

Housing (Scotland) Act 2010

2010 asp 17

PART 4

INQUIRIES AND INFORMATION

Inquiries

42 Inquiries about social landlords

- (1) The Regulator may make inquiries about—
 - (a) a social landlord, or
 - (b) a body which at the material time is or was connected to a registered social landlord or a local authority landlord.
- (2) Inquiries may be made—
 - (a) at any time, and
 - (b) generally or for particular purposes.
- (3) Inquiries may relate to—
 - (a) a social landlord’s housing activities, or
 - (b) a registered social landlord’s financial or other affairs.
- (4) Inquiries may be carried out—
 - (a) by the Regulator, or
 - (b) by another person (an “inquirer”) appointed by the Regulator,and, where carried out by an inquirer, references to the Regulator in sections 43 to 49 include references to the inquirer.
- (5) Where inquiries are made about a body connected to a registered social landlord or a local authority landlord, references to the social landlord in sections 43 and 46 are references to the social landlord and the connected body.

43 Inquiries: general powers

- (1) The Regulator, when making inquiries, has the following general powers in addition to the powers conferred by section 48 and other provisions of this Act.

Status: This is the original version (as it was originally enacted).

- (2) The Regulator has a right of access at all reasonable times to—
 - (a) any premises occupied by the social landlord concerned, and
 - (b) any document or other information relating to the social landlord concerned which the Regulator believes to be relevant to the inquiries.
- (3) The social landlord concerned and any person in premises accessed under subsection (2) must provide such facilities and assistance as the Regulator may reasonably request in connection with the inquiries.
- (4) A person holding or accountable for any document or other information of a kind described in subsection (2) must, if so required, attend before the Regulator in person to produce the document or, as the case may be, give the information.
- (5) The Regulator may inspect, copy, make extracts from or take away any document or other information found on premises accessed under subsection (2) (including any information accessible by computers on the premises but stored elsewhere).
- (6) It is an offence for a person, without reasonable excuse—
 - (a) to fail to comply with subsection (3) or (4), or
 - (b) to otherwise obstruct the Regulator from properly exercising its powers when making inquiries.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

44 Inquiries: survey powers

- (1) The Regulator may arrange for a survey of the condition of housing accommodation where it suspects that the standard to which it is being maintained means that a social landlord is, or is at risk of, failing—
 - (a) to achieve a standard or an outcome set out in the Scottish Social Housing Charter,
 - (b) to meet a performance improvement target,
 - (c) to meet a financial management or governance target, or
 - (d) to implement an approved performance improvement plan.
- (2) The Regulator may require the social landlord to pay some or all of the expenses of the survey.
- (3) A survey may be carried out by any person authorised in writing by the Regulator.
- (4) The authorised person—
 - (a) has a right of access to the housing accommodation at all reasonable times to carry out the survey,
 - (b) must, when seeking to enter accommodation in order to carry out a survey, produce a copy of his or her authorisation on request by an occupier.
- (5) The Regulator must give the social landlord at least 28 days' notice of its intention to carry out a survey.
- (6) A social landlord to which notice is given under subsection (5) must give each occupier of the housing accommodation concerned at least 7 days' notice of the Regulator's intention to carry out a survey.

- (7) The authorised person must—
 - (a) produce a written report after carrying out a survey, and
 - (b) give a copy of the report to the Regulator.
- (8) The Regulator must give a copy of the authorised person’s report to the social landlord.
- (9) It is an offence for a person, without reasonable excuse—
 - (a) to fail to comply with subsection (6), or
 - (b) to obstruct an authorised person from carrying out a survey under this section.
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

45 Exceptional audit

- (1) The Regulator may, as part of inquiries about a registered social landlord’s financial or other affairs, arrange for a qualified auditor (appointed by the Regulator) to—
 - (a) audit the registered social landlord’s accounts and balance sheet, and
 - (b) report to the Regulator about matters specified by the Regulator.“qualified auditor” means a person eligible for appointment as auditor of the registered social landlord’s ordinary accounts.
- (2) It is for the Regulator to pay for the expenses of the audit (including the auditor’s remuneration).
- (3) An audit done under this section is additional to, and does not affect, any other audit done or to be done under any other enactment.
- (4) It is an offence for a person, without reasonable excuse, to obstruct a person from carrying out an audit under this section.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

46 Reports on inquiries

- (1) The Regulator may prepare and publish a report of any inquiries it makes.
- (2) The Regulator must—
 - (a) publish a statement setting out the types of inquiries on which it intends to publish reports, and
 - (b) make arrangements for bringing its statement (and any revision) to the attention of—
 - (i) Ministers,
 - (ii) tenants of social landlords,
 - (iii) social landlords,
 - (iv) secured creditors of registered social landlords, and
 - (v) the Accounts Commission for Scotland.
- (3) The Regulator must send a copy of a report prepared under this section to the social landlord concerned.

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

- (4) Where the Regulator publishes a report, it must send a copy of the report to every registered tenant organisation associated with the social landlord which is the subject of the report.