POLICY NOTE

THE SCOTLAND ACT 1998 (TRANSFER OF FUNCTIONS TO THE SCOTTISH MINISTERS ETC.) ORDER 2014

SI 2014/2918

1. The above instrument will be made by Her Majesty in Council in exercise of the powers conferred upon Her by sections 63(1), 113(3), (4), (5) and 124(2) of the Scotland Act 1998

2. The instrument is, by virtue of section 115 of, and Schedule 7 to, that Act, subject to affirmative procedure in both Houses of the UK Parliament and in the Scottish Parliament

Background

3. The UK Government has legislated to provide local authorities across Great Britain with the ability to grant Discretionary Housing Payments (DHPs) to claimants in their areas who are entitled to Housing Benefit or the housing element of Universal Credit, and who appear to need further financial assistance to meet housing costs not covered by Housing Benefit or Universal Credit. Local authorities are able to exercise broad discretion to determine how and when DHPs are awarded. Each financial year the UK Government makes a contribution to the cost of DHP awards, and local authorities are able to add to this contribution, subject to a formula-based cap.

4. The power of the Secretary of State for Work and Pensions to set the cap on the amount local authorities may spend on DHPs in a financial year is found in section 70(3)(a) of the Child Support, Pensions and Social Security Act 2000. Pursuant to this the cap is set out in the Discretionary Housing Payments (Grants) Order 2001.

5. The Scottish Ministers have requested that local authorities are permitted to spend additional funds on DHPs in Scotland and, therefore, desire the statutory cap on DHPs to be raised or removed.

6. This Order transfers, from the Secretary of State for Work and Pensions to the Scottish Ministers, the function which can be used to set the overall limit on the total amount of expenditure that may be incurred by a local authority in Scotland in awarding DHPs.

7. The function transferred by this Order will enable the Scottish Ministers, by order, to determine the limit on the total amount of expenditure that may be incurred by a Scottish local authority in making DHPs in the financial years 2014/15 onwards. That will enable them to fulfil the Scottish Parliament's intention in passing the Budget (Scotland) (No 3) Act 2014, which gives Scottish local authorities additional funding to spend on DHPs.

8. The power of the Scottish Ministers to set the cap on DHPs will be for the financial years 2014/15 onwards.

Consultation

9. No consultation has been carried out specific to this Order. The UK and Scottish Government departments with responsibility for the legislation which this Order affects have

been consulted during the drafting of this Order. All amendments contained in this Order have the approval of the Department for Work and Pensions and the Scottish Government.

Financial Effects

10. There will be no additional financial implications/costs as a result of this Order.

Scottish Government
Directorate for Housing, Regeneration and Welfare
May 2014