

## **POLICY NOTE**

### **THE HOUSING (SCOTLAND) ACT 2006 (REPAYMENT CHARGE AND DISCHARGE) AMENDMENT ORDER 2015**

#### **SSI 2015/144**

1. The above instrument was made in exercise of the powers conferred by section 174 of the Housing (Scotland) Act 2006 (“the 2006 Act”) and section 102 of the Housing (Scotland) Act 2014 (“the 2014 Act”).

#### **Policy Objectives**

2. Sections 172-174 of the 2006 Act contain provisions for repayment charges. Repayment charges allow local authorities to create a security for costs arising in connection with enforcement powers under the 2006 Act. A repayment charge is repayable in annual installments. Under the 2006 Act as introduced the number of installments was fixed at 30.

3. Section 91 of the 2014 Act amends section 172 of the 2006 Act. The amendment comes into force from 1 April 2015 under the Housing (Scotland) Act 2014 (Commencement No. 2) Order 2015 (S.S.I. 2015/122). The amendment allows a local authority to specify from 5 to 30 annual installments for the recovery of a repayment charge.

4. The policy intention is that people should live in good quality homes. The Scottish Government made a commitment in the Sustainable Housing Strategy to amend the powers of local authorities in Part 1 of the 2006 Act to require owners to repair their houses, in order to ensure that these powers are an effective and proportionate tool for enforcing necessary repairs in private housing. It is considered that the fixed period of 30 years for recovery of a debt under a repayment charge makes it an inflexible power and discourages its use by local authorities. The amendment protects the interests of home owners by also creating a right of appeal against the local authority’s determination of the repayment period.

5. Section 172(4) of the 2006 Act requires a local authority to register a repayment charge in the appropriate land register. Section 174 of the 2006 Act allows Scottish Ministers to prescribe a form for a repayment charge. This power was exercised in the Housing (Scotland) Act 2006 (Repayment Charge and Discharge) Order 2007 (S.S.I. 2007/419, “the 2007 Order”).

6. This order amends the form prescribed in the 2007 Order to correspond to the changes made by the 2014 Act and to ensure that the execution of a Repayment Charge is self proving.

#### **Commencement**

7. The Order comes into force on 11 May 2015. The amendment to the 2007 Order will take effect from that day.

## **Consultation**

8. Section 91 of the 2014 Act addresses an issue which was raised by stakeholders in their evidence to the Infrastructure and Capital Investment Committee during Stage 1 of the Parliamentary progress of the 2014 Act. In particular concerns were raised on behalf of local authorities that they were reluctant to use the repayment charge powers, despite the security afforded, because of the long repayment terms. Similar concerns were also raised during the Stage 1 debate on the Buildings (Recovery of Expenses) (Scotland) Act 2014. This debate referred to a recovery power under the Building (Scotland) Act 2003 which is similar to the repayment charge power under the 2006 Act. Evidence from local authorities presented during Stage 1 of the Buildings (Recovery of Expenses) (Scotland) Act 2014 was in favour of greater flexibility over the repayment period.

## **Impact Assessments**

9. A full Equality Impact Assessment was carried out on the 2014 Act as introduced on 21 November 2013. The impact assessment along with those produced for the individual policy areas that are in the 2014 Act can be found at:

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/reform/housing-bill/impact>

## **Financial Effects**

10. A full Business and Regulation impact assessment was carried out on the Bill as introduced on 21 November 2013. The impact assessment, along with those produced for the individual policy areas that are in the 2014 Act can be found at:

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/reform/housing-bill/impact>

Scottish Government  
Housing, Regeneration & Welfare Directorate  
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