
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 458

**The Community Empowerment (Scotland)
Act 2015 (Commencement No. 10, Saving,
Transitional and Transitory Provisions) Order 2017**

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Community Empowerment (Scotland) Act 2015 (Commencement No. 10, Saving, Transitional and Transitory Provisions) Order 2017 and comes into force on 1st April 2018.

(2) In this Order—

“the Act” means the Community Empowerment (Scotland) Act 2015; and

“the 1892 Act” means the Allotments (Scotland) Act, 1892(1).

PART 2

Appointed day

Appointed day

2. The day appointed for the coming into force, insofar as not already in force, of the provisions of the Act specified in column 1 of the table in the schedule (the subject matter of which is described in column 2 of that table) is 1st April 2018.

PART 3

Saving provisions

Saving provisions

3.—(1) Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far as relating to the repeal of section 6 of the 1892 Act (management of allotments), section 6(3) and (4) of the 1892 Act continue to have effect in relation to each local authority—

(a) in the circumstances mentioned in paragraph (2); and

(b) for the purposes mentioned in paragraph (3).

(2) The circumstances mentioned in this paragraph are 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 local authority has, in accordance with section 6(3) of the 1892 Act, appointed and not removed from office allotment managers.

(3) The purposes mentioned in this paragraph are—

- (a) the continuation in force of section 6(3) of the 1892 Act in relation to the continuing appointment of, and power to remove from office, allotment managers; and
- (b) the continuation in force of section 6(4) of the 1892 Act in relation to allotment managers mentioned in paragraph (2), until such time as all such allotment managers appointed by the local authority in question have been removed from office.

4.—(1) Notwithstanding the commencement of section 144(1) and schedule 4 of the Act, so far as relating to the provisions of schedule 4 of the Act mentioned in paragraph (2), the amendments made by those provisions do not have effect in relation to each local authority until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force.

(2) The provisions of schedule 4 of the Act mentioned in this paragraph are—

- (a) paragraph 2 (Compensation (Defence) Act 1939);
- (b) paragraph 4(3)(b) to (d) (Opencast Coal Act 1958); and
- (c) paragraph 5(a) (Local Government (Scotland) Act 1973).

5.—(1) Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far as relating to the repeal of the 1892 Act, subject to article 3, the provisions of the 1892 Act mentioned in paragraph (2) continue to have effect in relation to each local authority until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force.

(2) The provisions mentioned in this paragraph are—

- (a) section 1;
- (b) section 6;
- (c) section 7(4), (5) and (6);
- (d) section 8(2);
- (e) section 16; and
- (f) section 17.

6.—(1) Notwithstanding the commencement of 144(2) and schedule 5 of the Act, so far as relating to the repeal of the Land Settlement (Scotland) Act, 1919, the provisions of the Land Settlement (Scotland) Act, 1919 mentioned in paragraph (2) continue to have effect in relation to each local authority until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force.

(2) The provisions mentioned in this paragraph are—

- (a) section 23; and
- (b) section 24.

7.—(1) Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far as relating to the repeal of the Allotments (Scotland) Act 1922, the provisions of the Allotments (Scotland) Act 1922 mentioned in paragraph (2) continue to have effect in relation to each local authority until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force.

(2) The provisions mentioned in this paragraph are—

- (a) section 1;
- (b) section 2;
- (c) section 3;
- (d) section 4;
- (e) section 6(1)(b), (d) and (e);
- (f) section 19; and
- (g) section 21.

8.—(1) Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far as relating to the repeal of the Allotments (Scotland) Act 1950, the provisions of the Allotments (Scotland) Act 1950 mentioned in paragraph (2) continue to have effect in relation to each local authority until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force.

(2) The provisions mentioned in this paragraph are—

- (a) section 1;
- (b) section 2;
- (c) section 3;
- (d) section 4;
- (e) section 5;
- (f) section 7;
- (g) section 8;
- (h) section 9;
- (i) section 10;
- (j) section 13; and
- (k) section 15.

9. Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far as relating to the partial repeal of paragraph 10(h) of the Eighth Schedule of the Opencast Coal Act 1958, paragraph 10(h) of that Eighth Schedule continues to have effect without that partial repeal in relation to each local authority until the day on which the first regulations made by the authority in question under section 115(1) of the Act come into force.

10. Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far as relating to the repeal of paragraphs 16 to 20, 54 and 58 to 60 of schedule 27 of the Local Government (Scotland) Act 1973, paragraphs 16 to 20, 54 and 58 to 60 of that schedule 27, continue to have effect in relation to each local authority until the day on which the first regulations made by the authority in question under section 115(1) of the Act come into force.

11. Notwithstanding the commencement of section 144(2) and schedule 5 of the Act, so far relating to the repeal of paragraphs 6, 12 and 35 of schedule 13 of the Local Government etc. (Scotland) Act 1994, paragraphs 6, 12 and 35 of that schedule 13 continue to have effect in relation to each local authority until the day on which the first regulations made by the authority in question under section 115(1) of the Act come into force.

PART 4

Transitional provision

Transitional provision

12.—(1) Paragraph (3) applies in relation to each local authority where, at the relevant date, a request has been received—

- (a) by the local authority to lease an allotment from that authority; or
- (b) by a tenant of the local authority to sub-lease an allotment from that tenant,

and the conditions in paragraph (2) apply.

(2) The conditions are that the request—

- (a) is in writing;
- (b) is a valid request; and
- (c) has not been determined before the relevant date.

(3) Where this paragraph applies—

- (a) the request is to be treated as a request made to the authority under section 109(1) of the Act on the relevant date; and
- (b) the name of the person who has made the request is to be entered in the list established and maintained by the authority under section 111(1) of the Act, with due regard to the order of priority established by the authority in relation to the requests mentioned in paragraph (1).

(4) For the purposes of this article—

“determined” means that an offer to lease an allotment has been made in respect of the request mentioned in paragraph (1)(a) or (b);

“the relevant date” means the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force;

“valid request” means a request made by any person to an authority, or to a tenant of an authority, that would otherwise fulfil the requirements of a request under section 109(1) of the Act; and

“writing” includes an electronic communication within the meaning of section 15(1)(general interpretation) of the Electronic Communications Act 2000(2).

PART 5

Transitory provisions

Transitory provisions

13. Notwithstanding the commencement of the provisions of the Act specified in column 1 of the table in the schedule, the transitory provisions specified in articles 14 to 21 have effect.

14.—(1) Section 109(1) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force, no request may be made before that date under section 109(1) of the Act to that local authority by a person who resides in the area of that authority.

15.—(1) Section 112(1)(b) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the expiry of the period of 8 years beginning with the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force, the duty imposed by section 112(1)(b) of the Act does not have effect in relation to that authority.

16.—(1) Section 117(2) and (6) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force—

- (a) the prohibition in section 117(2) of the Act on a local authority does not have effect in relation to that authority; and
- (b) section 117(6) of the Act does not have effect.

17.—(1) Section 118(2) and (7) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force—

- (a) the prohibition in section 118(2) of the Act on a local authority does not have effect in relation to that authority; and
- (b) section 118(7) of the Act does not have effect.

18.—(1) Section 121(2) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force, the following paragraphs in section 121(2) of the Act do not have effect in relation to that authority:—

- (a) paragraph (i);
- (b) paragraph (j);
- (c) paragraph (k);
- (d) paragraph (l);
- (e) paragraph (m); and
- (f) paragraph (p).

19.—(1) Section 127(2) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force, the conditions in section 127(2)(a) to (c) of the Act do not have effect in relation to that authority.

20.—(1) Section 128(2) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

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(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force, section 128(2) of the Act does not have effect in relation to that authority.

21.—(1) Section 134(2) of the Act has effect in relation to each local authority subject to the provisions of paragraph (2).

(2) Until the day on which the first regulations made by the local authority in question under section 115(1) of the Act come into force, section 134(2) of the Act does not have effect.

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