



# 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) 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.

### **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—
    - (i) any provision of the Public Health (Scotland) Act 1897 (c. 38) or any Act amending that Act,
    - (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.
- (5) A registered discharge of a repayment charge is conclusive evidence that the charge concerned has been discharged.

### **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.