

## **EXECUTIVE NOTE**

### **The Antisocial Behaviour etc. (Scotland) Act 2004 (Commencement and Savings) Amendment Order 2006 SSI/2006/104 (C.13)**

#### **Background**

Parts 7 and 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 provide a package of measures relating to private sector landlords. Mandatory registration under Part 8 will give tenants in the private rented sector an assurance of letting from landlords who are fit and proper to be letting houses, and local authorities effective powers to act against landlords who are not fit and proper to be letting, including sanctions should such landlords not make necessary changes to their practices or letting arrangements. Provisions under both Parts 7 and 8 give local authorities powers to take action where a landlord fails to adopt normal good management practice to address antisocial behaviour by tenants.

The initial intention contained in the Commencement Order (SSI 2004/420) for the 2004 Act as a whole was to commence these provisions in November 2005. It had not been possible to consult on the details of landlord registration because mandatory registration was introduced by a stage 2 Bill amendment. As work on implementation proceeded with a stakeholder group, complex issues arose around the detailed implications of registration in certain circumstances. It also became clear that there would be considerable cost savings and practical benefits for landlords and local authorities alike if the Scottish Executive provided a central, internet-based, processing system to receive applications and support local authorities' individual registers and decision-making processes.

To allow that system to be developed, draft the necessary regulations after full consultation, and make adjustments to the 2004 Act's provisions in the Housing (Scotland) Bill, it was decided in May of 2005 to move the commencement date from 15 November 2005 to 31 March 2006. An amending Commencement Order (SSI 2005/553) was made in November alongside the package of subordinate legislation considered by the Committee.

#### **Reason for amendment order**

Work on implementation has proceeded satisfactorily on the tight timetable needed to achieve the 31 March deadline, with one exception. Unfortunately difficulties emerged at a late stage over the commercial banking arrangements that allow the transfer of fees paid on the internet-based application system to the Scottish Executive's account, for subsequent distribution to the relevant local authorities. This is the first system to incorporate internet payments to the Executive. It appeared that the banking arrangements could be made under a general contract established by the Office of the Paymaster General but it proved at a late stage that this would not be acceptable to the contractor under the terms of that contract. Alternative arrangements have now been made.

The consequence of these difficulties was a delay in the date on which the internet application system could be made available to the public in a useable form. This meant that the period between the availability of the system to the public and the deadline for landlords to have made a valid application (an application containing the required information and accompanied by the correct fee) was reduced. There was a risk that landlords would not have

a reasonable time to comply with the law by making a valid application before 31 March 2006.

The situation was monitored and when it became clear that the period for making applications was likely to be unreasonably short, Ministers decided to extend the deadline by a month, to 30 April. The internet application system, after the necessary banking links have been made and tested, will be available to the public on 10 March at the latest, allowing in excess of seven weeks for applications to be made.

The Antisocial Behaviour etc. (Scotland) (Commencement and Savings) Amendment Order 2006 implements Ministers' decision to extend the deadline to 30 April.

### **Publicising the change**

All local authorities and relevant organisations are aware of the change of date. Information on the change of date has been put on relevant web sites. A general publicity campaign about the registration of private landlords will be conducted to coincide with the availability of the application system to the public.

Scottish Executive Development Department  
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