

POLICY NOTE

THE HOUSING (SCOTLAND) ACT 2014 (COMMENCEMENT NO.1, TRANSITIONAL AND SAVING PROVISIONS) ORDER 2014

SSI 2014/264 (C. 24)

1. The above instrument was made in exercise of the powers conferred by section 104(3) to (5) of the Housing (Scotland) Act 2014 (“the 2014 Act”). It is laid under section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010.

Policy Objectives

2. The instrument forms the first part of an implementation package for the 2014 Act. The provisions in the Act will be commenced in several stages.

3. The policy intention is that the Scottish Ministers should be able to take forward the work needed to consult with stakeholders to develop guidance, orders and regulations in relation to the different policy areas in the 2014 Act.

4. This Order makes 1 August 2016 the date that the provisions which will end right to buy will come into effect; a significant day in terms of safeguarding existing social rented housing. This is the earliest date permitted by section 104(4) of the 2014 Act.

Transitional Provision: Registered Social Landlord becoming a Subsidiary of Another Body

5. The purpose of section 98 of the 2014 Act is to ensure that the tenants of a registered social landlord (RSL) are consulted by their landlord before the landlord becomes a subsidiary of another body. Section 98 will come into force on 20 November 2014. Where an RSL proposes to make such arrangements to become a subsidiary after that date, then the RSL will be required to comply with the provisions introduced by section 98.

6. The transitional provision in article 3 provides an exception for cases where, before 20 November 2014, a RSL has applied to the Scottish Housing Regulator under section 93 of the Housing (Scotland) Act 2010 for its consent to a change of constitution. In such cases the Regulator is to consider the application by reference to section 93 of the 2010 Act alone.

Saving Provisions: Right to Buy

7. One of the policy objectives is that the ending of the Right to Buy (RTB) social housing should be marked by a minimum two year notice period from the date of Royal Assent for the 2014 Act. This is set out in section 104(4) of that Act. Royal Assent was received on 1 August 2014. The principal repeal of the Right to Buy is contained in section 1(1) of the 2014 Act and this together with other related consequential amendments are commenced on 1 August 2016. Anyone who is eligible for the Right to Buy will be able to exercise that right up to and including 31 July 2016. The saving provision in article 4 means that where an application to purchase has been submitted before 1 August 2016, it can continue to be progressed under the legislation that is otherwise revoked. It also ensures that a person who

has purchased a property at a discount requires to repay some or all of that discount in any subsequent sale or disposal of the property within three years of purchase.

8. Section 2 of the 2014 Act makes two amendments to the Housing (Scotland) Act 2010 that will only apply until RTB ends. The amendment made to section 61F of the 2010 Act ensures that existing tenants moving to a new-supply house after 1 March 2011 continue to have the RTB where the move was in circumstances out-with their control, irrespective of when their tenancy was created.

9. The saving provision at article 5 means that section 61F of the 2010 Act, without the amendment made by section 2 of the 2014 Act, continues to apply to applications to purchase that are served before 20 November 2014.

Saving provision: Minor and Consequential repeals: Rent (Scotland) Act 1984

10. Paragraph 3 of schedule 2 to the 2014 Act makes amendments to the Rent (Scotland) Act 1984 which remove the provision for repossession of certain farm tenancies based on a certificate granted by the Scottish Minister. The saving provision in article 5 means that that provision for repossession is still available where a certificate has been granted by the Scottish Ministers before 20 November 2014.]

Commencement

11. The Schedule to the Order details the sections, and paragraphs of Schedules, to be commenced, the date they are to be commenced and in some cases the purposes for which they are to be commenced. The policy objective when drafting the Bill was that the Scottish Ministers should develop guidance, orders and regulations through consultation with stakeholders. The provisions that come into force on 13 November, and many of those that come into force on 20 November, will enable Ministers to take forward such consultation, and in appropriate cases to make orders or regulations, ahead of substantive commencement of provisions of the 2014 Act.

12. The Order comes into force on 13 November 2014 with **sections 86(1) and 86(2)** of the 2014 Act coming into force on the same day. The intention is for section 86 to be commenced for the purposes of the amendments it makes to both the Title Conditions (Scotland) Act 2003 and the Tenements (Scotland) Act 2004, in order to enable the Scottish Ministers to make an order under section 10A(3B)(a) of 2003 Act and an order under section 13(3B)(a) of the 2004 Act. The Order also appoints 16 December 2014 for **section 86** to come into force for all remaining purposes.

13. The remainder of the provisions detailed in the Schedule come into force variously on 20 November 2014, 1 August 2016 and 1 July 2017.

Consultation

14. During 2012, the Scottish Government carried out a series of policy consultations which informed the drafting of the Housing Bill. Overall stakeholders supported the proposals to end the right to buy with many arguing that the notice period should be less than two years. However, the Scottish Ministers considered that a two year period was fair and

reasonable and balanced the need to safeguard existing social housing with the rights of individuals who are able to do so to exercise their option to buy their home.

15. 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>

Impact Assessments

16. A full Equality Impact Assessment was carried out on the Bill as introduced on 21 November 2013. The impact assessment along with those produced for the individual policy areas that are in the 2014 Act can be found at:

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

Financial Effects

17. A full Business and Regulation impact assessment was carried out on the Bill as introduced on 21 November 2013. The impact assessment, along with those produced for the individual policy areas that are in the 2014 Act can be found at:

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

Scottish Government
Housing, Regeneration & Welfare Directorate
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