

POLICY NOTE

THE PRIVATE RENTED HOUSING PANEL (LANDLORD APPLICATIONS) (SCOTLAND) REGULATIONS 2015

SSI 2015/403

The above instrument was made in exercise of the powers conferred by section 28B(1) and 28C(11) of the Housing (Scotland) Act 2006. The instrument is subject to affirmative procedure by virtue of section 191(4A) of the Housing (Scotland) Act 2006.

Policy Objectives

The repairing standard, contained in Part 1 Chapter 4 of the Housing (Scotland) Act 2006 covers the legal and contractual obligations of private landlords to ensure that a property meets a minimum physical standard.

Section 181(4) of the 2006 Act gives landlords the right of entry to a property in a relevant tenancy for the purposes of checking that the house meets the repairing standard or carrying out work needed to comply with the repairing standard duty or a repairing standard enforcement order.

Landlords have expressed concern about difficulties in obtaining entry to their properties in order to carry out inspections and repairs. Landlords can apply to the courts to enforce their legal right of entry but anecdotal evidence from landlords indicates that this can be time consuming.

Provisions in the Private Rented Housing (Scotland) Act 2011 introduced amendments to the 2006 Act to enable a landlord to apply to the private rented housing panel (“the panel”) for assistance in exercising their legal right of entry, in connection with the repairing standard. The aim of the policy is to help landlords who have not been able to access a property to do so without those landlords having to take legal action. The amendments enable a panel member to liaise between a tenant and a landlord to agree a date and time for access.

The Private Rented Housing (Scotland) Act 2011 (Commencement No.7) Order 2015 commences sections 35(1), (4) (for the purpose of enabling the Scottish Ministers to make regulations under 28B(1) and 28C(11)) and (8) of the 2011 Act on 22 September and the remainder of section 35 on 1st December 2015.

This instrument makes further provision about the making or determination of landlord applications to the Panel as follows:

| Provision | Effect |
|--------------|---|
| regulation 1 | Specifies that this instrument will come in to force on 1 December 2015. |
| regulation 2 | Gives meaning to specific terms in the Regulations and makes provision for the serving of formal communication on the representative of a party; the issue of formal communications by an officer of the panel on behalf of a panel member; and the use of electronic signatures. |

| Provision | Effect |
|--------------|---|
| regulation 3 | Requires that an application is made in writing and specifies the information that must be included within the application. Section 3 (3) requires the application form to be signed and dated by the landlord. Section 3 (4) specifies the additional evidence that must accompany an application under 28A. |
| regulation 4 | Allows a party to an application to act in person or be represented. |
| regulation 5 | Permits a landlord to withdraw an application at any time by serving a written notice on the tenant and the panel. |
| regulation 6 | Sets out the circumstances in which a panel member must decide to reject an application and specifies the information that must be included in the notification to the landlord to notify them of the decision. |
| regulation 7 | Permits the Panel member to allow the landlord to amend the application if the Panel member does not consider the person the landlord intends to authorise to enter the house to be a suitable person. |
| regulation 8 | Specifies information that must be included in the notice issued to the tenant and landlord when the panel member decides to assist the landlord under section 28A (3) of the 2006 Act. |
| regulation 9 | Sets out the information that must be included in the notice issued to the tenant and landlord where the panel member decides to stop assisting the landlord. |

Consultation

The Scottish Government carried out a series of policy consultations which informed the drafting of the Housing Bill. Full details of the consultations on the Housing Bill are available on the Scottish Government website at:

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

Further discussions with the Scottish Courts and Tribunals Service, the President of the PRHP, tenant and landlord representative bodies and individual landlords have helped to inform the content of this instrument.

Impact Assessments

An Equality Impact Assessment has been completed. The assessment did not identify any negative equality impact issues for any equality group. The results of the EQIA are attached to the policy note.

The screening process for the Child Rights and Wellbeing Impact Assessment for the implementation of this policy has been completed. Given the limited indirect impact of the policy on children and young people it would be disproportionate to undertake a CRWIA assessment. The findings of the CRWIA screening process will be made available on the Scottish Government website.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed. The Scottish Government considers that there will be no additional costs to landlords as a result of this policy. There will be additional costs for the Scottish Government, and these are set out in the BRIA attached to the policy note.

Scottish Government
Housing, Regeneration & Welfare Directorate
22 September 2015