



Housing (Scotland) Act 2014

2014 asp 14

PART 5

MOBILE HOME SITES WITH PERMANENT RESIDENTS

Part 1A site licence

64 Relevant permanent site application

After section 32A of the 1960 Act (inserted by section 63(2)), insert—

“Part 1A site licence

32B Relevant permanent site application

- (1) A relevant permanent site application may be made by the occupier of land to the local authority in whose area the land is situated.
- (2) A relevant permanent site application must—
 - (a) be in writing and in such format as is determined by the local authority,
 - (b) specify the land in respect of which the application is made,
 - (c) include information specified in regulations made under section 32N, and
 - (d) include any information relevant to the material falling within section 32O(2) in relation to—
 - (i) the applicant,
 - (ii) any person to be appointed by the applicant to manage the site, and
 - (iii) any other person whom the local authority is required to be satisfied is a fit and proper person in accordance with section 32D(1)(b) or (2)(b).
- (3) An applicant must, either at the time of making the application or subsequently, give to the local authority such other information as the authority may reasonably require.

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32C Fee for relevant permanent site application

- (1) A relevant permanent site application must be accompanied by a fee of such amount (if any) as the relevant local authority may fix.
- (2) An authority may fix different fees for different applications or types of application.
- (3) A fee fixed by an authority must not exceed an amount which it considers represents the reasonable costs of an authority in deciding a relevant permanent site application.
- (4) The Scottish Ministers may by regulations subject to the negative procedure make provision about the charging of fees under subsection (1).
- (5) Regulations made under subsection (4) may in particular—
 - (a) provide for the fee not to exceed such amount as may be prescribed by the regulations,
 - (b) specify matters to be taken into account by an authority when fixing a fee.”.

65 Issue, renewal, transfer and transmission of a Part 1A site licence

After section 32C of the 1960 Act (inserted by section 64), insert—

“32D Issue and renewal of a Part 1A site licence

- (1) A local authority may issue a Part 1A site licence if—
 - (a) the applicant is, when the Part 1A site licence is issued, entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order, and
 - (b) the authority is satisfied—
 - (i) that the applicant is a fit and proper person to hold a site licence,
 - (ii) in the case where an applicant is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence,
 - (iii) that any person to be appointed by the applicant to manage the site is a fit and proper person to do so, and
 - (iv) in the case where a person to be appointed by the applicant to manage the site is not a natural person, that any individual who is to be directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- (2) A local authority must renew a Part 1A site licence if—
 - (a) the applicant is, when the Part 1A site licence is renewed, entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order, and
 - (b) the authority is satisfied—

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- (i) that the applicant is a fit and proper person to hold a site licence,
 - (ii) in the case where an applicant is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence,
 - (iii) that any person appointed, or to be appointed, by the applicant to manage the site is a fit and proper person to do so, and
 - (iv) in the case where a person appointed, or to be appointed, by the applicant to manage the site is not a natural person, that any individual who is, or is to be, directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- (3) The local authority must not issue a Part 1A site licence to a person whom the local authority knows has held a site licence which has been revoked under this Act less than 3 years before that time.
- (4) Before refusing to issue or renew a Part 1A site licence, the authority must give to the applicant a notice stating that—
- (a) it is considering refusing the application and its reasons for doing so, and
 - (b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (5) In making its decision under this section the local authority must consider the application and any representations made in accordance with subsection (4)(b).

32E Application to transfer a Part 1 A site licence

- (1) This section applies where, under section 10(1), the holder of a Part 1A site licence seeks the consent of the local authority for the transfer of the licence to a person who is to become the occupier of the relevant permanent site (in this section the “transferee”).
- (2) The local authority may refuse consent to the transfer on the ground that the authority is not satisfied—
- (a) that the transferee is a fit and proper person to hold a site licence,
 - (b) in the case where the transferee is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence,
 - (c) that any person to be appointed by the transferee to manage the site is a fit and proper person to do so, and
 - (d) in the case where a person to be appointed by the transferee to manage the site is not a natural person, that any individual who is to be directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- (3) The applicant and the transferee must, either at the time of making the application or subsequently, give to the local authority such information as the

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authority may reasonably require in order to determine if the persons mentioned in subsection (2) are fit and proper persons.

- (4) Before refusing to consent to the transfer under subsection (2), the authority must give to the applicant a notice stating that—
 - (a) it is considering refusing the application and its reasons for doing so, and
 - (b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (5) In making its decision under this section the local authority must consider the application and any representations made in accordance with subsection (4)(b).

