

EAST AYRSHIRE COUNCIL

HOUSING COMMITTEE – 12 SEPTEMBER 2001

HOUSING (SCOTLAND) ACT 2001: SCOTTISH SECURE TENANCY

Report by the Director of Homes and Technical Services

1. INTRODUCTION

- 1.1 The purpose of this report is to inform members of the Scottish Executive's current proposals on the implementation of the new Scottish secure tenancy, as required by the Housing (Scotland) Act 2001.

2. BACKGROUND

- 2.1 The Housing (Scotland) Act 2001 received Royal Assent on 18 July 2001. Among its provisions is the introduction of the Scottish secure tenancy, a new single tenancy agreement which will apply to tenants of Local Authorities, Registered Social Landlords (Housing Associations) and water and sewerage authorities.
- 2.2 The Act also makes provision for the introduction of a short Scottish secure tenancy agreement for use by the landlord in certain defined situations and in place of the Scottish secure tenancy.

3. SCOTTISH EXECUTIVE PROPOSALS

- 3.1 The Executive propose to introduce the new form of tenancy from a single date and current thinking is that this maybe around the end of September 2002. All existing secure and assured tenancies will be converted to Scottish secure tenancy agreements at the agreed date .All new tenancies, unless they fall within a number of exceptions specified in the Act, will be Scottish secure tenancies or short Scottish secure tenancies.
- 3.2 In addition to statutory rights most tenancy agreements contain additional items relevant to local circumstances e.g. control of pets, use or maintenance of common areas etc. The Executive are currently consulting on the format of a model Scottish secure tenancy agreement and hope to issue a final version in the autumn of this year.

4. SCOTTISH SECURE TENANCY – KEY FEATURES

- 4.1 These in the main will be similar to those currently enjoyed by local authority tenants in terms of the existing secure tenancy and include;
- Right to written tenancy agreement.

- Security of tenure. Tenancies will only be able to be terminated by the landlord either through a court action or because a tenant abandons a tenancy. In the case of joint tenants, if one of them abandons the tenancy his/her interest can be terminated. Where the tenant or a member of his household is the subject of an anti social behaviour order the landlord can take action to convert the tenancy to a short Scottish secure tenancy.
- Right to succession of tenancy. The existing rights have been extended to allow for two rounds of succession and three levels of priority and include specific rights for cohabiting couples of both sexes and carers.
- Right to repairs
- Right to Buy. Current tenancies will be dealt with under current rules but new tenancies including tenancies created as a result of transfers and exchanges, and persons who succeed to existing tenancies, will be subject to the modernised right to buy rules
- Right to Assign, sub-let or exchange
- Right to Compensation for improvements under certain circumstances

5. SHORT SCOTTISH SECURE TENANCY – KEY FEATURES

5.1 This new form of tenancy for the local authority sector is designed to offer a further tenancy option to the landlord under certain defined circumstances including;

- temporary let pending development of a property
- temporary let to those moving into the area to take up employment
- temporary let to persons requiring or receiving support services
- let to person subject to possession order for anti social behaviour

5.2 Other aspects of the 'short' tenancy are identical to the full Scottish secure tenancy except:-

- the tenancy must be for at least 6 months and can be terminated by the court subject to the service of notice 2 months before the end of the lease. Security of tenure will be modified accordingly
- there is no right to buy
- there is no provision for succession of tenancy

6. TENANT PARTICIPATION AND CONSULTATION

- 6.1 In addition to the duty on the local authority to provide information to a tenant by, for example, a written tenancy agreement, section 23 of the Act also requires that the local authority prepare, inter alia, a strategy to promote tenant participation. This is the subject of a separate report to Members.

7. FINANCIAL IMPLICATIONS

- 7.1 It is too early to quantify the costs associated with these changes, but this should become clearer as the Executive completes its consultations on the model tenancy agreement later this year.

8. LEGAL IMPLICATIONS

- 8.1 The authority will require to take all necessary steps associated with the implementation of the Housing (Scotland) Act 2001.

9. RECOMMENDATIONS

- 9.1 It is recommended that:
- (i) the Director of Homes and Technical Services, in consultation with the Solicitor to the Council, prepare the necessary tenancy agreements and bring these back to the Committee, at the appropriate time, for approval; and
 - (ii) members otherwise note the contents of this report.

James Lavery
Director of Homes and Technical Services
August 2001

LIST OF BACKGROUND PAPERS

1. Letter from Scottish executive dated 15 August 2001.

For further information please contact Joseph Cassidy, Policy Manager on 01563 576617

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AGENDA