



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 7

#### REPAYMENT CHARGES

#### 172 Repayment charges

- (1) A local authority entitled to recover a sum under section 59(1) or (2)<sup>[F1]</sup>, section 61(3A), subsection (6A) below] or paragraph 6(1) of schedule 5 may make in favour of itself a charge (a “repayment charge”)—
  - (a) specifying the repayable amount and the living accommodation concerned, and
  - (b) providing that the living accommodation concerned is charged with the repayable amount.
- (2) The repayable amount is the lowest of—
  - (a) the amount recoverable under section 59(1) or (2) or paragraph 6(1) of schedule 5,
  - (b) any lower amount determined by the local authority, and
  - (c) any amount which the Scottish Ministers by order prescribe as the maximum repayable amount.
- (3) The repayable amount is recoverable in 30 equal annual instalments payable on the same date (specified in the charge) in each calendar year.
- (4) The local authority must register a repayment charge in the appropriate land register.
- (5) The owner of, or any other person interested in, any living accommodation subject to a repayment charge may at any time redeem the repayable amount early by paying to the local authority—
  - (a) such sum as the owner or other person may agree with the local authority, or
  - (b) failing such agreement, such sum as the Scottish Ministers may determine.
- (6) The local authority must, on receiving—
  - (a) payment of the repayable amount in accordance with the repayment charge, or
  - (b) a sum redeeming the repayable amount under subsection (5),register a discharge of the repayment charge in the appropriate land register.

*Status: Point in time view as at 01/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 7. (See end of Document for details)*

[<sup>F2</sup>(6A) A local authority may recover—

- (a) the amount of any fee payable in respect of registering a repayment charge or a discharge of such a charge,
- (b) any administrative expenses incurred by it in connection with the registration, and
- (c) interest, at such reasonable rate as it may determine, from the date when a demand for payment is served until the whole amount is paid,

from the owner of the living accommodation concerned.]

(7) Where a repayment charge is made in respect of expenses incurred by a local authority in demolishing a house, references in this section and in section 173 to living accommodation are to be read as references to the site of the demolished house.

(8) This section does not apply in relation to—

- (a) the recovery of sums under section 59(2) from a landlord who is not the owner of the living accommodation concerned,
- (b) living accommodation which is not a building.

#### Textual Amendments

**F1** Words in s. 172(1) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 150(4)(a)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)

**F2** S. 172(6A) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 150(4)(b)**, 166(2); [S.S.I. 2011/96, art. 2, Sch.](#)

### 173 Effect of registering repayment charges etc.

(1) A registered repayment charge is conclusive evidence that the charge specified in it has been created in respect of the living accommodation specified in it.

(2) A registered repayment charge constitutes a charge on the living accommodation specified in it and has priority over—

- (a) all future burdens and incumbrances on the same living accommodation, and
- (b) all existing burdens and incumbrances on the same living accommodation except any charges created or arising under—

<sup>F3</sup>(i) .....

(ii) any local Act authorising a charge for recovery of expenses incurred by a local authority,

(iii) Schedule 9 of the 1987 Act,

(iv) section 172, or

(v) any Act authorising advances of public money.

(3) A registered repayment charge is enforceable at the instance of the local authority against any person deriving title to the charged living accommodation.

(4) But it is not enforceable against—

- (a) a third party who acquires right to the charged living accommodation (whether title has been completed or not) in good faith and for value before the repayment charge is registered, or
- (b) any person deriving title from such third party.

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*Status: Point in time view as at 01/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 7. (See end of Document for details)*

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- (5) A registered discharge of a repayment charge is conclusive evidence that the charge concerned has been discharged.

**Textual Amendments**

- F3** S. 173(2)(b)(i) repealed (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), Sch. 3 Pt. 1 (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

**174 Repayment charges: further provision**

The Scottish Ministers may by order—

- (a) specify the form which a repayment charge, or a discharge of a repayment charge, must be in,
- (b) make such further provision as they think fit about the repayment or early redemption of amounts repayable under a repayment charge.

**Status:**

Point in time view as at 01/03/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 7.