

## **EXECUTIVE NOTE**

### **THE HOUSING (SCOTLAND) ACT 2006 (COMMENCEMENT NO. 7, SAVINGS AND TRANSITIONAL PROVISIONS) AMENDMENT ORDER 2010**

#### **S.S.I 2010/114**

1. This instrument is made in exercise of the powers conferred by sections 191(2) and 195(3) of the Housing (Scotland) Act 2006<sup>(1)</sup>.

#### **Policy Objectives**

2. The Housing (Scotland) Act 2006 (“the 2006 Act”) updates powers under the Housing (Scotland) Act 1987 (“the 1987 Act”) for local authorities to take enforcement action and provide support to owners to deal with issues of disrepair. The Housing (Scotland) Act 2006 (Commencement no. 7, Savings and Transitional Provisions) Order 2009 (“the commencement order”) was put in place to give local authorities a transitional period of a year to move from using the powers under the 1987 Act to using the new powers under the 2006 Act.
3. Some local authorities will still have a number of outstanding repair notices on 1 April 2010. This instrument amends the commencement order to allow existing repair notices and related recovery of expenses to be continued beyond 1 April 2010. It also amends the commencement order to ensure that interest on all non Right to Buy Loans issued under the 1987 Act can continue to be charged at a variable rate as provided for by s219.

#### **Provisions**

4. Article 4A of the Housing (Scotland) Act 2006 (Commencement No. 7, Savings and Transitional Provisions) Amendment Order 2010 (“the amendment order”) allows local authorities to enforce and recover expenses until 1 April 2012 in respect of repair notices that were issued before 1 April 2010.
5. Article 4B amends the commencement order to allow tenants to continue to recover expenses from landlords where they have completed work as part of a repair notice issued before 1 April 2010, or where they have paid local authority expenses incurred in carrying out such work.
6. Article 4C amends the commencement order to allow the person on whom the repair notice was served to appeal (within 21 days) against:
  - A repair notice which was issued before 1 April 2010;
  - A demand for recovery of expenses incurred by a local authority for repair notices issued before 1 April 2010;
  - An order made by the local authority in relation to these expenses; and
  - A charging order made under Schedule 9 of the 1987 Act in relation to these expenses.

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(1) 2006 asp 1.

7. Article 4D of the amendment order relates to appeals mentioned in article 4C and allows local authorities to continue to proceed with the notice, demand or order after the expiration of 21 days if no appeal is brought.
8. Article 4E of the Amendment Order has the effect of allowing local authorities to continue to use charging orders in relation to HMOs for notices requiring the execution of works. The notices can require certain works to be carried out, works to comply with management code, with standards and with the provision of means of escape from fire. The local authority can carry out the work themselves and recover expenses by making a charging order. This power will be repealed with the introduction of the HMO provisions within Part 5 of the Housing (Scotland) Act 2006.
9. Article 4F amends the commencement order to allow local authorities to charge variable interest as set by s219 of the 1987 Act on non Right to Buy loans.

### **Consultation**

10. Views of local authorities were sought on the impact of the transitional arrangements. A number of local authorities indicated that they wanted to continue to use provisions for repair notices and loans issued before 1 April 2010. The provisions in this Order will allow this.

### **Financial Effects**

11. After 1 April 2010, local authorities will no longer be required to issue mandatory grants under the 1987 Act to recipients of repair notices but will be able to give discretionary assistance under the 2006 Act. It will be therefore up to each local authority to decide what assistance it provides.
12. A regulatory impact assessment is therefore not considered necessary because the change will not necessarily have a financial impact on local authorities.