



Housing (Amendment) (Scotland) Act 2018

2018 asp 13

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 31st May 2018 and received Royal Assent on 6th July 2018

An Act of the Scottish Parliament to amend the law on the regulation of social landlords and to reduce the influence of local authorities over registered social landlords.

PROSPECTIVE

Regulatory intervention by Scottish Housing Regulator

1 Managers appointed by, or on the requirement of, the Scottish Housing Regulator

- (1) The Housing (Scotland) Act 2010 is amended as follows.
- (2) In section 57 (appointment of manager for housing activities)—
 - (a) in subsection (1)—
 - (i) in paragraph (a), for “is, or is at risk of,” substitute “has failed, or is”,
 - (ii) in paragraph (b), for “to an appropriate standard” substitute “in a way that will rectify the failure”,
 - (b) in subsection (2), for paragraphs (a) and (b) substitute “to manage the landlord's housing activities generally, or such aspects of those activities as are necessary, for the purpose of rectifying the failure which the Regulator considers requires the appointment of the manager.”.
- (3) In section 58 (appointment of manager for financial or other affairs)—
 - (a) for subsection (1) substitute—

“(1) This section applies where the Regulator, having made inquiries or otherwise, considers—

 - (a) that a registered social landlord has failed, or is failing, to comply with—
 - (i) a duty imposed by this Act or by any other enactment,
 - or

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment, and
- (b) that a person needs to be appointed in order to ensure that the landlord manages its financial or other affairs in a way that will rectify the failure.”,
- (b) in subsection (2), for paragraphs (a) and (b) substitute “ to manage the landlord's financial or other affairs generally, or such aspects of those affairs as are necessary, for the purpose of rectifying the failure which the Regulator considers requires the appointment of the manager. ”.
- (4) In section 59 (appointment of manager under section 57 or 58: supplementary)—
 - (a) in subsection (1), after “including” insert “ , subject to subsection (1A), ”,
 - (b) after subsection (1) insert—
 - “(1A) The appointment is to be only for so long as is necessary to rectify the failure which gave rise to the manager's appointment.”,
 - (c) for subsection (4) substitute—
 - “(4) The Regulator may give a manager directions about the rectification of the failure which gave rise to the manager's appointment.
 - (4A) The manager—
 - (a) must comply with such directions,
 - (b) may be removed by the Regulator on failure to so comply.”.
- (5) In section 87 (extra powers of manager of registered society appointed by the Scottish Housing Regulator)—
 - (a) in subsection (3), for “section 50 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12)” substitute “ section 109 of the Co-operative and Community Benefit Societies Act 2014 ”,
 - (b) in subsection (4), for “section 51 or 52 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12) (and, in particular, has effect subject to section 54 of that Act)” substitute “ section 110 or 112 of the Co-operative and Community Benefit Societies Act 2014 ”.

2 Registered social landlords: removal, suspension and appointment of officers etc.

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 60 (general power to remove officers), in subsection (1), for paragraph (e) substitute—
 - “(e) is, because of absence or other failure to act, failing to ensure that the registered social landlord is complying with—
 - (i) a duty imposed by this Act or by any other enactment,
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment.”.
- (3) In section 61 (suspension of officers etc. during or following inquiries), in subsection (1), for paragraphs (a) to (c) substitute—
 - “(a) that the registered social landlord has failed, or is failing, to comply with—

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,relating to its housing activities or its financial or other affairs,”.
- (4) In section 62 (removal of officers etc. following inquiries), in subsection (1), for paragraphs (a) to (c) substitute—
 - “(a) that the registered social landlord has failed, or is failing, to comply with—
 - (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,relating to its housing activities or its financial or other affairs,”.
- (5) In section 63 (responsible individuals), “misconduct, mismanagement,” is repealed.
- (6) In section 65 (appointment of new officers)—
 - (a) in subsection (1)(d), for “for the proper management of the registered social landlord's” substitute “to rectify a failure by the registered social landlord to comply with—
 - (i) a duty imposed by this Act or by any other enactment, or
 - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,relating to its ”,
 - (b) in subsection (2), after “including” insert “, subject to subsection (2A), ”,
 - (c) after subsection (2) insert—
 - “(2A) Where the officer is appointed by virtue of subsection (1)(d) to rectify a failure to comply with a duty or requirement, the appointment is to be only for so long as is necessary to so rectify the failure.”,
 - (d) in subsection (4), for “The” substitute “ Subject to subsection (4A), the ”,
 - (e) after that subsection insert—
 - “(4A) Where the officer was appointed by virtue of subsection (1)(d), subsection (2A) applies to the renewal of the appointment as it applies to the appointment.”.
- (7) In section 165 (interpretation), in the definition of “officer”, in paragraph (b), for “section 74 of that Act” substitute “ section 149 of the Co-operative and Community Benefit Societies Act 2014 ”.

