

POLICY NOTE

THE SHORT SCOTTISH SECURE TENANCIES (NOTICE) REGULATIONS 2018

SSI 2018/154

The above instrument was made in exercise of the powers conferred by section 34(4) and 109(2) of the Housing (Scotland) Act 2001 (“the 2001 Act”). The instrument is subject to negative procedure.

Policy Objectives

The purpose of the Short Scottish Secure Tenancies (Notice) Regulations is to prescribe the form of notice for the purpose of section 34(4) of the 2001 Act, to be used by a social landlord when notifying a prospective tenant that the tenancy they are being offered is a short Scottish secure tenancy.

This instrument replaces the Short Scottish Secure Tenancies (Notices) Regulations 2002 (S.S.I. 2002/315). It sets out in the notice to be served on a prospective tenant the grounds for granting a short Scottish secure tenancy and the term of the tenancy. It also includes information about changes to short Scottish secure tenancies made by sections 7,8,9,10 and 11 of the Housing (Scotland) Act 2014 (“the 2014 Act”), in the notes to the prospective tenant.

Sections 7 and 8 of the 2014 Act set out changes to the grounds on which a short Scottish secure tenancy agreement can be offered to a prospective tenant to give social landlords additional measures to deal with antisocial behaviour and to manage their social housing stock effectively. Broadly these changes are:

- a new ground for giving a short Scottish secure tenancy to a prospective tenant as a result of antisocial behaviour in the previous 3 years;
- changes to the current ground for granting a short Scottish secure tenancy related to accommodation for a person in receipt of housing support; and
- a new ground for granting a short Scottish secure tenancy to a homeowner.

Landlords are required to state at Part 2 of the notice the grounds for granting a short Scottish secure tenancy at schedule 6 of the 2001 Act which they consider to be met. They are also required to provide an explanation of the relevant ground for the prospective tenant at Part 2. The Notes to the Prospective Tenant (Note 4) provide a summary of all of the grounds that a short Scottish secure tenancy can be offered under to help tenants to safeguard their interests.

Sections 9,10 and 11 of the 2014 Act make changes to the way in which a short Scottish secure tenancy must be operated by landlords. Landlords are required to specify the term of the tenancy being offered to the prospective tenant at Part 2 of the notice.

The Notes to the Prospective Tenant (Note 2 and 3) explain how a short Scottish secure tenancy must be operated, what happens at the end of the term of the tenancy and what the landlord needs to do to repossess the house (depending on whether the tenancy was granted on antisocial behaviour grounds or whether it was granted any of the other grounds in schedule 6 of the 2001 Act).

Consultation

There was extensive consultation on the overall policy objectives of the Housing (Scotland) Bill 2013 prior to its introduction to Parliament, in addition to the consideration of the relevant provisions during the passage of the Bill in 2014.

There was no statutory requirement to consult on these Regulations, however there has been targeted consultation on the detail and format of the Regulations with stakeholders to ensure that the revised form of notice meets their needs.

Impact Assessments

An Equality Impact Assessment (EQIA) was carried out on the social housing provisions in the Bill: <http://www.gov.scot/Publications/2013/11/8851>.

These Regulations make technical amendments to the existing form of notice to allow landlords to use provisions in the 2014 Act. It is not considered that the existing EQIA need be repeated for these Regulations.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) was completed prior to the Bill's passage through the Scottish Parliament:
<https://www.webarchive.org.uk/wayback/archive/20160411155202/http://www.gov.scot/Resource/0043/00437647.pdf> .

As set out in the BRIA at section 5.3, landlords and other relevant bodies have been consulted on the content and format of the revised form. No additional costs have been identified from this consultation which were not covered by the BRIA.

Scottish Government
Housing and Social Justice Directorate
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