

POLICY NOTE

THE PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016 (CONSEQUENTIAL PROVISIONS) REGULATIONS 2017

SSI 2017/405

The above instrument was made in exercise of the powers conferred by section 76(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). The instrument is subject to affirmative procedure.

Policy Objectives

The Act will introduce a new type of tenancy for all future lets in the private rented sector. The purpose of the new private residential tenancy is to improve security, stability and predictability for tenants and provide appropriate safeguards for landlords, lenders and investors.

The purpose of these draft Regulations is to make a number of incidental and consequential provisions considered appropriate to give full effect to the policy intentions which underpin the Act.

Regulation 2 amends the Local Government, Planning and Land Act 1980 to add a private residential tenancy to the list of other private tenancies which do not prevent an urban development corporation or local highway authority obtaining possession of a house where the Scottish Ministers have certified that the house is required for the purposes of urban development.

Regulation 3 makes a consequential amendment to the Housing (Scotland) Act 2010 to add a disposal by way of a lease under what would be a private residential tenancy, but for certain grounds in schedule 1 of the Private Housing (Tenancies) (Scotland) Act 2016, to the list of disposals for which a landlord does not require the consent of the Scottish Housing Regulator.

Regulation 4 makes a consequential amendment to the Bankruptcy (Scotland) Act 2016 to ensure that the definition of “the whole estate of the debtor” excludes the interest of the debtor as tenant under a private residential tenancy in the same way as other types of private tenancy are excluded.

Regulation 5 makes consequential amendments to the Letting Agent Code of Practice (Scotland) Regulations 2016 to ensure that the Code of Practice applies to private residential tenancies in the same way as it applies to other types of tenancy and occupancy arrangements.

Consultation

These Regulations makes provision which is consequential to the provisions and policy aims of the Act. Therefore, no additional consultation has been undertaken in relation to the Regulations.

The Scottish Government consulted extensively on the policy aims and provisions in the Act, including undertaking 2 public consultations which received over 10,000 responses in total.

Impact Assessments

An Equality Impact Assessment and a Children's Rights and Welfare Impact Assessment were undertaken in relation to the provisions in Private Housing (Tenancies) (Scotland) Bill prior to its introduction to the Scottish Parliament. The findings were:

Equality Impact Assessment

The Scottish Government found that none of the proposals are discriminatory and that there are no significant issues that we consider would impact negatively upon the various groups.

Children's Rights and Welfare Impact Assessment

The Scottish Government has found that none of the proposals impinge upon articles on the UNCRC or the indicators of wellbeing (SHANARRI) and that there are no issues that will impact negatively upon children and young people in the PRS.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) was undertaken in relation to the provisions in Private Housing (Tenancies) (Scotland) Bill prior to its introduction to the Scottish Parliament.

The Scottish Government does not consider that implementation of these Regulations will impose additional costs on tenants or landlords.

Scottish Government
Directorate for Housing and Social Justice

September 2017