

EXECUTIVE NOTE

THE SCOTTISH SECURE TENANCIES (PROCEEDINGS FOR POSSESSION) (FORM OF NOTICE) REGULATIONS 2012

SSI 2012/ 92

The above instrument is made in exercise of the powers conferred by sections 14(4) and 109(2) of the Housing (Scotland) Act 2001. The instrument is subject to negative procedure.

Policy Objectives

The purpose of the Scottish Secure Tenancies (Proceedings for Possession) (Form of Notice) Regulations 2012 is to prescribe the form of notice for the purposes of section 14(4) of the Housing (Scotland) Act 2001 to be used by a landlord when notifying a tenant or qualifying occupier that the landlord may commence possession proceedings in respect of a property which is the subject of the Scottish Secure Tenancy. A qualifying occupier is a person who occupies a property under such a lease and is a member of the tenant's family who is at least 16 years old, or who occupies the property with the landlord's consent as a subtenant, lodger or similar.

Where the grounds under which the landlord is seeking possession include that rent lawfully due from the tenant has not been paid, the landlord must have completed a number of steps called pre-action requirements before serving a notice on the tenant under section 14(2) of the Housing (Scotland) Act 2001. The landlord must also have provided information to the tenant and any qualifying occupiers within the notice explaining how the landlord has met each of the pre-action requirements.

The Regulations prescribe the form of notice for landlords in relation to:

- cases where the grounds for recovery of possession include rent arrears;
- cases where the grounds for recovery of possession do not include rent arrears.

Consultation

There was no statutory requirement to consult on these Regulations. However, the following bodies have been consulted during the preparation of the instrument, in working groups and by correspondence:

Chartered Institute of Housing (CIH)
COSLA (ALACHO)
Legal Service Agency
Local Authorities
Regional Tenant Network Representatives
Registered Social Landlords
Scottish Court Service
Scottish Federation of Housing Associations (SFHA)
Scottish Housing Regulator

Scottish Legal Aid Board
Scottish Rent Forum
Shelter
Sheriff Court Rules Council
T C Young solicitors

Equality Impact Assessment

An Equality Impact Assessment has been prepared. Changes to the form of notice for cases where the grounds for seeking repossession include rent arrears will help to strengthen the protection for tenants in the social rented sector with rent arrears, and for qualifying occupiers across all equality groups. Protection for tenants with rent arrears, and qualifying occupiers, will be strengthened by:

- requiring landlords to provide details for the tenant and any qualifying occupier of how the landlord has complied with pre-action requirements within the notice;
- encouraging further interaction between the landlord and the tenant or tenant's representative to avoid court action wherever possible;
- providing qualifying occupiers with information that may assist them in seeking to safeguard their interests.

Changes to the form of notice will help to improve consistency of practice around eviction for rent arrears across all social landlords in Scotland and also assist the advice sector to identify better how best to support tenants and qualifying occupiers facing possible court action for rent arrears.

Financial Effects

The instrument has no financial effects on the Scottish Government.

Whilst there will be some immediate costs for social landlords from this instrument, the immediate costs are expected to be more than offset by the anticipated savings from the good practice that the Regulations will promote in tackling arrears at an early stage.

Further information on the impact is provided in a Business and Regulatory Impact Assessment entitled Evictions Regulations 2012. This will be available on the Scottish Government website.

Scottish Government
Housing Regeneration and Commonwealth Games Directorate
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