



# Housing (Scotland) Act 2014

## 2014 asp 14

### PART 5

#### MOBILE HOME SITES WITH PERMANENT RESIDENTS

VALID FROM 01/05/2017

#### *General application*

#### **63 Licensing of sites for permanent residents**

(1) In section 32(1) of the 1960 Act (application of Part 1 to Scotland), after paragraph (l) insert—

“(m) the modifications in Part 1A.”

(2) After section 32 of the 1960 Act, insert—

#### **“PART 1A**

#### LICENSING OF RELEVANT PERMANENT SITES IN SCOTLAND

#### *General application*

#### **32A Licences under Part 1A**

(1) Subject to the modifications mentioned in subsection (2), Part 1 applies in relation to—

- (a) a relevant permanent site as it applies to a caravan site within the meaning of section 1(4),
- (b) a relevant permanent site application as it applies in relation to an application for a site licence under Part 1, and

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(c) a site licence issued or renewed under this Part (a “Part 1A site licence”) as it applies to a site licence within the meaning of section 1(1).

(2) The modifications are—

- (a) the offence in section 1 does not apply to the holder of a Part 1A site licence in relation to that person's use of the relevant permanent site which is the subject of the licence,
- (b) sections 3 and 6 do not apply in relation to a relevant permanent site application,
- (c) sections 4 and 9 do not apply in relation to a Part 1A site licence, and
- (d) the further modifications in this Part.”.

*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.

**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.

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- (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.”.

#### Commencement Information

II S. 64 in force at 20.11.2014 for specified purposes by S.S.I. 2014/264, art. 2, Sch.

## 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.

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### **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).”.

#### Commencement Information

**I2** S. 65 in force at 20.11.2014 for specified purposes by S.S.I. 2014/264, art. 2, Sch.

VALID FROM 01/05/2017

#### 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.”.

VALID FROM 01/05/2017

#### 67 Duty to inform local authority where change

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

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### **“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—
  - (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.”.

VALID FROM 01/05/2017

## **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—



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- (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.”.

VALID FROM 01/05/2017

## **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.”.

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## 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,
    - (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.”.

#### Commencement Information

**I3** S. 70 in force at 20.11.2014 by S.S.I. 2014/264, art. 2, Sch.

VALID FROM 01/05/2017

### *Fit and proper persons*

## 71 Fit and proper person considerations

After section 32N of the 1960 Act (inserted by section 70), insert—

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### *“Fit and proper persons*

#### **320 Fit and proper person considerations**

- (1) In deciding under this Part if a person is a fit and proper person, the local authority must have regard to all of the circumstances of the case, including any material falling within subsections (2) to (6).
- (2) Material falls within this subsection if it shows that the person has—
  - (a) been convicted of an offence—
    - (i) involving fraud or other dishonesty,
    - (ii) involving violence,
    - (iii) involving drugs,
    - (iv) involving firearms,
    - (v) which is a sexual offence within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995 (c.46),
  - (b) practised unlawful discrimination on the grounds of any of the protected characteristics in Part 2 of the Equality Act 2010 (c.15),
  - (c) contravened any provision of—
    - (i) the law relating to caravans,
    - (ii) the law relating to housing,
    - (iii) landlord and tenant law,
  - (d) committed a breach of an agreement to which the Mobile Homes Act 1983 applies,
  - (e) contravened a direction made under section 37 of the Gas Act 1986 (c.44) (maximum prices for reselling gas),
  - (f) contravened a direction made under section 44 of the Electricity Act 1989 (c.29) (maximum prices for reselling electricity),
  - (g) contravened a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002 (asp 3) (charges schemes) as it applied to the person by virtue of section 30(1) of that Act (maximum charges for services provided with help of Scottish Water),
  - (h) engaged in antisocial behaviour within the meaning of section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8),
  - (i) breached the conditions of a site licence issued under Part 1 or Part 1A of this Act.
- (3) Material which shows that a person has a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 (c.53) does not fall within subsection (2).
- (4) Material falls within this subsection if it relates to the failure by a person to provide information which that person is required to give to the local authority in accordance with this Part.
- (5) Material falls within this subsection if it relates to a complaint made by a person of which the local authority is aware about antisocial behaviour within the meaning of section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) on the relevant permanent site.