32F Time limit for determining application

- (1) This section applies where a person—
 - (a) makes a relevant permanent site application to a local authority in accordance with section 32B, or
 - (b) makes an application for consent to transfer a licence mentioned in section 32E.
- (2) The local authority must determine the application under section 32D or, as the case may be, sections 10 and 32E before the time limit specified under subsection (3).
- (3) The Scottish Ministers must, by regulations subject to the negative procedure, specify a time limit for the purposes of each application to which this section applies (and in doing so may specify different limits for different applications or types of application).
- (4) The period mentioned in subsection (2) may be extended by the sheriff, on summary application by the local authority, by such period as the sheriff thinks fit.
- (5) The sheriff may not extend a period unless the local authority applies for the extension before the period expires.
- (6) The applicant is entitled to be a party to any proceedings on such summary application.
- (7) The sheriff's decision on such summary application is final.
- (8) If the local authority does not determine a relevant permanent site application within the period required by this section—
 - (a) the authority is to be treated as having issued a Part 1A site licence, on the day by which the authority was required to determine the application, and
 - (b) the relevant person is for all purposes to be treated as having been issued a Part 1A site licence by the local authority under section 32D.
- (9) If the local authority does not determine an application for consent to transfer a licence mentioned in section 32E within the period required by this section, the authority is to be treated as having given its consent to the transfer on the day on which the application was made.

32G Local authority power to transfer licence where no application

- (1) This section applies where—
 - (a) the holder of a Part 1A site licence does not seek the consent of the local authority for the transfer of the licence under section 10(1), and
 - (b) it appears to the authority that the licence holder is no longer the occupier of the relevant permanent site.
- (2) The local authority may transfer the licence to a person whom the authority considers to be the occupier of the relevant permanent site (in this section the “transferee”).
- (3) Before deciding to transfer the licence under subsection (2), the authority must give to the licence holder and the transferee a notice stating that—
 - (a) it is considering transferring the licence to the transferee under this section and its reasons for doing so, and
 - (b) the licence holder and the transferee each have the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (4) In making its decision under this section the local authority must consider any representations made in accordance with subsection (3)(b).
- (5) The licence holder and the transferee must give to the local authority such information as the authority may reasonably require in order to make a decision under this section.
- (6) It is an offence for a person to knowingly or recklessly provide information which is false or misleading in a material respect to a local authority in purported compliance with a request under subsection (5).
- (7) A person who commits an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

32H Transfer of Part 1A site licences on death: relevant permanent sites

Where a Part 1A site licence is transferred to a person in accordance with section 10(4), that person must give to the local authority such information as the authority may reasonably require in order to make a determination under section 32L.

32I Notification of decision on Part 1A site licence

- (1) A local authority must, as soon as practicable after making a decision mentioned in subsection (2), notify the persons mentioned in subsection (3) of—
 - (a) the making of the decision, and
 - (b) the right to appeal under section 32M.
- (2) The decisions are—
 - (a) the determination of a relevant permanent site application,

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- (b) the determination of an application for consent to transfer a licence mentioned in section 32E,
 - (c) the decision to transfer a licence mentioned in section 32G.
- (3) The persons are—
- (a) in the case of a determination of a relevant permanent site application, the applicant,
 - (b) in the case of a determination of an application for consent to transfer a licence mentioned in section 32E, the applicant and the transferee,
 - (c) in the case of a decision of the local authority to transfer a licence under section 32G, the previous holder of the Part 1A site licence and the transferee.
- (4) A local authority must give to the persons mentioned in subsection (3) its reasons for making a decision mentioned in subsection (2).”.

66 Duration of a Part 1A site licence

After section 32I of the 1960 Act (inserted by section 65), insert—

“32J Duration of a Part 1A site licence

- (1) A Part 1A site licence—
- (a) comes into operation at the time specified in or determined under the licence, and
 - (b) unless terminated by its revocation, continues in force until—
 - (i) the licence holder is not entitled to the benefit of planning permission for the use of the land as a caravan site, or any planning permission for the use of the relevant permanent site as a caravan site expires, or
 - (ii) if earlier, the day which is 5 years after the day on which the licence comes into operation.
- (2) The Scottish Ministers may, by order subject to the affirmative procedure, amend subsection (1)(b)(ii) so as to substitute for the figure for the time being specified there a different figure.”.