PROSPECTIVE

Disposal of land etc. by registered social landlords

3 Disposal of land or other assets by registered social landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In section 78 (effect of moratorium on disposal of registered social landlord's land), in subsection (2)(b), for “for which the Regulator's consent is not required because of section 108” substitute “ of a type mentioned in paragraphs (a) to (g) and (i) to (k) of section 108(1) ”.
- (3) For section 107 (power to dispose of land or assets) substitute—

“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.”.
- (4) In section 108 (disposals not requiring consent), in subsection (1)—
- (a) for “The Regulator's consent under this Part is not required for” substitute “ This section applies to ”,
 - (b) in paragraph (j), for “for which the Regulator's consent is required under Part 8” substitute “ in relation to which Part 8 applies ”.
- (5) The title of section 108 becomes “ **Disposals not subject to section 107** ”.
- (6) In section 109 (notification where disposal consent not required), for subsections (1) and (2) substitute—
- “(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.”.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) The title of section 109 becomes “ **Notification of disposals** ”.
- (8) In section 110 (tenant consultation: other disposals)—
- (a) for subsection (1) substitute—
 - “(1) This section applies in relation to disposals of land by registered social landlords to which section 107(2) applies.”,
 - (b) in subsection (2), after “must” insert “ , before making such a disposal ”,
 - (c) after subsection (2) insert—
 - “(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).”.
- (9) The title of section 110 becomes “ **Tenant consultation where no change of landlord** ”.
- (10) For section 111 (effect of disposals without consent) substitute—

“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.”.

4 Special procedure where disposal results in change of landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 113 (disposals resulting in change of landlord)—
 - (a) in subsection (1), for paragraphs (a) and (b), substitute “ to which section 107(4) applies. ”,
 - (b) subsection (2) is repealed.
- (3) Section 114 is repealed.
- (4) In section 115 (consultation with tenants)—
 - (a) in subsection (1), “ , after a direction given by the Regulator under section 114,” is repealed,
 - (b) in subsection (2)—

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) in paragraph (a), sub-paragraph (ii) (and “and” immediately preceding it) is repealed,
- (ii) in paragraph (b), for “Regulator's consent” substitute “ approval of tenants by way of ballot or written agreement ”.

(5) After section 115 insert—

“115A Tenant approval

- (1) A registered social landlord must, in relation to a proposed disposal—
 - (a) conduct a ballot of tenants of houses included in the proposed disposal on the question of whether the tenants wish the disposal to proceed, or
 - (b) seek the written agreement of the tenants of houses included in the proposed disposal to the disposal.
- (2) The registered social landlord must—
 - (a) as soon as reasonably practicable after the ballot is completed or, as the case may be, the period for the giving of written agreement has expired, and
 - (b) before making the disposal, notify the Regulator of the results of the ballot or, as the case may be, the number of written agreements sought and the number given.

115B Guidance

- (1) The Regulator must issue guidance in relation to tenant consultation and approval under sections 115 and 115A.
- (2) Guidance issued under subsection (1) may in particular include guidance as to—
 - (a) how notices under section 115(1) and (2) are to be served and the information to be contained in such notices,
 - (b) the consideration to be given to timeous representations made in pursuance of a notice served under section 115(1),
 - (c) the circumstances in which the approval of tenants under section 115A is to be sought by way of—
 - (i) ballot,
 - (ii) written agreement,
 - (d) how such ballots are to be conducted and how such written agreements are to be sought and given.
- (3) A registered social landlord must, in complying with sections 115 and 115A, have regard to guidance issued by the Regulator under subsection (1).”.
- (6) Sections 116 to 119 are repealed.
- (7) In section 120 (unaffected tenants)—
 - (a) in subsection (2)—
 - (i) in paragraph (b), for “section 118” substitute “ section 115A(1)(a) ”,
 - (ii) for paragraph (c) substitute—

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “(c) need not seek the agreement of an unaffected tenant when seeking written agreement under section 115A(1)(b).”,
- (b) in subsection (3), for “Regulator” where it first occurs to the end substitute “registered social landlord must confirm that the tenants concerned have all vacated the houses concerned when notifying the Regulator under section 115A(2)”.
- (8) Sections 121 and 122 are repealed.

