POLICY NOTE

THE HOUSING (SCOTLAND) ACT 2006 (MODIFICATION OF THE REPAIRING STANDARD) AMENDMENT REGULATIONS 2020

SSI 2020/XXX

The above instrument was made in exercise of the powers conferred by section 20A of the Housing (Scotland) Act 2006. The instrument is subject to affirmative procedure.

Purpose of the instrument.

This instrument amends the commencement date of a provision in the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019, which removes the duty on private landlords in relation to providing fire and smoke alarms and carbon monoxide alarms, from 1 February 2021 to 1 February 2022.

Policy Objectives

The policy intention is that private rented housing should be safe for tenants, by having a minimum provision for fire and smoke alarms and carbon monoxide detectors. The repairing standard under section 13 of the 2006 Act sets out this minimum standard.

The Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 amends provisions relating to the repairing standard in sections 12 and 13 of the 2006 Act. Among other provisions, the 2019 Regulations will remove the duty on private landlords in relation to providing fire and smoke alarms and carbon monoxide alarms, as that duty will form part of the tolerable standard under the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019 (SSI 2019/8). The change to the tolerable standard affects all housing, and introduces a new minimum standard for owner occupied housing.

The commencement date of the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019 will be amended by the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Amendment Order 2020.

The Scottish Government considers that, due to the Covid-19 pandemic, some home owners will have difficulty organising work, or are concerned about having people coming into their homes to carry out work. The Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Amendment Order 2020 will postpone the commencement date of the change to the tolerable standard by one year.

These regulations is to postpone the consequential amendment of the duty in relation to fire and smoke alarms and carbon monoxide detectors in the repairing standard, so that it coincides with the postponed date for changes to the tolerable standard..

Consultation

The Minister for Local Government, Housing and Planning wrote to the Convener of the Local Government and Communities Committee of the Scottish Parliament on 20 October

2020, to advise of the intention of seeking Parliament's approval to delay the commencement of the changes to the tolerable standard. The Minister also wrote to all MSPs advising of the same. Correspondence received from MSPs and stakeholders has suggested that a postponement by a year would be helpful due to the current pandemic.

Impact Assessments

No impact assessment for these regulations has been carried out. We consider that these regulations have the effect of ensuring continuity in the standard required in private rented housing and therefore have no impact on private landlords.

Financial Effects

The Minister for Local Government, Housing and Planning confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Housing and Social Justice Directorate

November 2020