

EXECUTIVE NOTE TO

THE SCOTTISH SECURE TENANCIES (PROCEEDINGS FOR POSSESSION) (CONFIRMATION OF COMPLIANCE WITH PRE-ACTION REQUIREMENTS) REGULATIONS 2012

SSI 2012/93

The above instrument is made in exercise of the powers conferred by section 14(2A)(b) 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) (Confirmation of Compliance with Pre-Action Requirements) Regulations 2012 is to prescribe the form in which a landlord must confirm to the court, prior to raising proceedings for possession in certain cases under section 14 of the Housing (Scotland) Act 2001, that the pre-action requirements in section 14A of that Act have been complied with. The cases are those where the proceedings are to include the ground that rent lawfully due from the tenant has not been paid.

Where confirmation of compliance with pre-action requirements is not provided by the landlord and the grounds for seeking possession include rent arrears, the court will not allow proceedings to be raised until such confirmation has been provided.

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 Rent Forum
Shelter
Sheriff Court Rules Council
T C Young solicitors

Equality Impact Assessment

An Equality Impact Assessment has been prepared. The Scottish Secure Tenancies (Proceedings for Possession) (Confirmation of Compliance with Pre-Action

Requirements) Regulations 2012 will help to strengthen the protection for tenants with rent arrears against eviction across all equality groups as the landlord is required to confirm to the court in all cases where the grounds for possession include rent arrears, that a set of steps called pre-action requirements have been complied with.

Financial Effects

The instrument has no financial effects on the Scottish Government or social landlords.

The Scottish Courts Service has advised that the administrative cost to them in checking that social landlords have confirmed that they have complied with the pre-action requirements would be negligible.

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

27 February 2012