



# Housing (Amendment) (Scotland) Act 2018

2018 asp 13

## *Regulatory intervention by Scottish Housing Regulator*

### **1 Managers appointed by, or on the requirement of, the Scottish Housing Regulator**

- (1) The Housing (Scotland) Act 2010 is amended as follows.
- (2) In section 57 (appointment of manager for housing activities)—
  - (a) in subsection (1)—
    - (i) in paragraph (a), for “is, or is at risk of,” substitute “has failed, or is”,
    - (ii) in paragraph (b), for “to an appropriate standard” substitute “in a way that will rectify the failure”,
  - (b) in subsection (2), for paragraphs (a) and (b) substitute “to manage the landlord’s housing activities generally, or such aspects of those activities as are necessary, for the purpose of rectifying the failure which the Regulator considers requires the appointment of the manager.”.
- (3) In section 58 (appointment of manager for financial or other affairs)—
  - (a) for subsection (1) substitute—

“(1) This section applies where the Regulator, having made inquiries or otherwise, considers—

    - (a) that a registered social landlord has failed, or is failing, to comply with—
      - (i) a duty imposed by this Act or by any other enactment, or
      - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment, and
    - (b) that a person needs to be appointed in order to ensure that the landlord manages its financial or other affairs in a way that will rectify the failure.”,
  - (b) in subsection (2), for paragraphs (a) and (b) substitute “to manage the landlord’s financial or other affairs generally, or such aspects of those affairs

as are necessary, for the purpose of rectifying the failure which the Regulator considers requires the appointment of the manager.”.

- (4) In section 59 (appointment of manager under section 57 or 58: supplementary)—
- (a) in subsection (1), after “including” insert “, subject to subsection (1A),”,
  - (b) after subsection (1) insert—
    - “(1A) The appointment is to be only for so long as is necessary to rectify the failure which gave rise to the manager’s appointment.”,
  - (c) for subsection (4) substitute—
    - “(4) The Regulator may give a manager directions about the rectification of the failure which gave rise to the manager’s appointment.
    - (4A) The manager—
      - (a) must comply with such directions,
      - (b) may be removed by the Regulator on failure to so comply.”.
- (5) In section 87 (extra powers of manager of registered society appointed by the Scottish Housing Regulator)—
- (a) in subsection (3), for “section 50 of the [Co-operative and Community Benefit Societies and Credit Unions Act 1965 \(c.12\)](#)” substitute “section 109 of the Co-operative and Community Benefit Societies Act 2014”,
  - (b) in subsection (4), for “section 51 or 52 of the [Co-operative and Community Benefit Societies and Credit Unions Act 1965 \(c.12\)](#) (and, in particular, has effect subject to section 54 of that Act)” substitute “section 110 or 112 of the Co-operative and Community Benefit Societies Act 2014”.

## **2 Registered social landlords: removal, suspension and appointment of officers etc.**

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 60 (general power to remove officers), in subsection (1), for paragraph (e) substitute—
- “(e) is, because of absence or other failure to act, failing to ensure that the registered social landlord is complying with—
    - (i) a duty imposed by this Act or by any other enactment,
    - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment.”.
- (3) In section 61 (suspension of officers etc. during or following inquiries), in subsection (1), for paragraphs (a) to (c) substitute—
- “(a) that the registered social landlord has failed, or is failing, to comply with—
    - (i) a duty imposed by this Act or by any other enactment, or
    - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,
 relating to its housing activities or its financial or other affairs.”.
- (4) In section 62 (removal of officers etc. following inquiries), in subsection (1), for paragraphs (a) to (c) substitute—

- “(a) that the registered social landlord has failed, or is failing, to comply with—
    - (i) a duty imposed by this Act or by any other enactment, or
    - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,relating to its housing activities or its financial or other affairs.”.
- (5) In section 63 (responsible individuals), “misconduct, mismanagement,” is repealed.
- (6) In section 65 (appointment of new officers)—
  - (a) in subsection (1)(d), for “for the proper management of the registered social landlord’s” substitute “to rectify a failure by the registered social landlord to comply with—
    - (i) a duty imposed by this Act or by any other enactment,  
or
    - (ii) a requirement imposed on the landlord by the Regulator under this Act or any other enactment,relating to its”.
  - (b) in subsection (2), after “including” insert “, subject to subsection (2A),”,
  - (c) after subsection (2) insert—
    - “(2A) Where the officer is appointed by virtue of subsection (1)(d) to rectify a failure to comply with a duty or requirement, the appointment is to be only for so long as is necessary to so rectify the failure.”.
  - (d) in subsection (4), for “The” substitute “Subject to subsection (4A), the”,
  - (e) after that subsection insert—
    - “(4A) Where the officer was appointed by virtue of subsection (1)(d), subsection (2A) applies to the renewal of the appointment as it applies to the appointment.”.
- (7) In section 165 (interpretation), in the definition of “officer”, in paragraph (b), for “section 74 of that Act” substitute “section 149 of the Co-operative and Community Benefit Societies Act 2014”.