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- (6) Material falls within this subsection if it is material of which the local authority is aware as a result of any other function carried out by the authority and it appears to the authority to be relevant to the question of whether the person is a fit and proper person.
- (7) The Scottish Ministers may, by order subject to the affirmative procedure, modify this section by adding to, removing or varying any material in subsections (2) to (6).”.

## **72 Fit and proper person: criminal conviction certificate**

After section 32O of the 1960 Act (inserted by section 71), insert—

### **“32P Fit and proper person: criminal conviction certificate**

- (1) A local authority may, in deciding under this Part if a person is a fit and proper person, require the person in respect of whom the decision is being made to provide the local authority with a criminal conviction certificate (within the meaning of section 112 of the Police Act 1997 (c.50)).
- (2) A local authority may require a criminal conviction certificate to be provided under subsection (1) only if it has reasonable grounds to suspect that the information provided under this Part in relation to material falling within section 32O(2) is, or has become, inaccurate.”.

## **73 Fit and proper person: information sharing**

After section 32P of the 1960 Act (inserted by section 72), insert—

### **“32Q Fit and proper person: information sharing**

- (1) A local authority may, for the purpose of another local authority deciding under this Part if a person is a fit and proper person, provide to that other authority information which falls within subsection (2).
- (2) Information falls within this subsection if the local authority holding the information considers that—
  - (a) it is likely to be relevant to the other authority's decision under this Part as to whether a person is a fit and proper person, and
  - (b) it ought to be provided for that purpose.
- (3) Subsections (1) and (2) apply despite any duty of confidentiality owed to any person in respect of the information by the authority disclosing the information.”.

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VALID FROM 01/05/2017

### *Offences relating to relevant permanent sites*

#### **74 Offences relating to relevant permanent sites**

After section 32Q of the 1960 Act (inserted by section 73), insert—

#### *“Offences relating to relevant permanent sites*

##### **32R Offences in connection with information requirements**

- (1) 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) a requirement under section 32B,
  - (b) a requirement under section 32E(3),
  - (c) a requirement under section 32H,
  - (d) a requirement under section 32K.
- (2) It is an offence for a person, without reasonable excuse—
  - (a) to fail to notify a local authority in accordance with 32K(1) and (2), or
  - (b) to fail to provide information in accordance with section 32K(3) and (4).
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

##### **32S Relevant permanent sites: use without a licence**

- (1) It is an offence for the occupier of land to cause or permit that land to be used as a relevant permanent site unless—
  - (a) the occupier is the holder of a Part 1A site licence in relation to the site, or
  - (b) subsection (2) or (3) applies to that person.
- (2) This subsection applies to a person from the day on which the person makes a relevant permanent site application to a local authority in accordance with section 32B until—
  - (a) that application is determined under section 32D,
  - (b) in the case of a refusal by the authority to issue or renew a Part 1A site licence under that section, the day on which the period during which the applicant may make an appeal under section 32M(1)(a) expires without an appeal being made, or
  - (c) where such an appeal is made, the day on which it is finally determined or abandoned.
- (3) This subsection applies to a person from the day on which the person's Part 1A site licence is revoked under section 32L until—

**Status:** Point in time view as at 20/11/2014. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** *Housing (Scotland) Act 2014, PART 5 is up to date with all changes known to be in force on or before 15 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) the day on which the period during which the person can make an appeal under section 32M(1)(d) expires without an appeal being made, or
  - (b) where such an appeal is made, the day on which it is finally determined or abandoned.
- (4) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £50,000.

### **32T Relevant permanent sites: breach of licence conditions**

- (1) It is an offence for the holder of a Part 1A site licence to fail to comply with any condition of a Part 1A site licence issued in relation to the site.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £10,000.”.