PROSPECTIVE

Organisational changes affecting registered social landlords

5 Change of name, office or constitution by registered social landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) For section 92 (change of name or office) substitute—

“92 Change of name, office or constitution

A registered social landlord must give the Regulator notice of—

- (a) any change to—
- (i) its name, or
 - (ii) its registered or principal office,
- (b) any amendment to its constitution (other than a change of name or office),
- within 28 days of the change or amendment being made.”.

- (3) Sections 93 to 95 are repealed.

6 Restructuring, winding up and dissolution of registered social landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 96 (restructuring, winding up and dissolution of registered societies), subsections (2) and (3) are repealed.
- (3) After that section insert—

“96A Proposed restructuring of society

- (1) This section applies where the society proposes to pass a special resolution for the purposes of a restructuring provision where the restructuring—
- (a) will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the society proposing the restructuring, and
 - (b) is a restructuring other than the conversion of the society into a company in accordance with section 112 of the Co-operative and Community Benefit Societies Act 2014.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The society must comply with sections 115 to 120 (as applied by subsection (3)) in relation to the proposed restructuring.
- (3) Sections 115 to 120 apply in relation to a proposed restructuring to which this section applies as they apply in relation to a proposed disposal to which section 107(4) applies, subject to the modification that section 115A(2) has effect as if, for paragraph (b), there were substituted—“(b)before notice of a meeting at which the special resolution is intended to be proposed is given under section 111 or, as the case may be, 113 of the Co-operative and Community Benefit Societies Act 2014,”.
- (4) In this section and section 97, “restructuring provision” means any of the following provisions of the Co-operative and Community Benefit Societies Act 2014—
 - (a) section 109 (amalgamation),
 - (b) section 110 (transfer of engagements),
 - (c) section 112 (conversion into or amalgamation with registered company).”.
- (4) For section 97 (restructuring of registered society) substitute—

“97 Restructuring of society

- (1) This section applies in relation to a special resolution passed by the society for the purposes of a restructuring provision.
- (2) Where the restructuring to which the special resolution relates is one to which section 96A applies, the Financial Conduct Authority may register the special resolution only if—
 - (a) the society confirms the matters mentioned in subsection (3), and
 - (b) a copy of the confirmation accompanies the copy special resolution sent to the Financial Conduct Authority for the purposes of the Co-operative and Community Benefit Societies Act 2014.
- (3) Those matters are that, before the special resolution was passed—
 - (a) the society complied with sections 115 and 115A(1) (as applied by section 96A(3)), and
 - (b) a majority of tenants—
 - (i) voting in a ballot conducted under section 115A(1)(a) wish the restructuring to proceed, or, as the case may be,
 - (ii) whose written agreement to the restructuring was sought under section 115A(1)(b) have given that agreement.
- (4) The society must, as soon as reasonably practicable after sending the copy special resolution to the Financial Conduct Authority (and, in a case to which subsection (2) applies, no later than 28 days after doing so), give notice of the restructuring to the Regulator.
- (5) Any new body created, or to whom engagements are transferred, in pursuance of such a special resolution is to be included in the register (and is to be treated as so included pending such inclusion).”.
- (5) For section 98 (voluntary winding up of registered society) substitute—

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“98 Voluntary winding up of society

