

# Housing and Property Chamber First-tier Tribunal for Scotland



Variation of RSEO: Section 25 and paragraph 6 of Schedule 2 of the Housing (Scotland) Act 2006 ("the Act")

Chamber Ref: RP/16/0351

## THE PROPERTY:

ALL and WHOLE that area of ground upon which the cottage known as Barr Bheag, Taynuilt, Argyll PA35 1HY is erected; which area of ground forms part and portion of ALL and WHOLE that plot or area of ground at Am Barr, Barguilean, by Taynuilt, Argyll extending to one hectare and seven hundredth parts of a hectare or thereby (2.65 acres) and being the area of ground outlined in red on the plan annexed and signed as relative to Disposition by Anthony Robin Marshall in favour of David Arthur Marshall, Mrs Anne Taylor and Kilbride Trustees Limited as Trustees therein mentioned dated Third December Two Thousand and Two and recorded in the division of the General Register of Sasines applicable to the County of Argyll on 10 January Two Thousand and Three.

## THE PARTIES:-

Mr Nicholas Charlton, residing at Barr Bheag, by Taynuilt, Argyll PA35 1HY  
("the tenant")

and

The Josephine Marshall Trust, Barguilean, Taynuilt, Argyll PA35 1HY  
("the landlords")

## THE TRIBUNAL:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Private Rented Housing Committee (PRHC):

David M Preston (Legal Member) and Alex Hewton, Surveyor (Ordinary Member)

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having determined that the **Repairing Standard Enforcement Order** ("RSEO") relative to the property dated 8 March 2017 should be varied, it is hereby varied with effect from the date of service of this Notice in the following respect:-

1. The period allowed for the completion of the work required by the order is extended for a further 6 months from the date of service of this Notice of Variation.

Section 25(3) of the Act does not apply in this case.

A landlord or tenant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed as follows:

**D Preston**

Chairing Member

**I McCall**

Witness signature

OBAN

Place of signing

ELA MURRAY M(10)

Witness name

12-06-17

Date of signing

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Witness address

OBAN

2034 FAT

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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Statement of Reasons for Variation of RSEO: Section 25 and paragraph 6 of Schedule 2 of the Housing (Scotland) Act 2006 ("the Act")

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### The Parties:-

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David M Preston (Legal Member) and Alex Hewton, Surveyor (Ordinary Member)

### Decision:

The tribunal determined to vary the Repairing Standard Enforcement Order (RSEO) dated 8 March 2017 by extending the time within which the Works specified therein for a period of six months from the date of issue of this Variation.

**Reasons:**

1. Following the issue of the RSEO various representations have been received from the parties advising of difficulties encountered by the landlords in gaining access to the property for the purpose of carrying out the works specified in the RSEO. The various representations have been copied over to the parties on receipt.
2. As a result of these difficulties, the tribunal understands that the landlords have made or intend to make an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) for assistance in exercising their right of access under the Act as amended.
3. The RSEO provided that the works should be completed within a period of 3 months from the date of its issue to the parties, which the tribunal considered was a reasonable time for completion of the works.
4. In view of the inability of the landlords to gain access for the work to be carried out and the possibility that an application for assistance will fall to be determined, before the works can commence, the tribunal considers that the works will not be completed within the time limit and accordingly determines that a variation of the RSEO is necessary to allow access to be gained and the works completed.
5. Accordingly the tribunal has determined *ex proprio motu* to vary the RSEO by extending the time limit therein by a further 6 months from the date of issue of this variation in terms of section 25(1)(a) of the Act.

Section 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

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**D Preston**

Chairman

12 June 2017