

GUIDANCE FOR PRIVATE SECTOR LANDLORDS AND CREDITORS ON DUTIES UNDER SECTION 11, HOMELESSNESS ETC (SCOTLAND) ACT 2003

Section 11 of the above Act comes into force from 1 April 2009.

Section 11 applies to all landlords who raise proceedings in a court of law in order to recover possession. It also requires creditors to notify the relevant local authority when they serve certain notices relating to the standard security on a dwellinghouse where they apply to court for a warrant to exercise remedies on default, or raise proceedings to eject a proprietor.

It should be noted that the duty is to give notice whenever proceedings are raised in a court of law. Generally this is done by a solicitor acting on behalf of a landlord or creditor. The duty does not apply in cases where a Short Assured Tenancy ends routinely without recourse to legal action.

Therefore if you are the landlord of a property which is within the Highland area and you raise proceeding to recover possession of the property then you have a duty to inform The Highland Council. Similarly if you are a creditor and issue certain Notices relating to a mortgage on a property which is located within the Highland area you have a duty to inform the Highland Council.

The aim of placing a duty on landlords to inform local authorities of repossession proceedings is to alert authorities to households at risk of homelessness. Local authorities have statutory duties to people who are homeless or threatened with homelessness and early notice of potential homelessness means that they may be able to respond on an individual basis. This might include the early provision of advice and information to tenants facing eviction or owners facing ejection. It may also include discussion of rights and responsibilities or referral to Independent Advice Agencies or Solicitors.

The link below will take you to draft guidance which has been published by the Scottish Government. The guidance makes it clear that it is not intended that Section 11 in itself is to be a barrier to eviction or ejection and should not prolong any dispute between landlord and tenant or creditor and owner. However, notification of the commencement of eviction or ejection proceedings to the local authority means the council may be able to help resolve the dispute to the satisfaction of all parties.

Scottish Government Guidance can be found by clicking on the following link <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/access/homeless/s11>

The Scottish Government have stipulated the form the notice should take and what information should be passed to the local authority.

You can notify the Council by either completing the on-line form or else by printing off the pdf version of the form, completing it and posting it to: The Highland Council, Housing and Property Services, Glenurquhart Road, Inverness IV3 5NX.

If you have any questions in relation to the process detailed above please contact Janice Wilson by email on janice.wilson@highland.gov.uk Please include your telephone number in your email.