) such other persons as the Scottish Ministers may require,
- and must inform the Scottish Ministers of the views expressed by those consulted.

### *Housing management*

## **69 Inspections**

- (1) The Scottish Ministers may appoint a person to carry out an inspection of the management of the affairs of a registered social landlord in relation to the provision of housing accommodation and related services.
- (2) A person appointed to carry out an inspection under subsection (1) (an “inspector”) has a right of access at all reasonable times to—
- (a) any premises of the registered social landlord, and
  - (b) any document relating to the landlord which appears to the inspector to be necessary for the purposes of the inspection.
- (3) An inspector may—
- (a) require a person holding or accountable for any such document to provide the inspector with such information and explanation as the inspector thinks necessary,
  - (b) require that person to attend before the inspector in person to give the information or explanation or to produce the document.
- (4) The registered social landlord must provide an inspector with every facility and all information which the inspector may reasonably require for the purposes of the inspection.
- (5) An inspector must, if so required, produce written authorisation for the carrying out of the inspection.
- (6) A person who fails, without reasonable excuse, to comply with a requirement of an inspector under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **70      Inspection reports**

- (1) Where an inspection has been carried out under section 69, the Scottish Ministers must issue and publish a report and send a copy of it to the registered social landlord and any registered tenant organisation.
- (2) The report must identify any respects in which, as a result of the inspection, the management of the affairs of the registered social landlord in relation to the provision of housing accommodation and related services was found to be unsatisfactory.

## **71      Appointment of manager**

- (1) Where the Scottish Ministers consider it necessary or expedient in order to ensure that the management of its affairs by a registered social landlord is of an appropriate standard (either generally or in relation to a particular matter), they may—
  - (a) appoint a manager, or
  - (b) require the landlord to appoint a manager,to conduct the affairs of the landlord, or such of the affairs as the Scottish Ministers may specify.
- (2) A manager appointed under subsection (1)(a) or in pursuance of a requirement under subsection (1)(b)—
  - (a) is to be appointed for such period and on such terms and conditions as the Scottish Ministers may determine,
  - (b) has, by virtue of the appointment, power generally to do all such things as are necessary for carrying out the manager's functions, and
  - (c) has such specific powers (which may include power to do anything which the landlord has power to do) as the Scottish Ministers may specify.
- (3) The remuneration and expenses of the manager are to be paid by the landlord.
- (4) The Scottish Ministers may give directions in relation to the carrying out of the manager's functions; and the manager must comply with any such direction.
- (5) In carrying out functions the manager acts as the landlord's agent; and the manager is not personally liable on a contract entered into as manager.
- (6) A person dealing with the manager in good faith and for value is not concerned to inquire whether the manager is acting within the powers conferred by virtue of this section.