



Housing (Scotland) Act 2001

2001 asp 10

PART 3

REGULATION OF SOCIAL LANDLORDS

CHAPTER 3

COMMON PROVISIONS

Disposals of tenanted houses: consultation and consent

76 Disposals of tenanted houses: consultation and consent

- (1) Schedule 9 (which makes provision for consultation with tenants, including a ballot, where a disposal by a local authority landlord or a registered social landlord would result in a change of landlord for a tenant under a Scottish secure tenancy) has effect.
- (2) Where a disposal to which that schedule applies is to a person other than a registered social landlord, the Scottish Ministers must not give consent to the disposal under section 12(7) of the 1987 Act or, as the case may be, section 66 of this Act unless they are satisfied that a disposal to a registered social landlord is not appropriate.

Information

77 Power to obtain information

- (1) The Scottish Ministers may, for any purpose mentioned in subsection (2), serve on a person a notice requiring the person—
 - (a) to provide the Scottish Ministers, or a person authorised by them, at a time and place and in the form and manner specified in the notice, with such information relating to the affairs of a local authority or, as the case may be, a registered social landlord in connection with the provision of housing accommodation and related services as may be specified or described in the notice, or

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- (b) to produce to the Scottish Ministers, or a person authorised by them, at a time and place specified in the notice, any documents relating to such affairs which are specified or described in the notice and are in that person’s custody or under that person’s control.
- (2) The purposes referred to in subsection (1) are any purpose connected with the provision of housing accommodation and related services by the authority or, as the case may be, the landlord.
- (3) A notice in pursuance of subsection (1) in relation to a local authority may be served on—
 - (a) the authority,
 - (b) an officer or employee of the authority,
 - (c) any other person whom the Scottish Ministers have reason to believe is or may be in possession of relevant information.
- (4) No notice is to be served on a person falling within paragraph (b) or (c) of subsection (3) unless—
 - (a) a notice has been served on the local authority and has not been complied with, or
 - (b) the Scottish Ministers believe that the information or documents in question are not in the possession of the authority.
- (5) A notice in pursuance of subsection (1) in relation to a registered social landlord may be served on—
 - (a) the landlord,
 - (b) any person who is, or has been, an officer, member, employee or agent of the landlord,
 - (c) a subsidiary or associate of the landlord,
 - (d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of the landlord,
 - (e) any other person whom the Scottish Ministers have reason to believe is or may be in possession of relevant information.
- (6) No notice is to be served on a person falling within paragraphs (b) to (e) of subsection (5) unless—
 - (a) a notice has been served on the registered social landlord and has not been complied with, or
 - (b) the Scottish Ministers believe that the information or documents in question are not in the possession of the landlord.

78 Power to obtain information: further provision

- (1) In section 77, “agent” includes banker, solicitor and auditor.
- (2) Nothing in that section authorises the Scottish Ministers to require—
 - (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of confidentiality in proceedings in the Court of Session, or
 - (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by the banker to a person other than a local authority or, as the case

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may be, a registered social landlord or a subsidiary or associate of a registered social landlord.

- (3) References in that section to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.
- (4) Where by virtue of that section documents are produced to any person, that person may take copies of or make extracts from them.
- (5) A person who fails, without reasonable excuse, to do anything required of that person by a notice under that section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person who intentionally alters, suppresses or destroys a document which that person has been required by a notice under that section to produce is guilty of an offence and is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.

Guidance

79 Issue of guidance by the Scottish Ministers

- (1) The Scottish Ministers may issue guidance with respect to the provision of housing accommodation and related services by local authorities and registered social landlords.
- (2) Guidance under this section may, in particular, be issued with respect to—
 - (a) the housing needs for which provision should be made and the means of meeting those needs,
 - (b) the prevention and alleviation of homelessness,
 - (c) the provision and management of sites for persons of nomadic habit of life, whatever their race or origin,
 - (d) the acquisition and disposal of housing accommodation,
 - (e) the allocation of housing accommodation,
 - (f) the terms of tenancies and the principles upon which levels of rent should be determined,
 - (g) standards of maintenance and repair and the means of achieving those standards,
 - (h) the prevention of anti-social behaviour and conduct, and conduct amounting to harassment, by tenants and other persons whose actions and conduct are the subject of paragraph 7 of schedule 2 (“anti-social”, “conduct” and “harassment” having the meanings given in sub-paragraph (2) of that paragraph),
 - (i) the provision of services for owners and occupiers of houses,
 - (j) consultation and communication with tenants and bodies representing tenants,
 - (k) the participation of tenants and bodies representing tenants in the formulation of proposals concerning housing accommodation and related services,

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- (l) procedures for dealing with disputes between tenants and local authorities or registered social landlords,
 - (m) standards of governance and financial accountability.
- (3) The power to issue guidance under this section does not include power to issue guidance in respect of the functions conferred on local authorities by Part XIII (improvement and repairs grants) of the 1987 Act.
- (4) Before issuing any guidance under this section the Scottish Ministers must consult such persons as they think fit.
- (5) The Scottish Ministers must issue the guidance in such manner as they consider appropriate for bringing it to the notice of the local authorities or, as the case may be, the registered social landlords concerned.
- (6) Guidance under this section may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of local authority or registered social landlord.
- (7) In considering whether action needs to be taken to secure the proper management of the provision of housing accommodation and related services by a local authority or a registered social landlord or whether there has been mismanagement, the Scottish Ministers may have regard (among other matters) to the extent to which any guidance under Part 1 of this Act, section 37 (guidance on homelessness) of the 1987 Act or this section is being or has been followed.

Code of good practice

80 Code of good practice

- (1) The Scottish Ministers must publish a statement setting out how they propose to exercise their functions under this Part.
- (2) The Scottish Ministers must keep the statement under review and—
- (a) may from time to time,
 - (b) must, not more than 5 years from the date of publication of the statement and at least once every five years thereafter,
- publish a further such statement.

Charges for regulatory functions

81 Charges for regulatory functions of the Scottish Ministers

- (1) The Scottish Ministers may, after consultation with a local authority or, as the case may be, a registered social landlord, direct the authority or landlord to pay to them an amount specified in, or calculated in accordance with, the direction in respect of the expenses specified in subsection (2); and the authority or landlord must comply with any such direction.
- (2) The expenses referred to in subsection (1) are the expenses of the Scottish Ministers in exercising in relation to the authority or landlord their functions under—
- (a) this Part,

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- (b) sections 17A and 17B (publication of housing management information) of the 1987 Act, and
- (c) any other enactment relating to the provision of housing accommodation or related services by local authorities or registered social landlords.