

**Changes to legislation:** Housing (Scotland) Act 2001, SCHEDULE 9 is up to date with all changes known to be in force on or before 28 November 2020. 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) View outstanding changes

## SCHEDULE 9

(introduced by section 76)

### CONSULTATION BEFORE CERTAIN DISPOSALS BY LOCAL AUTHORITY LANDLORD OR REGISTERED SOCIAL LANDLORD

#### Commencement Information

- II** Sch. 9 wholly in force at 1.11.2001, see s. 113 and S.S.I. 2001/336, art. 2(3), Sch. Pt. II (subject to transitional provisions in art. 3) (as amended by S.S.I. 2001/397, art. 7(b))

#### Disposals to which this schedule applies

- 1 (1) This schedule applies to a disposal by—
- (a) a local authority landlord under section 12 of the 1987 Act, <sup>F1</sup>...
  - <sup>F1</sup>(b) .....  
of an interest in land as a result of which a tenant of the landlord under a Scottish secure tenancy will cease to be a tenant of that landlord.
- (2) Where a disposal of land is in part a disposal to which this section applies, this schedule applies to that part as to a separate disposal.

#### Textual Amendments

- F1** Sch. 9 para. 1(1)(b) and word repealed (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), sch. 2 para. 7(7)(a); S.S.I. 2012/39, art. 2, sch. 1 (with sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

#### Application for consent of the Scottish Ministers

- 2 (1) The Scottish Ministers must not entertain an application for consent under section 12(7) of the 1987 Act <sup>F2</sup>... to a disposal to which this schedule applies unless the local authority landlord or, as the case may be, the registered social landlord certifies that—
- (a) the requirements of paragraph 3 as to consultation have been complied with,  
or
  - (b) the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the house in question before the disposal.
- (2) The certificate must be accompanied by a copy of the notices given, and the results of the ballot held, by the landlord in accordance with that paragraph.
- (3) Where the certificate is in the form mentioned in sub-paragraph (1)(b), the Scottish Ministers must not determine the application until the landlord certifies as regards the tenants not originally consulted—
- (a) that they have vacated the house in question, or
  - (b) that the requirements of paragraph 3 as to consultation have been complied with.

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- (4) A certificate under sub-paragraph (3)(b) must be accompanied by a copy of the notices given, and the results of the ballot held, by the landlord in accordance with paragraph 3.

#### Textual Amendments

- F2** Words in [sch. 9 para. 2\(1\)](#) repealed (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 7\(7\)\(b\)](#); [S.S.I. 2012/39](#), art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by [S.S.I. 2012/91](#), art. 4)

#### *Requirements as to consultation*

- 3 (1) The requirements as to consultation referred to in paragraph 2 are as follows.
- (2) The landlord must serve on the tenant notice in writing informing the tenant of—
- (a) such details of the proposal as the landlord considers appropriate, but including the identity of the person to whom the disposal is to be made,
  - (b) the likely consequences of the disposal for the tenant, and
  - (c) the right of the tenant, within such reasonable period as is specified (which must be at least 28 days after the service of the notice), to make representations to the landlord.
- (3) The landlord must consider any representations made to it within that period and must serve on the tenant a further written notice informing the tenant of—
- (a) any significant changes in the proposal,
  - (b) the right of the tenant, within such reasonable period as is specified (which must be at least 28 days after the service of the notice), to communicate to the Scottish Ministers any objection to the proposal, and
  - (c) the effect of paragraph 5 (consent to be withheld unless majority of tenants expressing a view on a ballot wish disposal to proceed).
- (4) The landlord must—
- (a) conduct a ballot of the tenants of the houses to which the application relates on the question whether the tenants wish the disposal to proceed, and
  - (b) inform the Scottish Ministers of the results of the ballot.
- (5) The Scottish Ministers may issue guidance as to—
- (a) the conduct of a ballot under sub-paragraph (4),
  - (b) the form and manner in which the landlord is to inform the Scottish Ministers of the results of the ballot,
- and the landlord must have regard to such guidance.

#### *Power to require further consultation*

- 4 The Scottish Ministers may require the landlord to carry out such further consultation with its tenants, and to give them such information as to the results of that consultation, as they may direct.

#### *Consent to be withheld unless majority of tenants in favour*

- 5 (1) The Scottish Ministers must not give their consent unless they are satisfied that a majority of the tenants who voted in the ballot under paragraph 3(4) wish the disposal

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to proceed; but this does not affect their general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.

- (2) The Scottish Ministers may issue guidance as to the information about the results of the ballot under paragraph 3(4) which they require in considering whether they are satisfied as mentioned in sub-paragraph (1).
- (3) In making their decision the Scottish Ministers may have regard to any information available to them; and the landlord must give the Scottish Ministers such information as to the representations made to it by tenants and others, and other relevant matters, as they may require.

#### *Protection of purchasers*

- 6 The Scottish Ministers' consent to a disposal is not invalidated by a failure on their part or that of the landlord to comply with the requirements of this schedule.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(5A) inserted by [2003 asp 10 s. 5\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 34(7A)-(7C) inserted by [2003 asp 10 s. 6\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 34(8)(b) and words inserted by [2003 asp 10 s. 6\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 89(12) inserted by [2019 asp 10 s. 18\(3\)](#)
- sch. 6 para. 5A and cross-heading inserted by [2003 asp 10 s. 5\(5\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)