

POLICY NOTE

THE PRIVATE RENTED HOUSING PANEL (TENANT AND THIRD PARTY APPLICATIONS) (SCOTLAND) REGULATIONS 2015

SSI 2015/369

1. The above instrument was made in exercise of the powers conferred by paragraph 8 of schedule 2 to the Housing (Scotland) Act 2006. The instrument is subject to negative procedure.

Policy Objectives

2. The repairing standard, contained in Part 1 Chapter 4 of the Housing (Scotland) Act 2006 covers the legal and contractual obligations of private landlords to ensure that a property meets a minimum physical standard.

3. Local authorities have highlighted to the Scottish Government, the problems that poor quality Private Rented Sector (PRS) properties are causing for individual tenants, neighbours and communities in terms of environmental and antisocial behaviour issues.

4. Sections 25 to 27 of the Housing (Scotland) Act 2014 introduced provisions for third party reporting to the Private Rented Housing Panel (“the Panel”). This will enable local authorities to make an application to the Panel to enforce the repairing standard, as a means of tackling the problems associated with poor quality housing. A new power of entry for local authorities to inspect properties they suspect of failing to meet the repairing standard will enable them to gather the evidence needed to decide whether to make an application.

5. The discretionary powers will enable local authorities to tackle the problems caused by sub-standard housing in the light of local priorities and local housing strategies.

6. The Housing (Scotland) Act 2014 (Commencement No.4 and Amendment) Order 2015 was laid before the Scottish Parliament on 12 October and comes into force on 30 November. The instrument sets out the three appointed dates (1 December 2015; 1 April 2016; and 1 June 2016) for the commencement of section 25(1)(a) of the 2014 Act for the purpose of applications from specified local authorities.

7. This instrument makes further provision about the making and determination of tenant applications to the Panel under section 22(1) of the Housing (Scotland) Act 2006, and third party applications under section 22 (1A) of the Housing (Scotland) Act 2014.

Consultation

8. The independent evaluation of the operation of landlord registration, which sought views from local authorities and was published in July 2011, recommended that third party reporting rights to the Panel should be introduced.

9. Following public consultation in 2012, the Scottish Government engaged directly with key organisations and groups including the private landlord representatives on the Private Rented Sector Strategy Group (including Shelter Scotland, Chartered Institute of Housing,

Association of Local Authority Chief Housing Officers and Scottish Land and Estates; the Scottish Association of Landlords; COSLA and individual local authorities). The role of the Panel was highlighted as an area where access to justice should be enhanced by introduction of powers to enable third party reporting to the Panel.

10. The policy was also discussed with stakeholders during workshops held as part of consultation on the Housing (Scotland) Bill. No significant concerns about the policy were raised by landlord representatives at those events.

11. The Scottish Government consulted with all 32 local authorities and the responses indicated widespread support for powers to enable third party applications to the Panel. The discretionary nature of the powers will enable authorities to decide when and how the powers may be used in the light of local priorities. Access to the Panel is seen as an additional tool for addressing problems of poor property condition for current and future tenants and in the wider public interest.

Impact Assessments

12. Equality (EQIA) and Child Rights and Wellbeing Impact Assessments (CRWIA) have been completed. The results of the EQIA demonstrate that there are no potentially negative impacts of the proposals for the equality groups within the PRS. The CRWIA highlighted the potential positive indirect impact on children and young people living in PRS households, and a more direct positive impact for young people who were tenants. The Scottish Government considers that there are no equality impact issues and that the policy will have a positive impact on the human rights and wellbeing of children and young people in Scotland. The impact assessments will be published on the Scottish Government's website.

Financial Effects

13. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached to this Policy Note. The BRIA outlines the financial impact of the policy on the Scottish Government and estimates the level of funding needed to support the Panel in taking on new third party application functions.

14. The policy is intended to help with enforcement of existing repairing standard duties and so the Scottish Government considers that there will be no additional costs to responsible landlords as a result of this policy.

Scottish Government
Housing, Regeneration & Welfare Directorate
October 2015