



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 8

HOUSING: REGISTRATION OF CERTAIN LANDLORDS

Registration

82 Registers

- (1) Each local authority shall prepare and maintain a register for the purposes of this Part.
- (2) ^{F1}

Textual Amendments

- F1** S. 82(2) repealed (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(2)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**

83 Application for registration

- (1) An application by a relevant person to a local authority for entry in the register maintained by it under section 82(1) shall specify—
 - (a) the name and address of the relevant person;
 - (b) the address of each house (if any) within the area of the authority which the relevant person owns and which is subject to—
 - (i) a lease; or
 - (ii) an occupancy arrangement,by virtue of which an unconnected person may use the house as a dwelling;
 - (c) if the relevant person has a person who acts for the person in relation to the lease or occupancy arrangement to which any house specified under paragraph (b) is subject, the name and address of the person; ^{F2} . . .

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- [^{F3}(ca) the address to which correspondence with the relevant person should be directed; and]
- (d) such other information as the Scottish Ministers may by regulations prescribe.
- (2) Subject to subsection (3), the application shall be accompanied by such fee as the local authority may determine.
- (3) The Scottish Ministers may by regulations prescribe for the purposes of subsection (2) —
- (a) fees;
- (b) how fees are to be arrived at;
- (c) cases in which no fee shall be payable.
- (4) A person who, in an application under this section—
- (a) specifies information which the person knows is false in a material particular; or
- (b) knowingly fails to specify information required by subsection (1), shall be guilty of an offence.
- (5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) For the purposes of subsection (1)(b), the use of a house as a dwelling shall be disregarded if—
- (a) the house is being used for the provision of—
- (i) a care home service (as defined in subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001 (asp 8));
- (ii) a school care accommodation service (as defined in subsection (4) of that section);
- (iii) an independent health care service (as defined in subsection (5) of that section); or
- (iv) a secure accommodation service (as defined in subsection (9) of that section);
- (b) the house is being used by a religious order the principal occupation of which is prayer, contemplation, education or the relief of suffering;
- (c) a control order under section 178 of the Housing (Scotland) Act 1987 (c. 26) is in force in respect of the house; ^{F4} . . .
- (d) the house is being used for holiday purposes.
- [^{F5}(e) the house is the only or main residence of the relevant person;
- (f) the house is—
- (i) on agricultural land which is land comprised in a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 ^{M1} or comprised in a lease constituting a short limited duration tenancy or limited duration tenancy (within the meaning of that Act); and
- (ii) occupied by the tenant of the relevant lease;
- (g) the house is on a croft (within the meaning of section 3 of the Crofters (Scotland) Act 1993 ^{M2});
- (h) the house is—
- (i) on a holding to which any of the provisions of the Small Landholders (Scotland) Acts 1886 to 1931 applies;

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- (ii) not situated in the crofting counties (within the meaning of the Crofters (Scotland) Act 1993); and
 - (iii) occupied by the landholder;
 - (i) the house is occupied by virtue of a liferent;
 - (j) the house is—
 - (i) owned by an organisation which has the advancement of religion as its principal purpose and the regular holding of worship as its principal activity; and
 - (ii) occupied by a person whose principal responsibility is the leading of members of the organisation in worship and preaching the faith of that organisation;
 - (k) the house is part of an estate of a deceased person and has been held by an executor for a period not exceeding 6 months from the date of death; or
 - (l) the house is in the lawful possession of a heritable creditor and has been held by that creditor for a period not exceeding 6 months from the date of possession.]
- (7) The Scottish Ministers may by order modify subsection (6).
- (8) In this Part—
- “relevant person” means a person who is not—
 - (a) a local authority;
 - (b) a registered social landlord; or
 - (c) Scottish Homes; and
 - “unconnected person”, in relation to a relevant person, means a person who is not a member of the family of the relevant person.

Textual Amendments

- F2** Word following s. 83(1)(c) repealed (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(3)(a)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**
- F3** S. 83(1)(ca) inserted (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(3)(b)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**
- F4** Word following s. 83(6)(c) omitted (1.1.2006) by virtue of [The Private Landlord Registration \(Modification\) \(Scotland\) Order 2005 \(S.S.I. 2005/650\)](#), **art. 2(a)**
- F5** S. 83(6)(e)-(l) inserted (1.1.2006) by [The Private Landlord Registration \(Modification\) \(Scotland\) Order 2005 \(S.S.I. 2005/650\)](#), **art. 2(b)**

Commencement Information

- I1** S. 83 wholly in force at 30.4.2006; s. 83 not in force at Royal Assent see s. 145(2); s. 83 in force for specified purposes at 28.10.2004 and 9.11.2005 and for all other purposes at 30.4.2006 by [S.S.I. 2004/420](#), **arts. 2, 3**, [Schs. 1, 6](#) (as amended by [S.S.I. 2005/553](#), **art. 2**, [Sch.](#) and [S.S.I. 2006/104](#), **art. 2**)

Marginal Citations

- M1** 2003 asp 11.
- M2** 1993 c. 44.