- (1) This section applies in relation to the voluntary winding up of the society under the Insolvency Act 1986.
 - (2) The society must consult its tenants in relation to the proposed voluntary winding up before passing a resolution for the winding up of the society.
 - (3) Such a resolution is valid only if—
 - (a) the society confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the copy resolution sent to the Financial Conduct Authority for the purposes of section 30 of the Companies Act 2006 (as applied by virtue of section 123 of the Co-operative and Community Benefit Societies Act 2014 and section 84(3) of the Insolvency Act 1986).
 - (4) The society must, as soon as reasonably practicable after sending the copy resolution to the Financial Conduct Authority, give notice of the voluntary winding up to the Regulator.
 - (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
 - (6) A society must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”.
- (6) For section 99 (dissolution of registered society) substitute—

“99 Dissolution of society

- (1) This section applies where the society proposes an instrument of dissolution of the society (within the meaning of section 119 of the Co-operative and Community Benefit Societies Act 2014).
- (2) The society must consult its tenants in relation to the proposed dissolution before seeking the approval of the instrument for the purposes of section 119 of that Act.
- (3) The Financial Conduct Authority may register an instrument of dissolution of the society under section 121 of the Co-operative and Community Benefit Societies Act 2014, or cause notice of the dissolution to be advertised under section 122 of that Act, only if—
 - (a) the society confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the instrument sent to the Financial Conduct Authority for the purposes of section 121 of that Act.
- (4) The society must, as soon as reasonably practicable after sending the instrument to the Financial Conduct Authority, give notice of the dissolution to the Regulator.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
- (6) A society must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”.
- (7) In section 100 (restructuring and winding up of registered social landlords which are companies), subsections (2) and (3) are repealed.
- (8) After that section insert—

“100A Restructuring by company: proposed restructuring

- (1) This section applies where—
 - (a) a court order is made in respect of the company under section 896 of the Companies Act 2006,
 - (b) the meeting summoned by the court order is to agree a restructuring of a type mentioned in section 900(1) of that Act, and
 - (c) the restructuring—
 - (i) will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the company in respect of which the order is made, and
 - (ii) that company is not being wound up and is not in administration.
- (2) The company must comply with sections 115 to 120 (as applied by subsection (3)) in relation to the proposed restructuring.
- (3) Sections 115 to 120 apply in relation to a proposed restructuring to which this section applies as they apply in relation to a proposed disposal to which section 107(4) applies, subject to the modification that section 115A(2) has effect as if, for paragraph (b), there were substituted—
 - “(b) before the meeting summoned by the court order under section 896 of the Companies Act 2006 takes place.”.
- (9) For section 101 (restructuring of company) substitute—

“101 Restructuring of company

- (1) This section applies where—
 - (a) a court order is made in respect of a company under section 899 or 900 of the Companies Act 2006, and
 - (b) the restructuring to which the order relates is of a type mentioned in section 900(1) of that Act.
- (2) Where section 100A applies in relation to a restructuring, a court order mentioned in subsection (1) in relation to the same restructuring has effect only if—
 - (a) the company confirms the matters mentioned in subsection (3), and
 - (b) a copy of the confirmation accompanies the copy of the order delivered to the registrar of companies in accordance with section 900(6) of the Companies Act 2006.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The matters are that, before the order was made—
- (a) the company complied with sections 115 and 115A(1) (as applied by section 100A(3)), and
 - (b) a majority of tenants—
 - (i) voting in a ballot conducted under section 115A(1)(a) wish the restructuring to proceed, or, as the case may be,
 - (ii) whose written agreement to the restructuring was sought under section 115A(1)(b) have given that agreement.
- (4) The company must, as soon as reasonably practicable after the order is made (and, in a case to which subsection (2) applies, no later than 28 days after that event), give notice of the restructuring to the Regulator.
- (5) Where the whole or any part of the undertaking and property and liabilities of the company are transferred to another company in pursuance of an order under section 900 of the Companies Act 2006, that other company is to be included in the register (and is to be treated as so included pending such inclusion).”.
- (10) For section 102 (conversion of company into registered society) substitute—

“102 Conversion of company into a registered society

- (1) This section applies in relation to the conversion of the company into a registered society under section 115 of the Co-operative and Community Benefit Societies Act 2014.
 - (2) The company must consult its tenants on the proposed conversion before passing a special resolution for the conversion of the company into a registered society under section 115 of that Act.
 - (3) Such a special resolution has effect only if—
 - (a) the company confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the resolution sent to the registrar of companies in accordance with section 115(5) of the Co-operative and Community Benefit Societies Act 2014.
 - (4) The company must, as soon as reasonably practicable after sending the resolution to the registrar of companies, give notice of the conversion to the Regulator.
 - (5) The new registered society created in pursuance of the resolution is to be included in the register (and is to be treated as so included pending such inclusion).
 - (6) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
 - (7) A company must, in consulting tenants for that purpose, have regard to guidance issued under subsection (6).”.
- (11) For section 103 (company voluntary arrangement) substitute—