### *Local authority enforcement at relevant permanent sites*

VALID FROM 01/05/2017

## **75 Improvement notices**

After section 32T of the 1960 Act (inserted by section 74), insert—

### *“Local authority enforcement at relevant permanent sites*

#### **32U Breach of licence condition: improvement notice**

- (1) If it appears to a local authority which issued a Part 1A site licence that the licence holder is failing or has failed to comply with a condition of the Part 1A site licence, the authority may serve an improvement notice on the licence holder.
- (2) An improvement notice is a notice which—
  - (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the licence holder to take such steps as the local authority considers appropriate and as are specified in the notice in order to ensure that that condition is complied with,
  - (c) specifies the period within which those steps must be taken,
  - (d) explains the right of appeal conferred by subsection (3).
- (3) The holder of a Part 1A site licence who has been served with an improvement notice may by summary application appeal to the sheriff against—
  - (a) the issue of that notice,
  - (b) the terms of that notice.

*Status:* Point in time view as at 20/11/2014. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Housing (Scotland) Act 2014, PART 5 is up to date with all changes known to be in force on or before 15 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The period specified in an improvement notice under subsection (2)(c) must begin on the later of—
  - (a) the day on which the period during which the person may make an appeal under subsection (3) expires, or
  - (b) where such an appeal is made, the day on which the appeal is finally determined or abandoned.
- (5) A local authority may—
  - (a) suspend an improvement notice,
  - (b) revoke an improvement notice,
  - (c) vary an improvement notice by extending the period specified in the notice under subsection (2)(c).
- (6) The power to suspend, revoke or vary an improvement notice is exercisable by the local authority—
  - (a) on an application made by the licence holder, or
  - (b) on the authority's own initiative.
- (7) Where a local authority suspends, revokes or varies an improvement notice, the authority must notify the licence holder to whom the notice relates of the decision as soon as is reasonably practicable.

### **32V Improvement notice: offence**

- (1) It is an offence for a licence holder who has been served with an improvement notice to fail to take the steps specified in the notice within the period so specified.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £10,000.
- (3) In proceedings against a licence holder for an offence under subsection (1), it is a defence that the licence holder had a reasonable excuse for failing to take the steps referred to in subsection (1) within the period referred to in that subsection.

### **32W Local authority power to carry out steps in an improvement notice**

- (1) This section applies where—
  - (a) an improvement notice has been served in relation to a relevant permanent site, and
  - (b) the licence holder fails to take the steps specified in the notice within the period so specified.
- (2) The local authority which issued the improvement notice may—
  - (a) take any steps required by the improvement notice to be taken by the occupier, but which have not been so taken, and
  - (b) take such further action as the authority considers appropriate for ensuring that the condition specified in the improvement notice is complied with.

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- (3) Where a local authority proposes to take action under subsection (2), the authority must serve on the occupier of the relevant permanent site a notice which—
- (a) identifies the land and the improvement notice to which it relates,
  - (b) states that the authority intends to enter onto the land,
  - (c) describes the action the authority intends to take on the land,
  - (d) if the person whom the authority proposes to authorise to take the action on its behalf is not an officer of the authority, states the name of that person, and
  - (e) sets out the dates and times on which it is intended that the action will be taken (in particular, when the authority intends to start taking the action and when it expects the action to be completed).
- (4) The notice must be served sufficiently in advance of when the local authority intends to enter onto the land as to give the occupier of the relevant permanent site reasonable notice of the intended entry.”.