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84 Registration

- (1) This section applies where a relevant person makes an application to a local authority in accordance with section 83.
- (2) Where, having considered the application—
 - (a) the local authority is satisfied that subsection (3) or (4) applies, the authority shall enter the relevant person in the register maintained by the authority under section 82(1);
 - (b) the authority is not satisfied that either of those subsections applies, the authority shall refuse to enter the relevant person in the register.
- (3) This subsection applies where—
 - (a) under paragraph (b) of section 83(1), the application—
 - (i) does not specify a house; or
 - (ii) specifies a house (or two or more houses);
 - (b) under paragraph (c) of that section, the application does not specify the name and address of a person; and
 - (c) the relevant person is a fit and proper person to act as landlord under—
 - (i) a lease; or
 - (ii) an occupancy arrangement,
 by virtue of which an unconnected person may use a house as a dwelling.
- (4) This subsection applies where—
 - (a) under paragraph (b) of section 83(1), the application specifies at least one house;
 - (b) under paragraph (c) of that section, the application specifies the name and address of a person;
 - (c) subsection (3)(c) applies; and
 - (d) the person is a fit and proper person to act for a landlord such as is mentioned in that subsection in relation to the lease or, as the case may be, arrangement.
- (5) An entry in a register under subsection (2)(a) shall state, in relation to the relevant person, the information specified by virtue of paragraphs (a) to [F6(ca)] of section 83(1) in the application made by the relevant person.
- (6) Subject to sections 88(8) and 89(1), where a local authority makes an entry in a register under subsection (2)(a), the authority shall remove the entry from the register on the expiry of the period of 3 years beginning with the day on which the entry is made.

Textual Amendments

F6 Words in s. 84(5) substituted (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(4)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**

85 Section 84: considerations

- (1) In deciding for the purposes of section 84(3) or (4) whether the relevant person or, as the case may be, the person is a fit and proper person, the local authority shall have regard (among other things) to any material falling within subsections (2) to (4).

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- (2) Material falls within this subsection if it shows that the relevant person or, as the case may be, the person has—
- (a) committed any offence involving—
 - (i) fraud or other dishonesty;
 - (ii) violence; or
 - (iii) drugs;
 - (b) practised unlawful discrimination^{F7} . . . in, or in connection with, the carrying on of any business; or
 - (c) contravened any provision of—
 - (i) the law relating to housing; or
 - (ii) landlord and tenant law.
- (3) Material falls within this subsection if it relates to any actings of the relevant person or, as the case may be, the person as respects antisocial behaviour affecting a house—
- (a) subject to a lease or occupancy arrangement such as is mentioned in section 84(3)(c); and
 - (b) in relation to which the relevant person was (or is) the landlord under the lease or arrangement or, as the case may be, the person was (or is) acting for the landlord in relation to the lease or arrangement.
- (4) Material falls within this subsection if it appears to the authority that the material is relevant to the question of whether the relevant person or, as the case may be, the person is a fit and proper person.
- (5) In subsection (3), “actings” includes failure to act.

Textual Amendments

- F7** Words in s. 85(2)(b) repealed (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), ss. **176(5)**, 195 (with s. 193); [S.S.I. 2006/14](#), art. 2

86 Notification of registration or refusal to register

- (1) Where a local authority—
- (a) enters a person in its register under paragraph (a) of section 84(2); or
 - (b) refuses to enter a person in its register under paragraph (b) of that section,
- the authority shall, as soon as practicable after doing so, give notice of the fact to the person.
- (2) Where a local authority refuses to enter a person in its register under section 84(2)(b), the authority shall, as soon as practicable after doing so, send notice of the fact to—
- (a) each address specified by virtue of paragraph (b) of section 83(1) in the application for registration; and
 - (b) if, by virtue of paragraph (c) of section 83(1), the application specified the name and address of a person, that person.

87 Duty of registered person to provide information to local authority

- (1) This section applies where a person is registered by a local authority.