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“103 Company voluntary arrangement

- (1) This section applies in relation to a voluntary arrangement under Part 1 of the Insolvency Act 1986 in relation to the company.
 - (2) The company must consult its tenants about the voluntary arrangement before the arrangement is approved under section 4 of that Act.
 - (3) Such a voluntary arrangement does not take effect under section 5 of the Insolvency Act 1986 unless the company has consulted its tenants as mentioned in subsection (2).
 - (4) The company must, as soon as reasonably practicable after the voluntary arrangement takes effect, give notice of the arrangement to the Regulator.
 - (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
 - (6) A company must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”
- (12) For section 104 (voluntary winding up of company) substitute—

“104 Voluntary winding up of company

- (1) This section applies in relation to the voluntary winding up of the company under the Insolvency Act 1986.
 - (2) The company must consult its tenants on the proposed winding up before passing a special resolution for the winding up of the company under that Act.
 - (3) Such a special resolution is valid only if—
 - (a) the company confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the copy resolution sent to the registrar of companies in accordance with section 30 of the Companies Act 2006.
 - (4) The company must, as soon as reasonably practicable after sending the copy resolution to the registrar of companies, give notice of the voluntary winding up to the Regulator.
 - (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
 - (6) A company must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”
- (13) Section 105 is repealed.
- (14) In section 106 (asset transfer on dissolution or winding up)—
- (a) in subsection (1)(a), for “section 55(a) or (b) of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12)” substitute “ section 119 or 123 of the Co-operative and Community Benefit Societies Act 2014 ”,

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) in subsection (7), for paragraph (a) substitute—

“(a) the Co-operative and Community Benefit Societies Act 2014.”.

(15) Sections 123 and 124 are repealed.

(16) In section 165 (interpretation), in the definition of “registered society”, for “Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12)” substitute “ Co-operative and Community Benefit Societies Act 2014 ”.

7 Registered social landlord becoming a subsidiary of another body

(1) The Housing (Scotland) Act 2010 is further amended as follows.

(2) For section 104A (registered social landlord becoming a subsidiary of another body) substitute—

“104A Registered social landlord becoming a subsidiary of another body

(1) This section applies where a registered social landlord which is a registered society or a registered company proposes to enter into an arrangement under which the landlord will become a subsidiary of a body of which it is not currently a subsidiary.

(2) Subject to subsection (5)—

- (a) the registered social landlord must comply with sections 115 to 120 (as applied by subsection (3)) in relation to the arrangement, and
- (b) the arrangement has effect only if the conditions in subsection (4) are met.

(3) Sections 115 to 120 apply in relation to a proposed arrangement to which this section applies as they apply in relation to a proposed disposal to which section 107(4) applies.

(4) The conditions are that, before the arrangement was completed—

- (a) the registered social landlord complied with sections 115 and 115A(1) (as applied by subsection (3)), and
- (b) a majority of tenants—
 - (i) voting in a ballot conducted under section 115(1)(a) wish the arrangement to proceed, or, as the case may be,
 - (ii) whose written agreement to the arrangement was sought under section 115A(1)(b) have given that agreement.

(5) The Regulator must determine that subsections (2) and (3) are not, or are to cease, to apply in relation to an arrangement where the Regulator considers that—

- (a) the registered social landlord's viability is in jeopardy for financial reasons,
- (b) a person could take a step in relation to the landlord which would require to be notified to the Regulator under section 73, and
- (c) the determination under this subsection would substantially reduce the likelihood of a person taking such a step.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) The registered social landlord must, as soon as reasonably practicable after the arrangement takes effect (and no later than 28 days after that event), give notice of the arrangement to the Regulator.”
- (3) Sections 124A and 124B are repealed.
- (4) In section 165 (interpretation), in the definition of “subsidiary”, for “Co-operative and Community Benefit Societies and Credit Unions Act 1968 (c.55)” substitute “ Co-operative and Community Benefit Societies Act 2014 ”.

