



Housing (Amendment) (Scotland) Act 2018

2018 asp 13

Disposal of land etc. by registered social landlords

3 Disposal of land or other assets by registered social landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 78 (effect of moratorium on disposal of registered social landlord's land), in subsection (2)(b), for "for which the Regulator's consent is not required because of section 108" substitute "of a type mentioned in paragraphs (a) to (g) and (i) to (k) of section 108(1)".
- (3) For section 107 (power to dispose of land or assets) substitute—

"107 Restrictions on power to dispose of land

- (1) A registered social landlord may make a disposal of land to which subsection (2) applies only if the landlord complies with section 110 in relation to the disposal.
- (2) This subsection applies to a disposal of land, other than a disposal by way of granting security over the land or any interest in it, which will not result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the landlord making the disposal.
- (3) A registered social landlord may make a disposal of land to which subsection (4) applies only if—
 - (a) the landlord complies with sections 115 to 120 in relation to the disposal, and
 - (b) a majority of tenants—
 - (i) voting in a ballot in relation to the disposal under section 115A(1)(a) wish the disposal to proceed, or, as the case may be,
 - (ii) whose written agreement to the disposal was sought under section 115A(1)(b) have given that agreement.

- (4) This subsection applies to a disposal of land which will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the landlord making the disposal.
- (5) This section does not apply where section 108 applies to the disposal.”.
- (4) In section 108 (disposals not requiring consent), in subsection (1)—
- (a) for “The Regulator’s consent under this Part is not required for” substitute “This section applies to”,
 - (b) in paragraph (j), for “for which the Regulator’s consent is required under Part 8” substitute “in relation to which Part 8 applies”.
- (5) The title of section 108 becomes “**Disposals not subject to section 107**”.
- (6) In section 109 (notification where disposal consent not required), for subsections (1) and (2) substitute—
- “(1) A registered social landlord must notify the Regulator of any disposal of land or any other asset as soon as reasonably practicable (and, where section 107(4) applies, no later than 28 days) after the disposal is made.
 - (2) The Regulator may make a determination—
 - (a) dispensing with the notification requirement in subsection (1),
 - (b) where section 107(4) applies, extending the period mentioned in that subsection.”.
- (7) The title of section 109 becomes “**Notification of disposals**”.
- (8) In section 110 (tenant consultation: other disposals)—
- (a) for subsection (1) substitute—
 - “(1) This section applies in relation to disposals of land by registered social landlords to which section 107(2) applies.”,
 - (b) in subsection (2), after “must” insert “, before making such a disposal”,
 - (c) after subsection (2) insert—
 - “(3) The Regulator must issue guidance in relation to consultation under subsection (2).
 - (4) A registered social landlord must, in consulting tenants or other persons under subsection (2)(a), have regard to guidance issued by the Regulator under subsection (3).”.
- (9) The title of section 110 becomes “**Tenant consultation where no change of landlord**”.
- (10) For section 111 (effect of disposals without consent) substitute—

“111 Effect of disposals in breach of section 107

- (1) A disposal of land by a registered social landlord to which section 107(2) applies is void if the landlord did not comply with section 110(2)(a).
- (2) A disposal of land by a registered social landlord to which section 107(4) applies is void if—

- (a) the landlord did not comply with section 115 or 115A(1), or
- (b) a majority of tenants—
 - (i) voting in a ballot in relation to the disposal under section 115A(1)(a) did not wish the disposal to proceed, or, as the case may be,
 - (ii) whose written agreement to the disposal was sought under section 115A(1)(b) did not give that agreement.”.

4 Special procedure where disposal results in change of landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 113 (disposals resulting in change of landlord)—
 - (a) in subsection (1), for paragraphs (a) and (b), substitute “to which section 107(4) applies.”,
 - (b) subsection (2) is repealed.
- (3) Section 114 is repealed.
- (4) In section 115 (consultation with tenants)—
 - (a) in subsection (1), “, after a direction given by the Regulator under section 114,” is repealed,
 - (b) in subsection (2)—
 - (i) in paragraph (a), sub-paragraph (ii) (and “and” immediately preceding it) is repealed,
 - (ii) in paragraph (b), for “Regulator’s consent” substitute “approval of tenants by way of ballot or written agreement”.
- (5) After section 115 insert—

“115A Tenant approval

- (1) A registered social landlord must, in relation to a proposed disposal—
 - (a) conduct a ballot of tenants of houses included in the proposed disposal on the question of whether the tenants wish the disposal to proceed, or
 - (b) seek the written agreement of the tenants of houses included in the proposed disposal to the disposal.
- (2) The registered social landlord must—
 - (a) as soon as reasonably practicable after the ballot is completed or, as the case may be, the period for the giving of written agreement has expired, and
 - (b) before making the disposal,notify the Regulator of the results of the ballot or, as the case may be, the number of written agreements sought and the number given.

115B Guidance

- (1) The Regulator must issue guidance in relation to tenant consultation and approval under sections 115 and 115A.

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

- (2) Guidance issued under subsection (1) may in particular include guidance as to—
- (a) how notices under section 115(1) and (2) are to be served and the information to be contained in such notices,
 - (b) the consideration to be given to timeous representations made in pursuance of a notice served under section 115(1),
 - (c) the circumstances in which the approval of tenants under section 115A is to be sought by way of—
 - (i) ballot,
 - (ii) written agreement,
 - (d) how such ballots are to be conducted and how such written agreements are to be sought and given.
- (3) A registered social landlord must, in complying with sections 115 and 115A, have regard to guidance issued by the Regulator under subsection (1).”.
- (6) Sections 116 to 119 are repealed.
- (7) In section 120 (unaffected tenants)—
- (a) in subsection (2)—
 - (i) in paragraph (b), for “section 118” substitute “section 115A(1)(a)”,
 - (ii) for paragraph (c) substitute—
 - “(c) need not seek the agreement of an unaffected tenant when seeking written agreement under section 115A(1)(b).”.
 - (b) in subsection (3), for “Regulator” where it first occurs to the end substitute “registered social landlord must confirm that the tenants concerned have all vacated the houses concerned when notifying the Regulator under section 115A(2)”.
- (8) Sections 121 and 122 are repealed.