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- (2) If in consequence of a change in circumstances any information provided by the person to the local authority by virtue of section 83(1) or, as the case may be, this subsection, becomes inaccurate, the person shall, as soon as practicable after the inaccuracy arises, give notice in writing to the authority of the change that has occurred.
- (3) Subject to subsection (4), any notice given under subsection (2) shall be accompanied by such fee as the local authority may determine.
- (4) The Scottish Ministers may by regulations prescribe for the purposes of subsection (3)
 - (a) fees;
 - (b) how fees are to be arrived at;
 - (c) cases in which no fee shall be payable.
- (5) A person who, without reasonable excuse, fails to comply with subsection (2) shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I2 S. 87 wholly in force at 30.4.2006; s. 87 not in force at Royal Assent see s. 145(2); s. 87 in force for specified purposes at 28.10.2004 and 9.11.2005 and for all other purposes at 30.4.2006 by S.S.I. 2004/420, arts. 2, 3, Schs. 1, 6 (as amended by S.S.I. 2005/553, art. 2, Sch. and S.S.I. 2006/104, art. 2)

[^{F8}87A Duty of local authority to note decisions of private rented housing committee

- (1) This section applies where a local authority receives notice under paragraph 6 of schedule 2 to the Housing (Scotland) Act 2006 (asp 1) that a private rented housing committee has, in pursuance of a decision of the committee—
 - (a) made or varied a repairing standard enforcement order;
 - (b) revoked a repairing standard enforcement order;
 - (c) consented under section 28(6) of that Act to the landlord entering into a tenancy or occupancy arrangement; or
 - (d) granted a certificate under section 60 of that Act;
 and the landlord to whom the notice relates is a person registered by the local authority.
- (2) Where paragraph (a) or (c) of subsection (1) applies, the local authority must note the decision of the committee in the person's entry in the register.
- (3) Where paragraph (b) or (d) of subsection (1) applies, the local authority must remove any information noted in the register by virtue of subsection (2) which relates to the order revoked or to the order in relation to which the certificate was granted, as the case may be.]

Textual Amendments

F8 S. 87A inserted (29.1.2006) by Housing (Scotland) Act 2006 (asp 1), ss. 176(6), 195 (with s. 193); S.S.I. 2006/14, art. 2

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88 Registered person: appointment of agent

- (1) Subsection (2) applies where—
 - (a) a person is registered by a local authority (the “registered person”); and
 - (b) the registered person appoints a person to act for the person in relation to—
 - (i) a lease; or
 - (ii) occupancy arrangement,by virtue of which an unconnected person may use as a dwelling a house within the area of the authority which the registered person owns.
- (2) The registered person shall, as soon as practicable after appointing the person, give notice in writing to the local authority of the appointment.
- (3) The local authority shall, as soon as practicable after being given notice under subsection (2), determine whether the condition in subsection (4) is satisfied in relation to the person appointed.
- (4) The condition is that the person is a fit and proper person to act for the registered person in relation to a lease or occupancy arrangement such as is mentioned in subsection (1) (b).
- (5) Subsections (2) to (5) of section 85 shall apply for the purposes of subsection (4) as those subsections apply for the purposes of subsection (1) of that section.
- (6) If the local authority determines that the condition in subsection (4) is satisfied—
 - (a) the registered person shall be deemed, with effect from the date of the determination, to be registered by virtue of subsection (4) of section 84; and
 - (b) the local authority shall give the registered person notice in writing of that fact.
- (7) Subsection (6)(a) shall not affect the calculation of the period mentioned in section 84(6).
- (8) If the local authority determines that the condition in subsection (4) is not satisfied, the authority shall remove the registered person from the register.

[^{F9}88A Access to register

- (1) Each local authority shall, on the application of any person (“the applicant”), in relation to—
 - (a) a particular house, provide the applicant with—
 - (i) the name of the owner included in its register by virtue of section 83(1)(a) or 87(2);
 - (ii) the name of any person who acts for the owner in relation to a lease or occupancy arrangement to which the house is subject included in its register by virtue of section 83(1)(c), 87(2) or 88(2);
 - (iii) the address to which correspondence with the relevant person should be directed included in its register by virtue of section 83(1)(ca) or 87(2); and
 - (iv) any information included in its register by virtue of section 87A(2).
 - (b) a particular person, confirm to the applicant whether that other person is registered in its register.

