POLICY NOTE

THE REGISTERED SOCIAL LANDLORDS (REPAYMENT CHARGES) (SCOTLAND) REGULATIONS 2018

SSI 2018/

The above instrument was made in exercise of the powers conferred by section 174A(1) of the Housing (Scotland) Act 2006 ("the 2006 Act") and all other powers enabling them to do so. The instrument is subject to affirmative parliamentary procedure.

Background

The Housing (Scotland) Act 2014 ("the 2014 Act) received Royal Assent on 1 August 2014. Section 85(3) of the 2014 Act inserted a new section 174A in the 2006 Act from 20 November 2014 (SSI 2014/264). Section 85(4) of the 2014 Act amended section 191(5) of the 2006 to provide that regulations made under section 174A are subject to affirmative procedure.

Policy Objectives

The policy intention is that people should live in good quality homes. The policy objective is to address a barrier to carrying out repair and maintenance work to common parts of residential buildings which are part-owned by registered social landlords. The Tenement Management Scheme set out in schedule 1 of the Tenements (Scotland) Act 2004 allows work to be carried out if there is a decision in favour by a majority of owners. A majority decision can be enforced by any owner, but this may be difficult in practice if an owner is unwilling or unable to contribute to their share of the cost of the work ("a missing share").

Section 174A of the 2006 Act allows Scottish Ministers to make regulations which allow registered social landlords to create a repayment charge to recover a missing share. Repayment charges allow registered social landlords to create a security for costs arising in connection with liabilities arising under the Tenement Management Scheme set out in schedule 1 of the Tenements (Scotland) Act 2004. A repayment charge is repayable in annual or monthly installments over a period of 5 to 30 years.

These powers are similar to the existing powers of local authorities to recover missing shares under sections 172-174 of the 2006 Act, as amended by section 91 of the 2014 Act.

The Scottish Government will prepare guidance for registered social landlords which will be published before these provisions come into force.

Appointed Day

These Regulations come into force on 27 October 2018.

Consultation

Section 174A(3) of the 2006 Act provides that before Scottish Ministers make regulations under section 174A they must have consulted with bodies representing local authorities, registered social landlords and such other persons as they think fit. The Scottish Government carried out a consultation on this issue, and a copy of the consultation report is published online at https://beta.gov.scot/publications/registered-social-landlord-missing-share-consultation/.

Impact Assessments

An Equality Impact Assessment (EQIA) and was carried out on the provisions in the 2014 Act. It is not considered that any additional EQIA need be done for this Order. For the EQIA that was undertaken for the Act, please see http://www.gov.scot/Publications/2013/11/5195/1.

Financial Effects

Because the enabling provisions for this measure were introduced as a non-government amendment to the 2014 Act, it is not covered by any of the Business and Regulatory Impact Assessments (BRIAs) prepared to accompany the Act. The consultation responses indicate although registered social landlords consider it to be useful to have this additional power, the use of repayment charges is likely to be limited in practice.

Scottish Government
Housing and Social Justice Directorate

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