

HOMELESSNESS etc (SCOTLAND) ACT 2003 - SECTION 11  
CONSULTATION RESPONSE

**CONSULTATION QUESTIONS**

Views are sought on the implementation of Section 11 and the associated regulations and guidance; in particular:

Section 1 - Draft Regulations

**Q1 Is the form and manner of notifications of proceedings to Local Authorities clear to you from the information contained in these regulations?**

**YES/NO**

Yes.

**Comment:**

The form of notice itself is quite clear. However it would be preferable if the local authority were notified 14 days or so before the landlord raises proceedings. Otherwise surely it would be sensible for the Court to notify the authority, this would be more reliable.

It is to be regretted that authorities will not be given notice that a short assured tenancy is not to be renewed.

**Q2 Do you believe that the information outlined in the Notice of Proceedings in Form 1 is sufficient to ensure effective implementation of Section 11?**

**YES/NO**

No.

**Comment:**

Ideally there would be much more information:

- A named contact if it is other than the landlord (which could be an organisation).
- Family composition (including National Insurance numbers where appropriate)
- Details of the debt
- Any previous action taken
- Any action which will lead the Landlord to abandon proceedings
- Space for the Landlord to add any additional information they think is relevant

**Q3 Do you believe that the information outlined in the Calling-up Notice etc is sufficient to ensure effective implementation of Section 11?**

**YES/NO**

No.

**Comment:**

As in Question 2.

**Q4 Do you have any suggestions to make Forms 1 and 2 in the regulations more 'user friendly'?**

**YES/NO**

Yes.

**Comment:**

The forms should be written in plain English.

**Q5 Do you have any general comments or suggestions on the form and manner of the notification to Local Authorities from landlords and creditors as outlined in the regulations?**

**YES/NO**

Yes.

**Comment:**

It should be mandatory, and stated on the forms that the forms must reach the authority within one day.

There should also be an onus on the landlord to keep the authority informed of any changes in circumstances.

**Q6 Are you clear from the guidance at which stage Local Authorities should expect to receive the notification of proceedings?**

**YES/NO**

No.

**Comment:**

The Guidance says that notification:

- 'should occur when proceedings are raised', and
- 'that this notice is given at the same time as, or as soon as possible after, raising proceedings'

As stated above it should be mandatory, and stated on the forms that the forms must reach the authority within one day.

**Q7 Do you have any comments/suggestions in relation to Local Authorities ensuring landlords or creditors know where to send proceedings?**

**YES/NO**

Yes.

**Comment:**

There are a number of issues:

- The process will raise a number of issues, and a wide range of skills will be required, this will be resource intensive in an already stretched service.
- While landlords operating in the area should be relatively easy to identify, mortgage lenders could be anywhere, even overseas.

There should be substantial penalties for non compliance by Landlords, but refusal to allow future registration should not be one, this could lead to an even more severe shortage of rented housing, particularly in rural areas..

**Q8 It is clear from the guidance which information Local Authorities should expect to receive from landlords and creditors?**

**YES/NO**

Yes.

**Comment:**

Note comments above regarding further information.

**Q9 Is the guidance clear on what actions should be taken by Local Authorities when notification is received from landlords and creditors?**

**YES/NO**

Yes.

**Comment:** The Guidance is clear as far as it goes, although the process will be resource intensive.

**Q10 Do you have any comments about the data protection issues raised in the guidance?**

**YES/NO**

No.

**Comment:** None. So long as it has been clearly established that this legislation does not conflict with data protection legislation.

**Q11 Do you have any general comments or suggestions you believe would strengthen the statutory guidance to Local Authorities set out in Section 2?**

**YES/NO**

No

**Comment:** None other than those stated above.

Section 2B - Guidance to Landlords and Creditors

**Q12 Is it clear from this guidance what the duty of landlords and creditors under Section 11 is and how it should be discharged?**

**YES/NO**

Yes.

**Comment:** None.

**Q13 Is it clear from the guidance what the purpose of Section 11 is and how landlords and creditors can contribute to and benefit from this?**

**YES/NO**

No

**Comment:** The benefit to landlords is not clear, but the purpose is.

**Q14 Is it clear from the guidance what actions landlords and creditors can take to help prevent homelessness?**

**YES/NO**

Yes.

**Comment:** It would be helpful if landlords and mortgage lenders take action as early as possible when a problem is identified, action such as referrals to advice. However it is unlikely that a small private landlord would be in a position to adopt a similar approach as RSLs.

**Q15 Do you have any general comments or suggestions you believe would strengthen the guidance to landlords and creditors set out in Section 2?**

**YES/NO**

Yes.

**Comment:**

As already stated landlords should intervene as early as possible, and it would be more reliable if courts were to notify the local authority.

Equalities

**Q16 Do you feel the proposals promote equality? If not, please give details of your concerns?**

**YES/NO**

No.

**Comment:** There is no reason to think that this will have any significant impact on equality

#### **MONITORING AND EVALUATION OF IMPLEMENTATION**

**The Scottish Executive will consider carrying out a study on responses of local authorities, landlords and creditors to implementation of section 11. This will require local authorities to monitor implementation during the first year and provide this information to the Scottish Executive.**

**Q17: Do you agree that the local authorities should be asked to monitor implementation in the first year and are asked to provide this information to the Scottish Executive?**

Yes, it is essential to monitor any new process.

**Q18: Do you have any other comments or suggestions about the monitoring and evaluation of the implementation of section 11?**

It would be helpful to have details of the number of actions currently raised, to assist planning. As has been said there are significant concerns about the resources required to implement Section 11 effectively.