POLICY NOTE

THE RELEVANT ADJUSTMENTS TO COMMON PARTS (DISABLED PERSONS) (SCOTLAND) AMENDMENT REGULATIONS 2021

SSI 2021/XXX

The above instrument is made in exercise of the powers conferred by section 37 of the Equality Act 2010 and by all other enabling powers. The instrument is subject to the affirmative procedure.

This instrument amends The Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 to provide time-limits for the various parts of the process enabling disabled persons to make relevant adjustments to common areas as originally intended by the existing legislation. It will also specify that, where an owner of the common parts consents to the proposed works subject to conditions, the disabled person must confirm whether they accept or reject the conditions.

Policy objective

These regulations make minor technical amendments to the Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 ("the principal regulations"). Amending the principal regulations ensures that the legislation is aligned to our original policy intent that the disabled person can carry out adjustments to the common parts of a property in which they have an interest, provided they make an application to all owners of the common parts and obtain the consent of a majority of the owners.

Regulation 3(4) of the principal regulations provides that adjustments cannot proceed until either the deadline for raising an appeal has passed with no appeal being raised or, where an appeal has been raised timeously, that appeal has been determined. The principal regulations do not currently provide a deadline for raising an appeal. These amendment regulations will correct this oversight and provide a 28 day period within which an appeal can be raised. This is intended to clarify the process and ensure that there is a clear and unambiguous time-frame from initial application through to commencement of the works.

The amendment regulations will also provide a specified time-period within which the disabled person must send, to each owner, a notice of the majority decision of all owners. The minimum period which must pass before the notice is sent will ensure that all owners are given adequate time to respond before the majority decision is determined. The maximum period within which the notice can be sent will also ensure that the process doesn't stall at any stage, the owners are kept informed of progress and the deadline for raising an appeal can be clarified (28 days from the date on which the notice is sent).

The amendment regulations will also require the notice of majority decision to specify whether any conditional consent granted by an owner in relation to the adjustment is accepted by the disabled person and, if not, why the condition is rejected. This will also provide clarity for the owners and keep the process moving by enabling an appeal to be raised by an owner or the disabled person in relation to that conditional consent.

Consultation
Consultation was undertaken prior to the introduction of the Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020. A further consultation exercise has not been undertaken in relation to this instrument.

Impact Assessments
Impact assessments were carried out and published prior to the introduction of The Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020. It is not considered necessary to carry out further impact assessments given the uncontentious nature of this minor amendment.

Housing and Social Justice Directorate
October 2021