



The Scottish Parliament
Pàrlamaid na h-Alba

Published 15 September 2020

SP Paper 804

6th Report (Session 5)

Local Government and Communities Committee Comataidh Riaghaltas Ionadail is Coimhearsnachdan

Report on the draft Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020



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Local Government and Communities Committee

To consider and report on communities, housing, local government, measures against poverty, planning and regeneration matters falling within the responsibility of the Cabinet Secretary for Communities and Local Government.



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Introduction

1. The Local Government and Communities Committee reports to the Parliament as follows-
2. The [Rent Arrears Pre-Action Requirements \(Coronavirus\) \(Scotland\) Regulations 2020](#) (the "regulations") were laid before the Parliament on 10 August 2020 and were referred to the local Government and Communities Committee for consideration.
3. The [Policy Note](#) for the regulations states that that the Coronavirus (Scotland) (No.2) Act 2020 ("the Act") temporarily amends the Housing (Scotland) Act 1988 and the Private Housing (Tenancies) (Scotland) Act 2016 in respect of applications for repossession of a property by a landlord in cases of rent arrears. They provide for the temporary introduction of pre-action requirements that will apply where a landlord pursues a repossession order on the grounds of rent arrears, where all or part of those arrears have originated in the period during which paragraph 4 of schedule 1 of the Act is in force. Compliance with these pre-action requirements will be taken into account by the First-tier Tribunal for Scotland (Housing and Property Chamber) when deciding whether it is reasonable to grant a repossession order in such cases. These regulations specify those pre-action requirements.
4. The Policy Note states that the objective of these regulations is to encourage sustainment of tenancies during the coronavirus outbreak by ensuring that, prior to seeking repossession of a property on the grounds of rent arrears, landlords make reasonable efforts to work with tenants to manage arrears.

Consideration by the Committee

5. The Delegated powers and Law Reform Committee considered this instrument at its [meeting on 18 August 2020](#) and [determined](#) that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
6. At its [meeting on 4 September 2020](#) the Local Government and Communities Committee took evidence on the instrument from-
 - Kevin Stewart, Minister for Local Government, Housing and Planning
 - Yvette Sheppard, Team Leader, Better Homes
 - James Hamilton, Solicitor, Housing and Local Government, Scottish Government.
7. During the evidence session, the Minister provided clarity on a number of issues raised by Committee Members, including that-
 - he had written to every tenant in the private rented sector in Scotland on their rights in relation to hearings by the First-tier Tribunal for Scotland (Housing and Property Chamber);
 - the Scottish Government would monitor the impact of the regulations;
 - representatives of private rented sector tenants had been consulted on the regulations;
 - he had sought the views from stakeholders across the public sector, and had seen anecdotal evidence, which he believed showed that pre-action protocols prevented evictions; and
 - that he would be willing to consider solutions for individual cases where landlords have been prevented from carrying out work to their properties as a result of restrictions against evictions.
8. Following the evidence session on the instrument, Kevin Stewart moved motion S5M-22417-

That the Local Government and Communities Committee recommends that the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 [draft] be approved.
9. The motion was agreed to without debate or division.

Conclusion

10. The Local Government and Communities Committee recommends that the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 be approved.

