

EXECUTIVE NOTE

THE HOUSING (SCOTLAND) ACT 2006 (COMMENCEMENT NO. 7, SAVINGS AND TRANSITIONAL PROVISIONS) ORDER 2009 SSI/2009/122(C.9)

1. The above instrument was made in exercise of the powers conferred by sections 191(2) and 195(3) of the Housing (Scotland) Act 2006(a).

Policy Objectives

2. The enforcement and assistance provisions in Parts 1 and 2 of the Housing (Scotland) Act 2006 give local authorities modernised powers to tackle poor private sector housing and to provide assistance to owners seeking to repair, improve or adapt their home.
3. Reflecting the recommendations of the Housing Improvement Task Force in 2003, a key policy objective of the Act is to affirm that the primary responsibility for maintaining private housing lies with the owner. Against this background, an important aim is to encourage local authorities to move away from a “grant or nothing” approach and instead provide a wider range of assistance to owners wanting to repair and improve their home.
4. As part of this approach, the Act breaks the link between enforcement action and mandatory grant, meaning that a local authority taking action against an owner is obliged to offer assistance but not necessarily in the form of a grant.
5. A further key objective of the Act is to make a clear distinction between help with repairs and improvements and help with adaptations to the home of a disabled person. Through Part 2 of the Act and the Housing (Scotland) Act 2006 (Scheme of Assistance) Regulations 2008, a simpler and fairer system of financial assistance with adaptations is being introduced on 1 April 2009. The Regulations were the subject of a separate Executive Note and Regulatory Impact Assessment, which can be found at http://www.opsi.gov.uk/legislation/scotland/ssi2008/en/ssien_20080406_en.pdf
6. The Commencement Order has a number of purposes:
 - It brings into force on 1 April 2009 the enforcement and assistance provisions in Parts 1 and 2 of the Act
 - It signals the repeal of most of the relevant existing provisions in the Housing (Scotland) Act 1987. The repeal will be on 1 April 2010 in order to allow local authorities a transitional year in which they can choose the point at which they move fully to the new powers
 - It makes “savings” provisions which allow certain actions after repeal: for example, it allows grant to be paid after repeal where the grant was approved (under the 1987 Act) before repeal.

7. The Scottish Government consultation “The Housing (Scotland) Act 2006: Guidance for local authorities” sought views on draft guidance and regulations to support local authorities in the implementation of the new powers.
8. The consultation ran from 9 April to 1 July 2008, with consultation events held in Dundee, Glasgow, Edinburgh and Inverness. Two focus group events, with people from black and minority ethnic communities and disabled people, were held in June. A total of 84 responses to the consultation were received. Copies of the non-confidential responses are available via the Scottish Government library (0131 244 4565 or SELibrary@scotland.gsi.gov.uk for more information).
9. The responses were analysed by an independent consultant. The analysis, including an executive summary, can be viewed at www.scotland.gov.uk/Publications/Recent. The four page Research Findings can be accessed at <http://www.scotland.gov.uk/Publications/2008/12/09133750/>.
10. A key issue on which local authorities were consulted was the timing of the implementation of the new provisions. Contact with local authorities prior to the formal consultation indicated that a transitional period would be welcomed as it would give authorities time to prepare to move to the new provisions. The consultation proposed a six month transitional period, but the great majority of local authorities, along with COSLA, argued that a twelve month period would be more appropriate. Ministers subsequently decided that the transitional period should run from 1 April 2009 to 31 March 2010, with some limited longer transitions such as those allowing Housing Action Areas to continue operating until 2012.
11. At a later stage, local authorities were consulted informally on the details of the savings provisions, as a result of which the provisions in the Commencement Order are expected to be particularly helpful to authorities in managing the transition to the new powers.

Financial Implications

12. A full Regulatory Impact Assessment (RIA) has been prepared in relation to the guidance issued to local authorities in February and March 2009 on implementation of the Act. The RIA is available via the Scottish Government library (0131 244 4565 or SELibrary@scotland.gsi.gov.uk for more information).

Equalities Impact Assessment

13. An Equalities Impact Assessment has been prepared in relation to the guidance issued to local authorities, and can be found on the Scottish Government website at www.scotland.gov.uk

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