

## COMPENSATION FOR TENANTS' IMPROVEMENTS PROCEDURE

### Appendix 5

#### 1.0 Introduction

- 1.1 The Housing (Scotland) Act 1987 gave discretionary powers and guidelines to landlords to compensate tenants for some improvements when their tenancy ends, and the Housing (Scotland) Act 2001 gave tenants the right to receive compensation for certain improvements they have carried out to their homes when the tenancy ends.
- 1.2 The legislation establishes the qualifying improvements, the notional life of the improvement, the formula for calculating compensation, minimum and maximum amounts payable, timescales for processing claims and the various qualifications that apply.
- 1.3 If compensation is due, it should be set against any debt the tenant owes the Association, including rent arrears and rechargeable repairs, to be calculated at the end of their tenancy.

#### 2.0 Eligibility

- 2.1 **All** tenants who carried out an improvement on or after 30 September 2002 may be able to obtain compensation under the provisions of the Housing (Scotland) Act 2001 where the following conditions apply:
- The improvement is one of a list of qualifying improvements given in Appendix 1;
  - The improvement must have been carried out on or after 30 September 2002;
  - The tenant making the claim either carried out the improvement, or is the tenant who succeeded to the tenancy on the death of the tenant who carried out the work;
  - The tenant must have obtained written consent from the Association to have carried out the improvement, and complied with any associated conditions;
  - The improvement must remain in the property as part of the fixtures and fittings when the tenant vacates the property; **and**
  - The tenancy must have ended.
- 2.2 Tenancies ending due to a Right to Buy sale, repossession or transfer to another LHA property will not qualify for compensation under this scheme.
- 2.3 Tenants who transferred to LHA from Scottish Homes in the stock transfer of 2002 and who carried out improvements prior to 30 September 2002 may be able to obtain compensation under the provisions of the Housing (Scotland) Act 1987. The following conditions apply:

- The improvement is one of a list of qualifying improvements given in Appendix 1;
- The improvement must have been carried out before 30 September 2002;
- The tenant must have obtained written consent from Scottish Homes to have carried out the improvement, and complied with any associated conditions;
- The tenant making the claim either carried out the improvement, or is the tenant who succeeded to the tenancy on the death of the tenant who carried out the work;
- The improvement must have materially added to the price which the house might be expected to fetch if sold on the open market.

2.4 Compensation payable under the Housing (Scotland) Act 1987 is entirely at the discretion of Lochaber Housing Association.

### 3.0 Making a claim

3.1 To apply for compensation, a tenant must submit a claim in writing no earlier than 28 days before the date of termination of the tenancy and no later than 21 days after the termination of the tenancy. If the tenant has died, the tenant's representative must submit the claim. The claim must include the following:

- The name and address of the tenant;
- The improvement(s) the tenant has made;
- How much each improvement cost (with receipts);
- The date the improvements were started and finished; and
- Details of any grant received for the work.

3.2 Once a claim has been received, the property and improvement must be inspected by the Technical Officer or Maintenance Operative within 5 working days.

3.3 The inspecting officer must then submit a written report to the Operations Manager within 2 working days of the inspection on the estimated cost of the improvement and whether it is a qualifying improvement under either 2.1 or 2.3 above.

3.4 The Technical Officer will respond to the claim within 28 days of receiving it.

### 4.0 Calculating Compensation

4.1 Compensation will be calculated only on the real cost to the tenant of the improvement and will exclude:

- Any costs attributed to the tenant's own labour;
- Any grants received by the tenant towards the cost of the improvement;
- The cost of any professional fees paid;
- The cost of obtaining planning consent or consent under the building regulations.

- 4.2 Compensation for qualifying repairs that meet all the required criteria will be calculated according to the formula prescribed in SSI 2002/312, as follows:

$$C \times \frac{(1 - Y)}{N}$$

**C** = the cost of the improvement work (less any grant awarded under Part XIII of the 1987 Act; and under the Home Efficiency Scheme Regulations 1997(3));

**N** = the notional life of the improvement effected by the work; and

**Y** = the number of years starting on the date on which the improvement was completed and ending on the date on which the tenancy ends. Part of a year will be counted as a whole year: for example, 2 years and 6 months will be counted for this calculation as 3 complete years.

- 4.3 In addition to this calculation, LHA may reduce or increase the compensation payable if any of the following apply:

- The cost of the improvement was excessive;
- The improvement has deteriorated at a rate faster than its notional life;
- The improvement has deteriorated at a rate slower than its notional life;
- The improvement is of an exceptionally high quality.

- 4.4 Compensation will not be payable where it is calculated at less than £100, or greater than £4000 for each improvement.

- 4.5 The Operations Manager will calculate the final compensation payment according to the above, and will instruct the Finance section to issue a cheque to the claimant accordingly.

## 5.0 Appeals

- 5.1 If a claimant disputes the decision of the Association regarding compensation for improvements payments, the claimant must notify the Association of their dispute in writing within 28 days of receiving notification of LHA's decision.

- 5.2 The decision will then be reviewed in one of the following ways, at the discretion of the Director:

- A review by an independent valuer or surveyor who took no part in the original decision, appointed by the Association;
- A review by any of the Association's Committee members who took no part in the original decision; or
- A review by the Association's Management Committee.

- 5.3 The applicant disputing the decision may make written or oral representations to the person(s) undertaking the review. If the applicant wishes to make a personal representation, they may be accompanied by a representative of their choice.
- 5.4 If, after the review, the applicant is not happy with the outcome of that review, they may appeal to the sheriff.

**APPENDIX 5A**

**QUALIFYING IMPROVEMENT WORK AND NOTIONAL LIFE**

<b>Item</b>	<b>Notional life (years)</b>
Bath or shower	12
Cavity wall insulation	20
Sound insulation	20
Double glazing or other external window replacement or secondary glazing	20
Draught proofing of external doors or windows	8
Insulation of pipes, water tank or cylinder	10
Installation of mechanical ventilation in bathrooms and kitchens	7
Kitchen sink	10
Loft insulation	20
Rewiring and the provision of power and lighting or other electrical fixtures including smoke detectors	20
Security measures other than burglar alarm systems	15
Space or water heating	12
Storage cupboards in bathroom or kitchen	10
Thermostatic radiator valves	7
Wash hand basin	12
Watercloset	12
Work surfaces for food preparation	10