

2008 No. 324

HOUSING

The Notice to Local Authorities (Scotland) Regulations 2008

Made - - - - *2nd October 2008*

Laid before the Scottish Parliament *3rd October 2008*

Coming into force - - *1st April 2009*

The Scottish Ministers make the following Regulations, in exercise of the powers conferred by section 11(3) and (4) of the Homelessness etc. (Scotland) Act 2003(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Notice to Local Authorities (Scotland) Regulations 2008 and come into force on 1st April 2009.

Form of notice

2.—(1) The form of notice to be given under—

- (a) section 12A(1) (notice to local authority of proceedings for possession of dwelling-house let on protected tenancy or subject to statutory tenancy) of the Rent (Scotland) Act 1984(b);
- (b) section 19A(1) (notice to local authority of proceedings for possession of house let on assured tenancy) of the Housing (Scotland) Act 1988(c);
- (c) section 14(5A) (notice to local authority of proceedings for possession of house let on Scottish secure tenancy) of the Housing (Scotland) Act 2001(d);
- (d) section 36(6A) (notice to local authority of proceedings for possession of house let on short Scottish secure tenancy) of the Housing (Scotland) Act 2001(e);
- (e) section 11(1) (notice to local authorities of proceedings for possession and enforcement of standard securities) of the Homelessness etc. (Scotland) Act 2003;

is as set out in Schedule 1.

(2) The form of notice to be given under—

- (a) section 19B(1) (notice to local authority of calling-up of standard security or notice of default) of the Conveyancing and Feudal Reform (Scotland) Act 1970(f);

(a) 2003 asp 10.

(b) 1984 c.58; section 12A(1) was inserted by the schedule to the Homelessness etc. (Scotland) Act 2003 (asp 10) (“the Act”).

(c) 1988 c.43; section 19A(1) was inserted by the schedule to the Act.

(d) 2001 asp 10; section 14(5A) was inserted by the schedule to the Act.

(e) 2001 asp 10; section 36(6A) was inserted by the schedule to the Act.

(f) 1970 c.35; section 19B(1) was inserted by the schedule to the Act; paragraph 1(3) of that schedule amends section 21(2A) so as to apply section 19B to a notice of default.

- (b) section 24(3)(c) (notice to local authority of application to court for remedies on default of standard security) of the Conveyancing and Feudal Reform (Scotland) Act 1970(a);
- (c) section 4(4)(c) (notice to local authority of proceedings to eject proprietor in personal occupancy) of the Mortgage Rights (Scotland) Act 2001(b);

is as set out in Schedule 2.

Manner of giving notice

- 3. The notice must be sent by post or transmitted electronically.

S MAXWELL

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd October 2008

(a) 1970 c.35; section 24(3)(c) was inserted by the schedule to the Act.
(b) 2001 asp 11; section 4(4)(c) was inserted by the schedule to the Act.

SCHEDULE 1

Regulation 2(1)

Note to landlord

Various statutes require notice to be given to a local authority where a landlord has raised proceedings for possession of a house. This form lists in a table some of the legislation under which such proceedings might be raised for possession of a house.

“Proceedings for possession” means any proceedings in which a decree of removing or warrant of ejection or other like order is sought.

NOTICE BY LANDLORD OF PROCEEDINGS FOR POSSESSION

To:

(Name of local authority in whose area the dwellinghouse that is the subject of proceedings is situated)

Take note that proceedings have been raised as detailed below.

