

POLICY NOTE

THE SCOTTISH SECURE TENANCIES (PROCEEDINGS FOR POSSESSION) (FORM OF NOTICE) AMENDMENT REGULATIONS 2018

SSI 2018/156

The above instrument was made in exercise of the powers conferred by section 14(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 Scottish Secure Tenancies (Proceedings for Possession) (Form of Notice) (Amendment) Regulations 2018 is to amend the form of notice to be used by a social landlord when notifying a tenant and any qualifying occupier under a Scottish secure tenancy that the landlord may raise proceedings in court to repossess the house.

The Regulations amend The Scottish Secure Tenancies (Proceedings for Possession) (Form of Notice) Regulations 2012 (S.S.I. 2012/92). The revised form of notice is required due to the changes made by section 14(2) of the Housing (Scotland) Act 2014 (“the 2014 Act”).

Section 14(2) of the 2014 Act amends section 16 of the 2001 Act to alter the powers of the court in possession proceedings in certain cases where there has been a conviction for an offence punishable by imprisonment (described as a streamlined eviction process). It removes the requirement that the court considers whether it is reasonable to make an eviction order in these cases where a landlord has served a notice under section 14(2) of the 2001 Act on the tenant and any qualifying occupiers, within 12 months of the conviction or appeal.

The Regulations amend the guidance notes to each of the forms of notice contained in Schedule 1 and Schedule 2 to provide an explanation of the court process in cases where a streamlined eviction process is used.

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
14 May 2018