VALID FROM 01/05/2017

## 76 Penalty notices

After section 32W of the 1960 Act (inserted by section 75), insert—

### “32X Penalty notice where no licence or breach of licence

- (1) A local authority may serve a penalty notice on the occupier of a relevant permanent site if it appears to the local authority that the occupier—
- (a) has caused or permitted the relevant permanent site to be used as a caravan site without being the holder of a Part 1A site licence in relation to the site, or
  - (b) has been served with an improvement notice and has failed to take the steps specified in the notice within the period so specified.
- (2) A penalty notice is a notice which—
- (a) sets out the condition in question and details of the failure to comply with it,
  - (b) explains the effect of subsection (3),
  - (c) specifies the period within which the penalty applies,
  - (d) explains the right of appeal conferred by subsection (7).
- (3) Where a penalty notice is served under this section—
- (a) no amount which a person is required to pay to the occupier of the relevant permanent site in respect of—
    - (i) the right to station a caravan on the site,
    - (ii) rent for the occupation of a caravan on the site, or
    - (iii) the use of the common areas of the site and their maintenance,



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- is payable for the period specified in the notice under subsection (2)(c), and
- (b) no commission on sale payable in accordance with paragraph 8 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (c.34) is payable to the occupier of the relevant permanent site in respect of a caravan on the site for the period specified in the notice under subsection (2)(c).
- (4) The period specified in a penalty notice under subsection (2)(c) must begin on the later of—
- (a) the day on which the period during which the person may make an appeal under subsection (7) expires, or
- (b) where such an appeal is made, the day on which the appeal is finally determined or abandoned.
- (5) The local authority must, as soon as practicable after serving a notice under this section and in such manner as it thinks fit, notify the occupiers of caravans on the site of the existence of the notice.
- (6) The ways in which a notification under subsection (5) may be carried out include by fixing a notice in a prominent place at or near the main entrance to the relevant permanent site.
- (7) The occupier of a relevant permanent site in respect of which a local authority has served a penalty notice may, within the period of 28 days beginning with the day on which the notice was served, by summary application appeal to the sheriff against the decision.”.

## 77 Appointment of interim manager

After section 32X of the 1960 Act (inserted by section 76), insert—

### “32Y Power to appoint interim manager

- (1) A local authority which has issued a Part 1A site licence may apply to the sheriff for an order appointing an interim manager of the site.
- (2) An order may be granted by the sheriff if—
- (a) the authority has refused to renew a Part 1A site licence under section 32D,
- (b) the authority has revoked a Part 1A site licence under section 32L, or
- (c) the sheriff is satisfied that—
- (i) the licence holder is failing or has failed, either seriously or repeatedly, to comply with a condition of the Part 1A site licence,
- (ii) the site is not being managed by a person who is a fit and proper person to manage the site, or
- (iii) there is no one managing the site.
- (3) The appointment of an interim manager is to be on terms (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.

*Status: Point in time view as at 20/11/2014. This version of this part contains provisions that are not valid for this point in time.*

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- (4) The interim manager has—
- (a) any power specified in the appointment, and
  - (b) any other power in relation to the management of the site required by the interim manager for the purposes specified in the appointment (including the power to enter into agreements and take other action on behalf of the occupier of the site).
- (5) The Scottish Ministers may by regulations subject to the negative procedure make further provision about the appointment of an interim manager.
- (6) Regulations under subsection (5) may, in particular, make provision in relation to—
- (a) the procedure to be followed in making an application,
  - (b) the powers of an interim manager,
  - (c) property which vests in the interim manager on the interim manager's appointment,
  - (d) the qualifications that must be held by any person appointed as interim manager,
  - (e) the actions that must be carried out by an interim manager during and after the manager's appointment,
  - (f) the payment and recovery of the remuneration and expenses of the interim manager,
  - (g) the assistance to be provided to the interim manager by the licence holder and other persons,
  - (h) powers of entry to the relevant permanent site,
  - (i) criminal offences which are to apply to failures to comply with the regulations,
  - (j) the procedure for and consequences of the termination of the interim manager's appointment.”.

#### Commencement Information

**I4** S. 77 in force at 20.11.2014 for specified purposes by S.S.I. 2014/264, art. 2, Sch.

VALID FROM 01/05/2017

#### 78 Emergency action

After section 32Y of the 1960 Act (inserted by section 77), insert—

##### “32Z Power to take emergency action

- (1) A local authority which has issued a Part 1A site licence may take emergency action in relation to the site concerned if it appears to the authority that—
- (a) the licence holder is failing or has failed to comply with a condition for the time being attached to the Part 1A site licence, and
  - (b) as a result of that failure there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land.