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- (2) A local authority may, on the application of any person, provide that person with such other information from its register as it thinks appropriate.
- (3) Information provided under subsection (2) may be provided subject to such conditions as the local authority thinks appropriate.
- (4) Despite subsection (1), a local authority may withhold information where it considers that providing the information would be likely to jeopardise—
 - (a) the safety or welfare of any person; or
 - (b) the security of any premises.]

Textual Amendments

- F9** S. 88A inserted (29.1.2006) by Housing (Scotland) Act 2006 (asp 1), ss. 176(7), 195 (with s. 193); S.S.I. 2006/14, art. 2

89 Removal from register

- (1) Where—
 - (a) a person is registered by a local authority; and
 - (b) subsection (2) or (3) applies,
 the authority shall remove the person from its register.
- (2) This subsection applies where—
 - (a) the person was registered by virtue of section 84(3); and
 - (b) paragraph (c) of that section no longer applies.
- (3) This subsection applies where—
 - (a) the person was registered by virtue of section 84(4); and
 - (b) paragraph (c) or (d) of that section no longer applies.

90 Notification of removal from register: registered person

- (1) Subsection (2) applies where under section 88(8) or 89(1) a local authority removes a person from the register maintained by it under section 82(1).
- (2) As soon as practicable after the removal, the local authority shall give the person notice in writing of—
 - (a) the removal; and
 - (b) the date of the removal.
- (3) Notice under subsection (2) shall be given to the person at the address which, immediately before the removal, was specified as being the address of the person in the entry for the person in the register.
- (4) For the purposes of subsection (2), notice is given by being sent by the recorded delivery service.

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91 Notification of removal from register: other persons

- (1) Subsection (2) applies where under section 88(8) or 89(1) a local authority removes a person from the register maintained by it under section 82(1).
- (2) As soon as practicable after the removal, the local authority shall give notice of the removal and the date of the removal to—
 - (a) the address of each house that, immediately before the removal, was entered in the person's entry in the register; and
 - (b) if the authority is aware of the name and address of a person who acts for the person whose name was removed from the register in relation to a lease or occupancy arrangement such as is mentioned in section 88(1)(b), that person.

92 Appeal against refusal to register or removal from register

- (1) Subsection (2) applies where—
 - (a) under section 84(2)(b) a local authority refuses to enter a person in the register maintained by it under section 82(1); or
 - (b) under section 88(8) or 89(1) an authority removes a person from the register.
- (2) The sheriff may, on the application of the person, make an order—
 - (a) requiring the authority to enter the person in the register; and
 - (b) specifying whether the entry shall be deemed to be made by virtue of subsection (3) or (4) of section 84.
- (3) Where by virtue of subsection (2) a local authority enters a person in the register maintained by it under section 82(1), the entry shall be deemed to have been made under subsection (2)(a) of section 84 by virtue of the subsection specified in the order.
- (4) An application such as is mentioned in subsection (2) shall be made by summary application.
- (5) An appeal against the decision of a sheriff granting or refusing an application under subsection (2) shall be made to the sheriff principal and shall be made within the period of 21 days beginning with the day on which the decision appealed against was made.
- (6) The decision of the sheriff principal on an appeal under this section shall be final.

VALID FROM 05/07/2006

[^{F10}92A The Letting Code

- (1) The Scottish Ministers may prepare and issue a code of practice, to be known as the Letting Code, making provision about the standards of management of—
 - (a) any relevant person who enters into, or who seeks to enter into, a lease or occupancy arrangement by virtue of which an unconnected person may use a house as a dwelling, and
 - (b) any other person who acts for such a relevant person in relation to such a lease or occupancy arrangement.
- (2) The Scottish Ministers must, from time to time, review any Letting Code issued under subsection (1) and may, following such a review—
 - (a) vary it, or

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(b) revoke and replace it.

(3) The Scottish Ministers must, before preparing, varying or replacing any Letting Code—

(a) publish, in such manner as they think fit, an assessment of the effectiveness of any existing obligations and voluntary arrangements which relate to any standards of management which a Letting Code may make provision about, and

(b) consult—

(i) such bodies representing local authorities,

(ii) such bodies representing private sector landlords, and

(iii) such other persons,

as they think fit about the need for, and the terms of, the Letting Code or variation proposed.

(4) An assessment under subsection 3(a) above must, in particular, assess the effectiveness of—

(a) the Rent (Scotland) Act 1984 (c. 58), and

(b) registration under this Part,

in dealing with harassment, unlawful eviction or unlawful management practices.]

Textual Amendments

F10 S. 92A inserted (5.7.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), ss. **175(3)**, 195 (with s. 193); S.S.I. 2006/395, **art. 2**, Table

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