



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) Each local authority shall make its register available for public inspection at all reasonable times.

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; 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.

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- (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; or
 - (d) the house is being used for holiday purposes.
- (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.

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);

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- (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 (c) 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.

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).
- (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 on grounds of sex, colour, race, ethnic or national origins or disability 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.

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.
- (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.

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.

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.

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.