
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of Part 9 (Allotments) of the Community Empowerment (Scotland) Act 2015 (“the Act”).

Part 2 of the Order (article 2) appoints the day for the coming into force, insofar as not already in force, of the provisions of the Act set out in the table in the schedule. The day for the coming into force of these provisions is 1st April 2018.

Part 3 makes saving provisions. Article 3 makes saving provision as regards allotment managers appointed under section 6(3) of the Allotments (Scotland) Act, 1892. It provides that notwithstanding the repeal of this provision, it has no effect to the extent set out in paragraph (3) in circumstances where, before the day on which the first regulations made by the local authority in question under regulation 115(1) of the Act come into force, that authority has appointed and not removed from office allotment managers. Article 4 makes saving provision as regards provisions of primary legislation which are amended by section 144(1) and schedule 4 of the Act. Articles 5 to 11 make saving provisions as regards provisions of primary legislation which are repealed by section 144(2) and schedule 5 of the Act. The provisions under articles 4 to 11 are saved in relation to the local authority in question until the day on which the first regulations made by that local authority under section 115(1) of the Act come into force.

Part 4 (article 12) makes transitional provision as regards valid written requests to lease an allotment which are received but not determined by an authority, or a tenant of an authority, by the relevant date. Article 12(3) provides that such requests are treated as having been made under section 109 on the relevant date; and the name of the person making the request included on the list under section 111(1) with due regard to the order of priority established by the authority in relation to requests received before commencement of sections 109 and 111. The relevant date for the purposes of this article is the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force.

Part 5 makes transitory provisions as regards a number of the provisions of Part 9, modifying on a transitory basis the effect of these provisions until such time as the local authority in question has brought into force its first regulations under section 115(1) of the Act. This is because there are some provisions in Part 9 of the Act which are dependent upon, or related to, allotment site regulations made by local authorities under section 115(1) and which cannot operate until those regulations are in force. Each local authority may make its first section 115(1) regulations at any date within two years of section 115 coming into force. Article 15 makes transitory provision as regards section 112(1)(b). This provision requires local authorities, when certain trigger points are reached, to take reasonable steps to ensure that a person entered on the list maintained under section 111(1) does not remain in the list for a continuous period of more than 5 years. Article 15 provides that this will have no effect, in relation to a local authority as regards its local authority area, until 8 years after the relevant date. This is to give effect to a commitment given in Parliament during the passage of the Bill that the effect of section 112(1)(b) would be delayed by way of the commencement arrangements.

The Bill for the Act received Royal Assent on 24th July 2015. Sections 141 to 143, 145 and 146 came into force the following day.