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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 561**

**HOUSING  
CRIMINAL LAW  
LOCAL GOVERNMENT**

**The Antisocial Behaviour Notice (Management  
Control Orders) (Scotland) Regulations 2005**

*Made - - - - 9th November 2005*  
*Laid before the Scottish*  
*Parliament - - - - 11th November 2005*  
*Coming into force - - 31st March 2006*

The Scottish Ministers, in exercise of the powers conferred by paragraph 3(3) of Schedule 3 to the Antisocial Behaviour etc. (Scotland) Act 2004<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Antisocial Behaviour Notice (Management Control Orders) (Scotland) Regulations 2005 and shall come into force on 31st March 2006.

(2) In these Regulations—

“the 2004 Act” means the Antisocial Behaviour etc. (Scotland) Act 2004;

“tenancy” means the tenancy or occupancy arrangement under which a house is occupied and

“tenant” shall be construed accordingly.

(3) A reference in these Regulations to an antisocial behaviour notice is a reference to the relevant antisocial behaviour notice for the purposes of a management control order issued by a sheriff under section 74(1) of the 2004 Act.

**Permitted Expenditure**

2.—(1) The Schedule to these Regulations lists the expenditure which a local authority may incur in respect of a house in respect of which a sheriff has made a management control order under section 74(1) of the 2004 Act.

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(1) 2004 asp 8.

(2) Any expenditure incurred by the local authority must be necessary and reasonable for the purposes of the operation of the management control order.

### **Recovery of Expenditure**

**3.—**(1) If, at any time during or after the management period<sup>(2)</sup> of a management control order, the local authority considers it necessary to recover expenditure incurred under the order from the relevant person<sup>(3)</sup>, it may do so only if—

- (a) expenditure exceeds income received in respect of the house to which the order relates at the time it considers recovery necessary; and
- (b) it has given notice of the intention to recover that debt to the relevant person.

(2) The notice referred to in paragraph (1) shall be in writing and given at least 14 days before any further steps to recover the expenditure are taken against the relevant person.

St Andrew's House, Edinburgh  
9th November 2005

*MALCOLM CHISHOLM*  
A member of the Scottish Executive

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(2) "Management period" is defined in paragraph 1(2) of Schedule 3 to the 2004 Act as the period specified in a management control order.

(3) "relevant person" is defined in paragraph 3(4) of Schedule 3.

## SCHEDULE

Regulation 2(1)

### Permitted Expenditure

1. Costs relative to the—
    - (a) management of the tenancy including the delegation of management functions under paragraph 5 of Schedule 3 to the 2004 Act;
    - (b) collection of rent or other consideration payable by or exigible from the tenant, including any steps taken under paragraph 4 of Schedule 3 to the 2004 Act;
    - (c) collection of any other sum due under the tenancy;
    - (d) the taking of any action, including court proceedings, in connection with the recovery of any of the costs referred to in (a) (c).
  2. Costs incurred for meeting repair and maintenance obligations of the landlord under the lease, occupancy arrangement or any enactment.
  3. Cost of works necessary to ensure the house meets the tolerable standard as defined by section 338 of the Housing (Scotland) Act 1987<sup>(4)</sup>.
  4. Any costs incurred with the consent of the relevant person.
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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the expenditure which a local authority may incur when a management control order made by a sheriff in terms of section 74 of the Antisocial Behaviour etc. (Scotland) Act 2004 is in place over a house. It also provides that a local authority may recover expenditure from a landlord any time when expenditure exceeds income.

Regulation 2 introduces the Schedule to these regulations and requires that any expenditure permitted in terms of the schedule must be considered necessary and reasonable.

Regulation 3 specifies the circumstances when the local authority can recover expenditure.

A Regulatory Impact Assessment has been prepared for these Regulations.

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<sup>(4)</sup> 1987 c. 26; section 86 defines the detail of tolerable standard. That section has been amended by section 102 of the [Housing \(Scotland\) Act 2001 \(asp 10\)](#).