67 Duty to inform local authority where change

After section 32J of the 1960 Act (inserted by section 66), insert—

“32K Duty to inform local authority where change

- (1) The holder of a Part 1A site licence must notify the local authority which issued the licence—
- (a) of the appointment of any new person to manage the site, and
 - (b) if, in consequence of a change of circumstances, any information provided by the licence holder to the local authority by virtue of this Part becomes inaccurate.
- (2) The notification must be made—

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- (a) in the case of an appointment mentioned in subsection (1)(a), no later than the day on which the appointment takes effect, and
 - (b) in any other case, before the end of the period of 28 days beginning with the day on which the inaccuracy arises.
- (3) The licence holder must, either at the time of notifying the local authority or subsequently, give to the authority such other information in relation to the appointment as the authority may reasonably require.
- (4) Where a local authority requests information under subsection (3), the licence holder must provide the information before the end of the period of 28 days beginning with the day on which the request is made.”.

68 Revocation of a Part 1A site licence: fit and proper person

After section 32K of the 1960 Act (inserted by section 67), insert—

“32L Revocation of a Part 1A site licence: fit and proper person

- (1) A local authority which issued a Part 1A site licence may revoke the licence if the authority is satisfied—
- (a) that the licence holder is not, or is no longer, a fit and proper person to hold a site licence,
 - (b) in the case where the licence holder is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is not, or is no longer, a fit and proper person in relation to a site licence,
 - (c) that any person appointed by the licence holder to manage the site is not, or is no longer, a fit and proper person to do so, or
 - (d) in the case where a person appointed by the licence holder to manage the site is not a natural person, that any individual who is directly concerned with the management of the site on behalf of that manager is not, or is no longer, a fit and proper person to do so.
- (2) Where a local authority proposes to revoke a Part 1A site licence under this section, the authority must serve on the licence holder a notice stating that—
- (a) it is considering revoking the licence under this section and its reasons for doing so, and
 - (b) the licence holder has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (3) In making its decision under this section the local authority must consider any representations made in accordance with subsection (2)(b).
- (4) Where a local authority revokes a licence under this section, the authority must serve on the person who held the licence a notice which—
- (a) states that the authority has revoked the licence,
 - (b) explains the right of appeal conferred by section 32M.
- (5) Where a local authority revokes a licence under this section, the authority must give to the person who held the licence its reasons for doing so.”.

69 Appeals relating to a Part 1A site licence

After section 32L of the 1960 Act (inserted by section 68), insert—

“32M Appeals relating to a Part 1A site licence

- (1) A person mentioned in subsection (2) may by summary application appeal to the sheriff against—
 - (a) the refusal by the local authority to issue or renew a Part 1A site licence following a relevant permanent site application,
 - (b) the determination by the local authority of an application for consent to transfer a licence mentioned in section 32E,
 - (c) the decision by the local authority to transfer a licence mentioned in section 32G,
 - (d) the decision by the local authority to revoke a Part 1A site licence under section 32L.
- (2) The persons are—
 - (a) in the case of a determination of a relevant permanent site application, the applicant,
 - (b) in the case of a determination of an application for consent to transfer a licence mentioned in section 32E—
 - (i) the applicant,
 - (ii) the transferee,
 - (c) in the case of a decision by the local authority to transfer a licence mentioned in section 32G—
 - (i) the previous holder of the Part 1A site licence,
 - (ii) the transferee,
 - (d) in the case of a decision of the local authority to revoke a Part 1A site licence under section 32L, the person who held the licence.”.

70 Power to make provision in relation to procedure and appeals

After section 32M of the 1960 Act (inserted by section 69), insert—

“32N Power to make provision in relation to procedure and appeals

- (1) The Scottish Ministers may, by regulations subject to the negative procedure, make provision in relation to—
 - (a) the procedure to be followed in relation to—
 - (i) the issue, renewal, transfer, transmission and revocation of a Part 1A site licence,
 - (ii) appeals under section 32M,
 - (b) the determination and consequences of an appeal under section 32M.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
 - (a) the procedure to be followed by the person making an application for—
 - (i) a new Part 1A site licence,

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- (ii) the renewal of an existing Part 1A site licence which is due to expire,
- (iii) consent to transfer a Part 1A site licence,
- (b) the procedure to be followed by a person following the transfer of a licence,
- (c) the information to be provided in relation to an application mentioned in paragraph (a) or a transfer mentioned in section 32G or 32H,
- (d) the procedure to be followed in determining an application mentioned in paragraph (a) or in considering a transfer mentioned in section 32G or 32H,
- (e) the procedure to be followed after an application mentioned in paragraph (a) is determined or a transfer mentioned in section 32G or 32H is considered,
- (f) the time limits for the giving of reasons under section 32I(4) and 32L(5),
- (g) the time limits applying in relation to appeals,
- (h) the procedure to be followed by the person making an appeal.”.