

EXECUTIVE NOTE

THE SCOTTISH SECURE TENANCIES (REPOSSESSION ORDERS) (MAXIMUM PERIOD) ORDER 2012

SSI 2012/ 128

The above instrument is made in exercise of the powers conferred by section 16(5A)(c) of the Housing (Scotland) Act 2001. The instrument is subject to affirmative procedure.

Policy Objectives

The purpose of the Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 is to prescribe the maximum period a landlord has to recover possession of a house following the issue of a court order under section 16(2) of the Housing (Scotland) Act 2001 in certain cases. Those cases are where the court order is made on the grounds that rent lawfully due from the tenant has not been paid (as set out in paragraph 1 of schedule 2 to the Housing (Scotland) Act 2001), or on grounds including that ground.

The Order sets out:

- the maximum period a landlord has to recover possession of a house after an order for repossession has been granted by the court, which is a period of six months from the date when the decree is extracted.
- what effect an appeal has on an order for recovery of possession

Consultation

There was a statutory requirement to consult on this Order. 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. Setting a maximum period in which an order for recovery of possession has effect in rent arrears cases will strengthen the protection for all tenants with rent arrears across all equality groups. The Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 is particularly intended to provide additional support to vulnerable tenants who, as a result of their circumstances, are unable or unaware of the need to take legal advice at an early stage to prevent an eviction decree being granted.

Financial Effects

The instrument has no financial effects on the Scottish Government, the Scottish Court Service or landlords in the social rented sector in Scotland. Whilst enhancing the protection for those at risk of repossession, the instrument is also expected to have financial benefits for landlords, such as removing the need for rent arrears which remain after an eviction decree has been granted, to be classed as former tenant arrears (former tenant arrears are more difficult for landlords to recover).

The period will give a window of time within which landlords and tenants can attempt to resolve the outstanding arrears, to their mutual benefit where this can be achieved. It will assist in keeping tenants in their properties, whilst assisting landlords to recover arrears.

Further information on the impact of the Order is set out in a Business and Regulatory Impact Assessment entitled Eviction Regulations 2012. This will be available on the Scottish Government website.

Scottish Government
Housing Regeneration and Commonwealth Games Directorate
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