



# Housing (Scotland) Act 2010

## 2010 asp 17

### PART 7

#### REGISTERED SOCIAL LANDLORDS: INSOLVENCY ETC.

##### *Moratorium*

#### **73 Notification of step towards insolvency etc.**

- (1) A person specified in the following table must notify the Regulator—
- (a) before taking a step so specified, and
  - (b) as soon as reasonably practicable after such a step is taken.

<i>Person</i>	<i>Step</i>
The person taking the step	A step to enforce a security over a registered social landlord's land
The petitioner	Presenting a petition for the winding up of a registered social landlord (but not the presenting of a petition by the Regulator under section 105)
The registered social landlord	Notice being given (in accordance with the constitution of the body to those entitled to vote on the resolution) of the proposal of a resolution for the winding up of a registered social landlord
The person who applied for the order	Applying for, or making, an administration order in respect of a registered social landlord which is a registered company
The person making the appointment	Appointing an administrator in respect of a registered social landlord which is a registered company

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- (2) The Regulator may determine for the purposes of this Part what is meant by a step to enforce a security over a registered social landlord's land.
- (3) Before making, revising or withdrawing a determination, the Regulator must consult—
  - (a) Ministers,
  - (b) registered social landlords or their representatives, and
  - (c) secured creditors of registered social landlords or their representatives.
- (4) The Regulator must make arrangements for bringing any determination (and any revision or withdrawal) to the attention of those affected by it.

#### **74 Effect of failure to notify**

- (1) A step specified in the table in section 73 has no effect if the person so specified fails to give notice under section 73(1)(a) before the step is taken.
- (2) Failure to give notice of such a step under section 73(1)(b) does not invalidate the step.

#### **75 Moratorium**

- (1) A moratorium on the disposal of a registered social landlord's land begins when a step specified in the table in section 73 is taken in respect of the registered social landlord.
- (2) The taking of another such step during the moratorium does not trigger a new moratorium or affect the duration of the existing one.

#### **76 Period of moratorium**

- (1) A moratorium ends (unless extended or cancelled) 56 days after notice of the step in respect of which it began is given under section 73(1)(b).
- (2) The Regulator may extend the moratorium from time to time (but may do so only with the consent of all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries).
- (3) The Regulator must give notice of any extension to—
  - (a) the registered social landlord, and
  - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.
- (4) The Regulator may, after consulting the person whose step triggered a moratorium, cancel the moratorium where it considers that the proper management of the registered social landlord's land can be secured without making proposals under section 80.
- (5) The Regulator must give notice of a moratorium ending to—
  - (a) the registered social landlord, and
  - (b) all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries.
- (6) Such a notice must (except where the moratorium has been cancelled) include an explanation of section 77.

## **77 Further moratorium**

- (1) If a moratorium ends (other than by cancellation), taking a step specified in the table in section 73 in respect of the registered social landlord concerned within 3 years of the moratorium ending does not trigger another moratorium.
- (2) But the Regulator may, in such circumstances, renew the original moratorium for a specified period if all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries consent to the renewal.
- (3) The Regulator must give notice of a renewal of a moratorium to—
  - (a) the registered social landlord, and
  - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.

## **78 Effect of moratorium**

- (1) During a moratorium a registered social landlord's land may not be disposed of without the Regulator's consent.
- (2) Subsection (1)—
  - (a) applies to disposals by the registered social landlord and by any other person having power to dispose of the registered social landlord's land, but
  - (b) does not apply to a disposal for which the Regulator's consent is not required because of section 108.
- (3) The Regulator's consent to a disposal may be given—
  - (a) before or after the moratorium begins,
  - (b) subject to such conditions as the Regulator considers appropriate.
- (4) A purported disposal during a moratorium without consent is void.

## **79 Interim manager**

- (1) During a moratorium the Regulator may appoint, or require the registered social landlord to appoint, an interim manager—
  - (a) to manage its housing activities or its financial and other affairs generally, or
  - (b) to manage particular aspects of those activities or affairs.
- (2) It is for the Regulator to determine the terms on which an interim manager is to be appointed (including as to period of appointment and remuneration and expenses).
- (3) An interim manager's appointment ends with the earliest of the following—
  - (a) any date specified in the appointment,
  - (b) the end of the moratorium, or
  - (c) the agreement of proposals under section 82.
- (4) An interim manager has—
  - (a) general powers to do anything required to perform the interim manager's functions (including power to enter into agreements or do anything else which the registered social landlord has power to do), and
  - (b) such specific powers as the Regulator may specify.
- (5) But an interim manager—

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- (a) must comply with any direction by the Regulator about the performance of the interim manager's functions (and may be removed on failure to so comply),  
and
  - (b) may not dispose of land.
- (6) An interim manager acts as the registered social landlord's agent and is accordingly not personally liable on an agreement entered into as interim manager.
- (7) Anyone dealing with a manager in good faith and for value need not inquire whether the interim manager is acting within the powers conferred by virtue of this section.