SCOTTISH STATUTORY INSTRUMENTS

2003 No. 463

LICENCES AND LICENSING
HOUSING

The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Amendment Order 2003

Made - - - - 29th September 2003

Coming into force - - 1st October 2003

The Scottish Ministers, in exercise of the powers conferred by section 44(1)(b) and (2) of the Civic Government (Scotland) Act 1982(**1**) and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 44(3) of that Act, been laid before and approved by a resolution of the Scottish Parliament:

Citation and commencement

1. The Order may be cited as the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Amendment Order 2003 and shall come into force on 1st October 2003.

Amendment of principal Order

2. The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000(**2**) is amended as follows.

3. In article 2(1), after the definition of "the 1991 Order" insert–

> ""co-ownership body" means a co-operative housing association, within the meaning of section 300(1)(b) of the Housing (Scotland) Act 1987(**3**), the management of which is undertaken by general meeting;".

4. In article 2(2)–

(a) at the end of sub-paragraph (d) omit "or"; and

(b) at the end of sub-paragraph (e) insert–

> ";or

(**1**) 1982 c. 45. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**2**) S.S.I. 2000/177 as amended by S.S.I. 2002/161.
(**3**) 1987 c. 26.

(f) which is owned by a co-ownership body".

5.—(1) At the beginning of article 5 insert–

"(1) Subject to paragraph (2) below,".

(2) At the end of article 5 insert–

"(2) Where a house is occupied by–

(a) any person with a heritable right of ownership in the house; or

(b) any such person together with any person who is a member of the same family as that person,

those persons shall be disregarded in calculating the number of qualifying persons for the purpose of paragraph (1) above.".

6. In the Schedule–

(a) after paragraph 3 insert–

"**3A.** After section 7(5) (offences, etc) of the 1982 Act there shall be inserted as follows:–

"(5A) Any person who without reasonable excuse acts as an agent for an owner of a house in multiple occupation when that owner does not hold or has not applied for a licence as required by the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(5B) Where an officer of a licensing authority has reasonable grounds to suspect that the occupation of a house involves the commission of an offence under this Act, that officer may require any agent of the owner of that house to disclose the name and address of that owner.

(5C) Any person who without reasonable excuse fails to comply with a requirement made by virtue of subsection (5B) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5D) For the purposes of this section, a person acts as an agent for an owner of a house if that person acts on behalf of that owner in carrying out any activity which directly permits or facilitates the occupation of that house."."; and

(b) after paragraph 7 insert–

"**7A.** For paragraph 15 (fees) of Schedule 1 to the 1982 Act, there shall be substituted–

"**Fees for houses in multiple occupation licences**

15.—(1) A licensing authority shall charge such fees in respect of houses in multiple occupation licences and applications for such licences as may be resolved by them from time to time and shall seek to ensure that the total amount of fees received in respect of such licences and applications is, taken together with any money to which sub-paragraph (2) applies, sufficient to meet the expenses incurred by them in carrying out the functions exercisable by them by virtue of the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000.

(2) The money to which this sub-paragraph applies is any money paid by grant to the licensing authority by the Scottish Ministers for the purpose of