*Status: Point in time view as at 20/11/2014. This version of this part contains provisions that are not valid for this point in time.*

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- (2) A local authority in whose area land is being used as a relevant permanent site may take emergency action in relation to the land concerned if it appears to the authority that—
  - (a) the occupier does not hold a Part 1A site licence in relation to the land, and
  - (b) there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land.
- (3) The emergency action a local authority may take is such action as appears to the authority to be necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b) or, as the case may be, subsection (2)(b).
- (4) Where a local authority proposes to take emergency action, the authority must serve on the licence holder or, as the case may be, the occupier of the relevant permanent site an emergency action notice.
- (5) An emergency action notice is a notice which—
  - (a) identifies the land to which it relates,
  - (b) states that the authority intends to enter onto the land,
  - (c) describes the emergency action the authority intends to take on the land,
  - (d) if the person whom the authority proposes to authorise to take the action on its behalf is not an officer of the authority, states the name of that person, and
  - (e) specifies the powers under this section and section 26 as the powers under which the authority intends to enter onto the land.
- (6) An emergency action notice may state that, if entry onto the land were to be refused, the authority would propose to apply for a warrant under section 26(2).
- (7) The local authority must serve on the licence holder or, as the case may be, the occupier of the relevant permanent site an emergency action report within the period of 7 days beginning with the date when the authority starts taking the emergency action.
- (8) An emergency action report is a notice which—
  - (a) describes the imminent risk of serious harm to the health or safety of persons who are or may be on the land,
  - (b) describes the emergency action which has been, and any emergency action which is to be, taken by the authority on the land,
  - (c) sets out when the authority started taking the emergency action and when the authority expects it to be completed,
  - (d) if the person whom the authority has authorised to take the action on its behalf is not an officer of the authority, states the name of that person, and
  - (e) explains the right of appeal conferred by subsection (10).
- (9) The ways in which an emergency action notice and an emergency action report may be served include by fixing it in a prominent place at or near the main entrance to the relevant permanent site.

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- (10) A licence holder or, as the case may be, an occupier of land in respect of which a local authority has taken or is taking emergency action may by summary application appeal to the sheriff against the taking of the action by the authority.
- (11) The grounds on which the appeal may be brought are—
- (a) that there was no imminent risk of serious harm as mentioned in subsection (1)(b) or, as the case may be, subsection (2)(b) (or, where the action is still being taken, that there is no such risk),
  - (b) that the action the authority has taken was not necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b) or, as the case may be, subsection (2)(b) (or, where the action is still being taken, that it is not necessary to remove the risk).”.

VALID FROM 01/05/2017

## 79 Powers of entry

After section 32Z of the 1960 Act (inserted by section 78), insert—

### “32Z1 Powers of entry in relation to relevant permanent site

- (1) Section 26 (as modified by section 32) applies in relation to a relevant permanent site—
  - (a) as if after every reference to “this Part” there were inserted “ or Part 1A ”,
  - (b) as if after paragraph (a) of subsection (1) there were inserted—
    - “(aa) for the purpose of inspecting a relevant permanent site,” and
  - (c) subject to the further modifications in this section.
- (2) If, under an improvement notice or an emergency action notice, a local authority authorises a person other than an officer of the authority to take the action on its behalf, the reference in section 26(1) to an authorised officer of the local authority is to be read as including that person.
- (3) In its application to an improvement notice, the requirement in section 26(1) to give 24 hours' notice of the intended entry applies only in relation to the day on which the local authority intends to start taking the action on the relevant permanent site.
- (4) In its application to an emergency action notice, section 26(1) has effect as if—
  - (a) the words “at all reasonable hours” were omitted, and
  - (b) the words from “Provided that” to the end were omitted.”.

