LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

29th Meeting, 2018 (Session 5)

Wednesday 31 October 2018

The Committee will meet at 9.15 am in the Robert Burns Room (CR1).

1. **Decision on taking business in private**: The Committee will decide whether to take items 4 and 5 in private.

2. **Planning (Scotland) Bill**: The Committee will consider the Bill at Stage 2 (Day 5).

3. **Subordinate legislation**: The Committee will consider the following negative instrument—

   The Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2018 (SSI 2018/292).

4. **Pre-Budget Scrutiny**: The Committee will consider a draft letter to the Scottish Government on its Pre-Budget Scrutiny.

5. **Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill**: The Committee will further consider its approach to the scrutiny of the Bill at Stage 1.

Peter McGrath
Clerk to the Local Government and Communities Committee
Room T3.40
The Scottish Parliament
Edinburgh
Tel: 0131 348 5232
Email: peter.mcgrath@parliament.scot
The papers for this meeting are as follows—

**Agenda item 3**

Note by the Clerk  
LGC/S5/18/29/1

**Agenda item 4**

PRIVATE PAPER  
LGC/S5/18/29/2  
(P)

**Agenda item 5**

PRIVATE PAPER  
LGC/S5/18/29/3  
(P)
Local Government and Communities Committee

29th Meeting, 2018 (Session 5), Wednesday 31 October 2018

Subordinate Legislation

Overview of instruments

1. The following instrument, subject to negative procedure, is being considered at today’s meeting:

   • The Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2018 (SSI 2018/292).

Background

2. These Regulations amend the Private Landlord Registration (Information and Fees) (Scotland) Regulations 2005 by removing the 10% discount in relation to an application made using the internet-based application system (regulation 2). The 10% discount is saved in relation to applications so made and received by a local authority before 1 December 2018 (regulation 3). The policy note for the instrument is attached at Annexe A.

3. An electronic copy of the instrument is available at:


4. A Business and Regulatory Impact Assessment is available at:


5. No motion to annul this instrument has been lodged.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform Committee (DPLRC) considered this instrument at its meeting on 23 October 2018 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Committee Consideration

7. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting on the instrument is 21 November 2018.

Procedure

8. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative
instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

9. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.

10. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

11. Each negative instrument appears on the Local Government and Communities Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

12. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.
POLICY NOTE

THE PRIVATE LANDLORD REGISTRATION (INFORMATION AND FEES) (SCOTLAND) AMENDMENT REGULATIONS 2018

SSI 2018/292

The above instrument was made in exercise of the powers conferred by sections 83(3) and 141(2)(b) of the Antisocial Behaviour etc. (Scotland) Act 2004 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

The Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”) makes provision for private landlords to apply to the relevant local authority for entry on the register of landlords. Most applicants must pay a principal fee of £55. A fee of £11 applies to every property included in the application. The fee pays for the local authority investigation and processing needed to decide whether applicants should be approved to operate as a landlord.

A 10% discount on the principal and property fees was introduced when mandatory landlord registration was commenced in 2006. The purpose of the discount was to encourage applicants to apply for registration using the internet based system. This helped to reduce the initial administrative burden on local authorities as they carried out new regulatory functions. Landlords who submit a paper application do not qualify for a discount.

This instrument will end the 10% discount for internet based applications received by the local authority on or after 1 December 2018.

It is now well established that the majority of landlords and agents use the internet based system to submit an application. Only an estimated 5% of applications are submitted in paper form. Removal of the discount will ensure that local authorities receive the full application fee for every application made and is expected to help improve the administration of landlord registration.

Consultation

A full public consultation ran for 12 weeks from 15 March to 7 June 2018, supported by a series of 7 stakeholder events held across Scotland. Consultation responses were received from a range of stakeholders, including housing associations and local authorities; lettings and professional organisations; tenant, resident and landlord representative organisations; individuals and those with an interest in property condition and safety.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website. It includes Shelter Scotland; Scottish Association of Landlords & Council of Letting
Agents; Convention of Scottish Local Authorities; Scottish Land and Estates; Chartered Institute of Housing and private individuals.

Due to stakeholder concerns about the cumulative impact of all the proposals for increasing fees on landlords, which was considered by them to be significant, the policy approach was adapted to limit the initial change in fees to removal of the 10% internet based discount. The Scottish Government will consider further changes to landlord registration fees in 2019.

Impact Assessments

An Equality Impact Assessment (EQIA) has been completed. The assessment found that the policy is not discriminatory and has no significant issues that will impact negatively on any of the equality groups. The EQIA notes that a Fairer Scotland Duty assessment is not required and will be published on the Scottish Government’s website.

A Child Rights and Wellbeing Impact Assessments (CRWIA) screening has been completed. The screening concluded that a full assessment would be disproportionate to the impact of the policy on the human rights and wellbeing of children and young people in Scotland.

Financial Effects

There will be a cost to the Scottish Government for upgrading the IT system to adjust the fee that will be charged at the application. These costs will be met from the current landlord registration budget.

There will additional income for local authorities who will receive the full application fee as a reasonable contribution to the administration that is required to process applications.

The main financial impact will be for landlords who use the internet based system to apply for registration, and who will pay the full application fee. However, the increase is reasonable and proportionate. For example, a landlord with a single property the change equates to £6.60 over a three year registration period.

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The assessment concluded that the policy will have minimal impact on businesses.

Scottish Government
Housing and Social Justice Directorate
12 September 2018