Further modification of regulation of social landlords

8 Power to modify functions of Scottish Housing Regulator

- (1) The Scottish Ministers may by regulations modify the functions of the Scottish Housing Regulator which relate to social landlords.
- (2) Regulations under subsection (1) may—
 - (a) make different provision for different purposes,
 - (b) include any incidental, supplementary, consequential, transitional, transitory or saving provision as Ministers consider appropriate,
 - (c) modify any enactment.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.
- (4) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers—
 - (a) must consult—
 - (i) the Scottish Housing Regulator,
 - (ii) tenants of social landlords or their representatives,
 - (iii) social landlords or their representatives, and
 - (iv) secured creditors of registered social landlords or their representatives,
 - (b) may consult such other persons as Ministers consider appropriate.
- (5) In this section, “registered social landlord”, “secured creditor” and “social landlord” have the meanings given by section 165 of the Housing (Scotland) Act 2010.

Annotations:

Commencement Information

II S. 8 in force at 6.9.2018 by [S.S.I. 2018/253](#), [reg. 2\(1\)](#)

Local authority influence over registered social landlords

9 Power to reduce local authority influence over registered social landlords

- (1) The Scottish Ministers may by regulations make provision for the purpose of limiting or removing the ability of local authorities to exert influence over registered social landlords through—

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) appointing or removing officers of registered social landlords,
 - (b) exercising or controlling voting rights.
- (2) Regulations under subsection (1) may in particular—
- (a) limit the number of officers that a local authority may appoint,
 - (b) prohibit a local authority from appointing officers,
 - (c) confer power on a registered social landlord to remove officers appointed by a local authority,
 - (d) prohibit a local authority from doing things that would result in it obtaining voting rights in a registered social landlord,
 - (e) require a local authority to take steps to reduce or get rid of any voting rights that it has in a registered social landlord.
- (3) Regulations under subsection (1) may override or modify any contractual or other rights (whenever created) or anything in a registered social landlord's constitution.
- (4) Regulations under subsection (1) may—
- (a) confer a power on a registered social landlord to amend its constitution in consequence of provision made by the regulations,
 - (b) make provision about the procedure for exercising that power.
- (5) Regulations under subsection (1) may—
- (a) make different provision for different purposes,
 - (b) include any incidental, supplementary, consequential, transitional, transitory or saving provision as Ministers consider appropriate,
 - (c) modify any enactment.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.
- (7) In this section—
- “appointing”, in relation to an officer, includes nominating or otherwise influencing the selection of the officer,
 - “constitution” has the meaning given by section 165 of the Housing (Scotland) Act 2010,
 - “officer, in relation to a registered social landlord, has the meaning given by section 165 of the Housing (Scotland) Act 2010,
 - “registered social landlord” also has the meaning given by that section.

Annotations:

Commencement Information

I2 S. 9 in force at 6.9.2018 by S.S.I. 2018/253, reg. 2(1)

Duration of regulation-making powers

10 Duration of powers conferred by sections 8(1) and 9(1)

- (1) No regulations may be made under section 8(1) or 9(1) after the end of the period of 3 years beginning with the day after Royal Assent.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Subsection (1) does not affect the continuation in force of any regulations made under section 8(1) or 9(1) during the period mentioned in subsection (1).

Annotations:

Commencement Information

I3 [S. 10](#) in force at 6.9.2018 by [S.S.I. 2018/253](#), [reg. 2\(1\)](#)

General provision

11 Commencement

- (1) This section and section 12 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
- (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.

12 Short title

The short title of this Act is the Housing (Amendment) (Scotland) Act 2018.

Status:

This version of this Act contains provisions that are prospective.

Changes to legislation:

Housing (Amendment) (Scotland) Act 2018 is up to date with all changes known to be in force on or before 28 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

Changes and effects yet to be applied to :

- s. 1 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)
- s. 2 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)
- s. 3 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)
- s. 4 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)
- s. 5 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)
- s. 6 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)
- s. 7 coming into force by [S.S.I. 2018/253 reg. 2\(2\)](#)