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VALID FROM 01/05/2017

## 80 Recovery of inspection and enforcement expenses

After section 32Z1 of the 1960 Act (inserted by section 79), insert—

### “32Z2 Expenses of issuing notices

- (1) This section applies where a local authority has served—
  - (a) an improvement notice,
  - (b) a penalty notice,
  - (c) an emergency action notice, or
  - (d) an emergency action report.
- (2) The local authority may recover from the licence holder or, as the case may be, the occupier of the relevant permanent site—
  - (a) expenses incurred by the authority in deciding whether to serve the notice or report,
  - (b) expenses incurred by the authority in preparing and serving the notice or report, and
  - (c) interest, at such reasonable rate as the authority may determine, in respect of the period beginning on a date specified by the authority until the whole amount is paid.
- (3) The expenses referred to in subsection (2) include in particular the costs of obtaining expert advice (including legal advice).

### 32Z3 Expenses of taking action under improvement notice or emergency action notice

- (1) A local authority which has taken action in accordance with an improvement notice or an emergency action notice may recover from the licence holder or, as the case may be, the occupier of the relevant permanent site—
  - (a) expenses incurred by the authority in deciding whether to take the action,
  - (b) expenses incurred by the authority in taking the action, and
  - (c) interest, at such reasonable rate as the authority may determine, in respect of the period beginning on a date specified by the authority until the whole amount is paid.
- (2) The expenses referred to in subsection (1) include in particular the costs of obtaining expert advice (including legal advice).

### 32Z4 Expenses of local authority in relation to Part 1A licences

The local authority which issued a Part 1A site licence may require the licence holder to pay the amount of any expenses incurred by the authority in relation to—

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- (a) inspecting a relevant permanent site for the purpose of ascertaining whether there is, or has been, any contravention of the provisions of this Act,
- (b) assessing or investigating compliance by the licence holder with the provisions of this Act following an inspection.”.

*Miscellaneous*

VALID FROM 01/05/2017

**81 Offences by bodies corporate etc. under Part 1A of the 1960 Act**

After section 32Z4 of the 1960 Act (inserted by section 80), insert—

*“Miscellaneous*

**32Z5 Offences by bodies corporate etc.**

- (1) Where—
  - (a) an offence under this Part has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
  - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
    - (i) a relevant individual, or
    - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual (as well as the body corporate, partnership or, as the case may be, other unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.
- (2) In subsection (1), “relevant individual” means—
  - (a) in relation to a body corporate—
    - (i) a director, manager, secretary or other similar officer of the body,
    - (ii) where the affairs of the body are managed by its members, the members,
  - (b) in relation to a Scottish partnership, a partner,
  - (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.”.

**82 Part 1A of the 1960 Act: miscellaneous provision**

After section 32Z5 of the 1960 Act (inserted by section 81), insert—

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### **“32Z6 Interpretation of Part 1A**

(1) In this Part—

“emergency action notice” has the meaning given by section 32Z(5),  
“emergency action report” has the meaning given by section 32Z(8),  
“excepted permission” means a permission (by virtue of planning permission or a site licence under Part 1) to station a caravan on the land for human habitation all year round, if the caravan is, or is to be, authorised to be occupied by—

- (a) the occupier,
- (b) a person employed by the occupier but who does not occupy the caravan under an agreement to which section 1(1) of the Mobile Homes Act 1983 (c.34) applies,

“improvement notice” has the meaning given by section 32U(2),

“licence holder” means the person holding the Part 1A site licence,

“Part 1A site licence” has the meaning given by section 32A(1)(c),

“penalty notice” has the meaning given by section 32X(2),

“planning permission” means planning permission under Part 3 of the Town and Country Planning (Scotland) Act 1997 (c.8),

“relevant permanent site” means land in respect of which a site licence is required under Part 1, other than land for which the relevant planning permission or the site licence—