(Please give the following information)

Name and address of landlord who has raised proceedings:

Name and address of landlord’s legal representatives:

Contact telephone number of landlord:

Landlord registration reference:

Name of tenant/s against whom proceedings have been raised:

Full postal address of property that is the subject of proceedings:

Start date of the tenancy:

Date of raising of proceedings:

Court in which proceedings raised:

The legislation under which proceedings are being notified: *(Please tick the box below, which describes the proceedings you have raised)*

(1)	section 12A(1) (notice to local authority of proceedings for possession of dwelling-house let on protected tenancy or subject to statutory tenancy) of the Rent (Scotland) Act 1984 (c.58) <i>(tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a protected tenancy or subject to a statutory tenancy).</i>
(2)	section 19A(1) (notice to local authority of proceedings for possession of house let on assured tenancy) of the Housing (Scotland) Act 1988 (c.43) <i>(tick this box if you have raised proceedings to recover possession of a dwellinghouse let on an assured tenancy).</i>
(3)	section 14(5A) (notice to local authority of proceedings for possession of house let on Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) <i>(tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a Scottish secure tenancy).</i>
(4)	section 36(6A) (notice to local authority of proceedings for possession of house let on short Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10) <i>(tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a short Scottish secure tenancy).</i>
(5)	other proceedings for possession of a dwellinghouse, <i>(tick this box if you have raised proceedings to recover possession of a dwellinghouse and none of the above boxes are appropriate. For these purposes a dwellinghouse is any building or part of a building, which is occupied or intended to be occupied as a separate dwelling, and in particular includes a flat).</i>

SCHEDULE 2

Regulation 2(2)

Note to creditor

This form of notice must be used to give notice to a local authority where a creditor has served a calling-up notice or notice of default or has applied to court for a warrant to exercise any of the remedies which can be exercised on default of a standard security, or for a warrant for sale or has raised proceedings to eject a proprietor.

A “calling-up notice” is a notice described in section 19 of the Conveyancing and Feudal Reform (Scotland) Act 1970 issued by a creditor in a standard security requiring discharge of the debt secured.

A “notice of default” is a notice described in section 21 of the Conveyancing and Feudal Reform (Scotland) Act 1970 issued by a creditor calling on a debtor to remedy a default.

The remedies which a creditor is entitled to exercise when a debtor is in default are described in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970. In terms of section 24 of that Act a creditor may apply to court for a warrant to exercise those remedies.

Proceedings to eject a proprietor are raised under section 5 of the Heritable Securities (Scotland) Act 1894 and must be notified to the local authority by virtue of section 4(4) of the Mortgage Rights (Scotland) Act 2001.

NOTICE BY CREDITOR OF:

SERVICE OF CALLING-UP NOTICE/NOTICE OF DEFAULT

or

APPLICATION TO COURT FOR A WARRANT TO EXERCISE REMEDIES ON DEFAULT

or

PROCEEDINGS TO EJECT PROPRIETOR

To:

(Name of local authority in whose area the property referred to in the application, proceedings or calling-up notice is situated)

Delete any of the following 3 statements if it is not applicable.

Take note that a calling-up notice/notice of default has been served as detailed below.

Take note that an application to court has been made as detailed below for a warrant to exercise remedies on default.

Take note that proceedings to eject a proprietor have been raised as detailed below.

(Please give the following information)

Name and address of the creditor:

Name and address of the creditor's legal representatives:

Contact telephone number of the creditor:

Name of debtor/proprietor:

Full postal address of property referred to in the calling-up notice/notice of default or application or proceedings:

Recording/registration date of the standard security (if applicable):

Date of calling-up notice/notice of default or application or raising of proceedings:

Court in which application made or proceedings raised:

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 11 of the Homelessness etc. (Scotland) Act 2003 provides for landlords (other than local authority landlords) and creditors in standard securities to notify local authorities of certain actions and proceedings.

Regulation 2 and Schedules 1 and 2 prescribe the forms of notice to the local authority to be used where a landlord raises proceedings for possession of a dwellinghouse or a creditor serves a calling-up notice, or notice of default, applies to court for remedies on default of a standard security, or raises proceedings to eject a proprietor in personal occupancy of a house. Schedule 1 sets out the form for landlords who have raised proceedings for possession and Schedule 2 sets out the form for creditors who have taken various actions.

Regulation 3 provides for the notice to be sent by post or transmitted electronically to the local authority.

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