



SRPBA

SCOTTISH RURAL PROPERTY AND BUSINESS ASSOCIATION

Homelessness etc (Scotland) Act 2003: Implementation of Section 11

The Scottish Rural Property and Business Association welcomes the opportunity to comment on the consultation paper on Section 11 of the Homelessness etc (Scotland) Act 2006.

The SRPBA wishes to make the following general comments:

The organisation is supportive of the aims of the provisions and is committed to working with local authorities to addressing rural homelessness. However, we would like to stress that the legislation should not be used by local authorities to prolong/prevent repossession proceedings in cases where the landlord has followed the legal process and has grounds for recovery of possession.

In terms of the questions posed as part of the consultation process, we would like to give the following responses:

Question 1: Is the form and manner of notifications of proceedings to local authorities clear to you from the information contained in these regulations?

Yes, the form and manner of notifications of proceedings to local authorities is clear from the information contained in these regulations.

Question 2: Do you believe that the information outlined in the Notice of Proceedings in Form 1 is sufficient to ensure effective implementation of section 11?

No, explanatory notes providing advice and information on the various enactments under which proceedings are being notified are required. The other information required is sufficient.

Question 3: Do you believe that the information outlined in the Calling-up Notice etc, in Form 2 is sufficient to ensure effective implementation of section 11?

Yes, the information outlined in the Calling-up Notice etc, in Form 2 is sufficient to ensure effective implementation of section 11.

Question 4: Do you have any suggestions to make Forms 1 and 2 in the regulations more 'user friendly'?

The forms must be accompanied by clear guidance.

Question 5: Do you have any general comments or suggestions on the form and manner if the notification to local authorities from landlords and creditors as outlined in the regulations set out in section 1?

No further comments or suggestions on the form and manner of the notification.

Question 6: Are you clear from the guidance at which stage local authorities should expect to receive the notification of proceedings?

Yes.

Question 7: Do you have any comments/suggestions in relation to local authorities ensuring landlords or creditors know where to send proceedings?

The general provisions of information to private landlords by local authorities requires improvement and whilst information could be sent to registered landlords, details of where to send proceedings should be widely publicised. It is imperative that all officers in housing, homelessness. Legal and other relevant departments within the council are fully conversant with the regulations and associated process.

Question 8: Is it clear from the guidance which information local authorities should expect to receive from landlords and creditors?

Yes

Question 9: Is the guidance clear on what action should be taken by local authorities when notification is received from landlords and creditors?

Yes, the guidance is clear. However, engagement with the landlord must be viewed as an important part of the local authority actions rather than as something it could also consider.

Question 10: Do you have any comments about the data protection issues raised in the guidance?

No

Question 11: Do you have any general comments or suggestions you believe would strengthen the statutory guidance to local authorities set out in section 2?

As previously stated, further guidance is required in terms of advice and information to landlords in relation to the regulations and also the importance of engagement with both the landlord and tenant, and not just the tenant, once the notice is served should be stressed.

Question 12: Is it clear from this guidance what the duty of landlords and creditors under section 11 is and how it should be discharged?

Yes.

Question 13: Is it clear from the guidance what the purpose of section 11 is and how landlords and creditors can contribute to an benefit from this?

Yes, however it is likely that landlords will have raised repossession proceedings without attempting to resolve the situation and prevent homelessness. Therefore the SRPBA believes that the benefits to landlords of Section 11 are overstated in the guidance. Indeed, compliance with the legislation may result in protracted repossession proceedings due to increased intervention by local authorities and other agencies who may be unable to resolve the issue. This may result in greater rent arrears, higher legal costs and delay in relating.

Question 14: Is it clear from the guidance what actions landlords and creditors can take to help prevent homelessness?

Yes, this is an area on which the SRPBA intends to provide detailed advice and information to members.

Question 15: Do you have any general comments or suggestions you believe would strengthen the guidance to landlords and creditors set out in section 2?

No further comments or suggestions although would stress again that provision of information by local authorities to private landlords on other legislation is an area which must be improved and this should be taken into account.

Question 16: Do you feel the proposals promote equality? If not, please give details of your concerns?

Yes

Question 17: Do you agree with local authorities being asked to monitor implementation in the first year and being asked to provide this information to the Scottish Executive?

Yes, this is something we would strongly support.

Question 18: Do you have any other comments or suggestions about the monitoring and evaluation of the implementation of section 11?

The impact of local authority action when notified under Section 11 should also be monitored and evaluated to ensure that the legislation is fit for purpose.

