

2002 No. 2264 (S. 8)

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

HOUSING, SCOTLAND

**The Housing (Scotland) Act 2001 (Housing Support Services
Information) Order 2002**

<i>Made</i>	<i>3rd September 2002</i>
<i>Laid before Parliament</i>	<i>6th September 2002</i>
<i>Coming into force</i>	<i>1st October 2002</i>

The Secretary of State, in exercise of the powers conferred upon her by sections 104, 112(1), and 113 of the Scotland Act 1998(a) and of all other powers enabling her in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Housing (Scotland) Act 2001 (Housing Support Services Information) Order 2002 and shall come into force on 1st October 2002.

Interpretation

- 2.** In this Order—
- “the 2001 Act” means the Housing (Scotland) Act 2001(b);
 - “housing support services” and “prescribed housing support services” have the meanings given in section 91(8) of the 2001 Act;
 - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c); and
 - “the operational date” means the date on which regulations under section 91(8) of the 2001 Act come into force.

Disclosure of information

3.—(1) Paragraph (3) below applies to information which is held by, or by a person providing services to, the Secretary of State and which relates to income support or income-based jobseeker’s allowance.

(a) 1998 c.46.

(b) 2001 asp 10.

(c) 1994 c.39; section 2(2) was amended by the Environment Act 1995 (c.25), Schedule 22, paragraph 232(1).

(2) Paragraph (3) below also applies to information relating to housing benefit which is held by—

- (a) a local authority administering housing benefit; or
- (b) a person authorised to exercise any function of such an authority relating to housing benefit.

(3) Information to which this paragraph applies may be supplied to—

- (a) any local authority which intends to apply for a grant under section 91(1) of the 2001 Act; or
- (b) any person authorised to exercise any function of that authority connected with any application for a grant under section 91(1) of the 2001 Act which that authority intends making,

for purposes connected with the intended application for such grant and for the subsequent application of any such grant towards expenditure falling within section 91(1) of the 2001 Act.

(4) Information which is supplied to a local authority or other person under paragraph (3) above may be supplied by the local authority or person to any other person by whom it is intended that housing support services will be provided, for purposes connected with the intended provision of those services and for any subsequent provision of those services.

(5) This article permits the disclosure of information only during the period beginning with the date on which this Order comes into force and ending immediately before the operational date.

4.—(1) Paragraph (3) below applies to information which is held by, or by a person providing services to, the Secretary of State and which relates to income support or income-based jobseeker's allowance.

(2) Paragraph (3) also applies to information relating to housing benefit which is held by—

- (a) a local authority administering housing benefit; or
- (b) a person authorised to exercise any function of such an authority relating to housing benefit.

(3) Information to which this paragraph applies may be supplied to—

- (a) a local authority to which any grant is or will be paid under section 91 of the 2001 Act; or
- (b) a person authorised to exercise any function of that authority relating to that grant,

for purposes connected with the application of that grant towards expenditure falling within section 91(1) of the 2001 Act.

(4) Information which is supplied to a local authority or other person under paragraph (3) may be supplied by the local authority or person to a person who provides prescribed housing support services for purposes connected with the provision of those services.

(5) This article permits disclosure of information only after the end of the period referred to in article 3(5) above.

Unauthorised disclosure of information

5.—(1) This article applies to—

- (a) any person (“the recipient”) to whom information is supplied by virtue of article 3 or 4;
- (b) any person who is or has been a director, member of the committee of management manager, secretary or other similar officer of the recipient; and
- (c) any person who is or has been employed by the recipient.

(2) A person to whom this article applies is guilty of an offence if that person discloses without lawful authority any information which is supplied by virtue of article 3 or 4 and which relates to a particular person.

(3) It is not an offence under this article—

- (a) to disclose information in the form of a summary or collection of information which is framed so as not to enable information relating to any particular person to be ascertained from it; or
- (b) to disclose information which has previously been disclosed to the public with lawful authority.

- (4) It is a defence for a person charged with an offence under this article to prove that at the time of the alleged offence–
- (a) the person believed that the disclosure in question was made with lawful authority and had no reasonable cause to believe otherwise; or
 - (b) the person believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (5) A person guilty of an offence under this article is to be liable–
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale.
- (6) For the purposes of this article a disclosure is to be regarded as made with lawful authority if, and only if, it is made–
- (a) in accordance with article 3(4) or 4(4) above or any other enactment;
 - (b) in accordance with an order of a court;
 - (c) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or tribunal; or
 - (d) with the consent of the appropriate person (as defined in section 123(10) of the Social Security Administration Act 1992(a)).

HELEN LIDDELL
Secretary of State for Scotland

Scotland Office
Dover House,
London
3rd September 2002

(a) 1992 c.5; section 123(10) was amended by the Adults with Incapacity (Scotland) Act 2001 (asp 4), Schedule 5, paragraph 23.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision consequential on the Housing (Scotland) Act 2001 (“the 2001 Act”).

Section 91 of the 2001 Act gives power to the Scottish Ministers to pay grants to local authorities towards spending incurred in connection with prescribed housing support services. This Order makes provision for information on income support, income based jobseeker’s allowance and housing benefit to be passed to and from local authorities for purposes connected with that spending.

Article 3 applies to information supplied before regulations under section 91(8) (to prescribe housing support services) of the 2001 Act come into force. Article 3 makes provision for the flow of information in advance of the prescription of those services.

Article 4 applies to information supplied from the point at which the regulations under section 91(8) of the 2001 Act come into force. That article makes provision for the supply of information to a local authority (or a person authorised to exercise a function of the authority in relation to the section 91 grant), and allows local authorities (and authorised persons) to pass that information on to those who are providing prescribed housing support services.

Article 5 makes provision about unauthorised disclosure of information. It is an offence to disclose (without authority) information about a particular person. Article 5 also sets out circumstances which do not constitute an offence, and the penalties to which a person guilty of an offence may be liable.

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