EXECUTIVE NOTE

THE SCOTTISH SECURE TENANCIES (PROCEEDINGS FOR POSSESSION) (PRE-ACTION REQUIREMENTS) ORDER 2012

SSI 2012/

The above instrument is made in exercise of the powers conferred by section 14A(9) of the Housing (Scotland) Act 2001. The instrument is subject to affirmative procedure.

Policy Objectives

The purpose of the Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 is to make further provision about the pre-action requirements in section 14A of the Housing (Scotland) Act 2001 specifying particular steps to be taken, or not to be taken, by a landlord in complying with any requirement. A social landlord must comply with these requirements before serving a notice on the tenant under section 14(2) of the 2001 Act.

The Order sets out further provision about the pre-action requirements on social landlords in relation to:

- providing information to the tenant about the default
- providing advice and assistance to the tenant in relation to housing benefit and other types of financial assistance
- making reasonable efforts to agree a plan with the tenant for addressing the default
- establishing housing benefit entitlement
- the steps considered likely to result in payment of any arrears within a reasonable time, in addition to the on-going rent obligations; and
- the tenant's compliance with an agreed repayment plan

These steps should help to avoid the need for repossession action to be commenced.

Consultation

There was no statutory requirement to consult on this Order. 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. Pre-action requirements will strengthen the protection for tenants with rent arrears in the social rented sector in Scotland across all equality groups, thereby providing additional support to those social sector tenants most at risk of eviction for rent arrears in Scotland such as young people under 25.

In addition pre-action requirements will improve consistency of practice around evictions and rent arrears across all social landlords in Scotland in a number of key areas such as, early intervention, income maximisation and support requirements for vulnerable tenants.

Financial Effects

The instrument has no financial effects on the Scottish Government. Additional costs will arise for the Scottish Courts Service as a result of pre-action requirements, however these costs are expected to be more than offset by the cost savings to the Scottish Courts Service from fewer cases being progressed by way of substantive hearings.

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 Order will promote in tackling arrears at an early stage.

Further information on the impacts 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
15 February 2012