

These notes relate to the Private Rented Housing (Scotland) Act 2011 (asp 14) which received Royal Assent on 20 April 2011

PRIVATE RENTED HOUSING (SCOTLAND) ACT 2011

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 3 – Overcrowding Statutory Notices

Section 18 – Matters to be considered prior to service of an overcrowding statutory notice

29. **Section 18** sets out matters which a local authority must consider before serving an overcrowding statutory notice. The authority must assess whether serving the notice is reasonable and proportionate in the circumstances. In so doing, the authority must weigh up the nature of the adverse effect, and the degree to which the overcrowding is contributing or connected to it, as well as the likely effects of serving a notice, and whether there are other means to address the problem. In addition to this assessment of reasonableness and proportionality, the local authority must, in deciding whether to serve a notice, take account of the views of the landlord, occupier and others living in the house and examine the particular circumstances of the occupier and others living in the house. In particular, the authority is required to consider whether the overcrowding is causing homelessness as defined in section 24 of the Housing (Scotland) Act 1987 or whether the service of a notice may have this effect.