- (a) is expressed to be granted for holiday use only,
- (b) is otherwise so expressed or subject to conditions that there are times of the year when no caravan may be stationed on the land for human habitation, or
- (c) would meet the conditions in paragraph (a) or (b) if any excepted permission is disregarded,

“relevant permanent site application” means, irrespective of the conditions in the relevant planning permission, an application for the issue or renewal of a Part 1A site licence authorising the use of land as a caravan site, other than an application for a licence—

- (a) to be expressed to be granted for holiday use only,
- (b) to be otherwise so expressed or subject to conditions that there will be times of the year when no caravan may be stationed on the land for human habitation, or
- (c) which would meet the conditions in paragraph (a) or (b) if any part of the application for excepted permission were disregarded.

(2) Any reference in this Part to the sheriff is to the sheriff having jurisdiction in the place where the relevant permanent site is situated.

(3) Otherwise, words and expressions (as modified by section 32) have the same meaning in this Part as in Part 1.

### **32Z7 Guidance**

(1) The Scottish Ministers may, after consulting such persons as they consider appropriate, publish guidance about the operation of this Part.

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- (2) A local authority must have regard to any guidance published when carrying out its functions under this Part.”.

#### Commencement Information

**I5** S. 82 in force at 20.11.2014 by S.S.I. 2014/264, art. 2, Sch.

VALID FROM 01/05/2017

#### **83 Transitional provision for existing site licences**

- (1) This section applies to a site licence issued under the 1960 Act which—
- (a) was issued before the day on which section 66 comes into force in respect of land which is a relevant permanent site,
  - (b) is in force on that day.
- (2) The site licence continues in force until the earliest of—
- (a) the end of the period of 2 years beginning with the day on which section 66 comes into force,
  - (b) the day on which the licence is revoked under, or expires in accordance with, the provisions of the 1960 Act, or
  - (c) the day on which a Part 1A site licence is issued in relation to the site.
- (3) During the period for which a site licence continues in force under this section, the provisions of Part 1A of the 1960 Act do not apply to the site licence or in respect of the land which is a relevant permanent site.
- (4) In this section, “Part 1A site licence” and “relevant permanent site” have the same meanings as in section 32Z6 of the 1960 Act (as inserted by section 82).

VALID FROM 01/05/2017

#### **84 Agreements to which the Mobile Homes Act 1983 applies**

In Schedule 1 to the Mobile Homes Act 1983 (c.34)—

- (a) after paragraph 1, insert—

- “1A
- (1) The right to station the mobile home under in paragraph 1 is not affected by—
- (a) the expiry of a Part 1A site licence in accordance with section 32J(1)(b)(ii) of the 1960 Act,
  - (b) the refusal to issue or renew a Part 1A site licence under section 32D of the 1960 Act,
  - (c) the revocation of a Part 1A site licence under section 32L of the 1960 Act, or



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- (d) the expiry of a site licence in accordance with section 83(2) of the Housing (Scotland) Act 2014 (asp 14).
- (2) Sub-paragraph (1) applies in relation to agreements that were made at any time before the day on which that sub-paragraph comes into force (as well as in relation to agreements made on or after that day).
- (3) In this paragraph—
  - “the 1960 Act” means the Caravan Sites and Control of Development Act 1960 (c.62), and
  - “Part 1A site licence” has the same meaning as in section 32Z6 of the 1960 Act.”, and
- (b) in paragraph 23, after sub-paragraph (1)(a) insert—
  - “(aa) no regard may be had to any costs paid, or to be paid, by the owner in connection with expenses recovered by a local authority under—
    - (i) section 32Z2(2) of the Caravan Sites and Control of Development Act 1960,
    - (ii) subsection (1)(a) or (c) of section 32Z3 of that Act, or
    - (iii) section 32Z4 of that Act,
  - (ab) no regard may be had to any costs paid, or to be paid, by the owner in connection with the owner being convicted of an offence under Part 1A of the Caravan Sites and Control of Development Act 1960.”.

**Status:**

Point in time view as at 20/11/2014. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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