



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- F1** S. 82(2) repealed (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\), ss. 176\(2\), 195](#) (with s. 193); [S.S.I. 2006/14, art. 2](#)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 [^{F4}paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010] (asp 8));
 - (ii) a school care accommodation service (as defined in [^{F5}paragraph 3 of that schedule]);
 - ^{F6}(iii)
 - (iv) a secure accommodation service (as defined in [^{F7}paragraph 6 of that schedule]);
 - [^{F8}(v) an independent hospital (as defined in subsection (2) of section 10F of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#));
 - (vi) a private psychiatric hospital (as defined in that section);
 - (vii) an independent clinic (as defined in that section); or
 - (viii) an independent medical agency (as defined in 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; ^{F9} . . .
 - (d) the house is being used for holiday purposes.
 - [^{F10}(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 [^{F11}, limited duration tenancy, modern limited duration tenancy or repairing tenancy] (within the meaning of that Act); and

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- (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;
 - (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; ^{F12} . . .
 - (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;]^{F13}[^{F14} . . .
 - (m) the house is owned by a person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 ^{M3} and has been so owned by that person for a period not exceeding six months [^{F15}; ^{F16} . . .]
 - [^{F17}(n) the house is being used for a short-term let as defined in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022][^{F18}; or
 - (o) the house is being used, under an occupancy arrangement, by a person who has permission to enter into or to stay in the United Kingdom granted under the immigration rules laid down under section 3(2) of the Immigration Act 1971 in relation to the Homes for Ukraine Sponsorship Scheme.]
- (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**

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- F4** Words in s. 83(6)(a)(i) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 1 para. 14(3)(a)**
- F5** Words in s. 83(6)(a)(ii) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 1 para. 14(3)(b)**
- F6** S. 83(6)(a)(iii) and word repealed (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 2 para. 9(b)(i)(ii)**
- F7** Words in s. 83(6)(a)(iv) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 1 para. 14(3)(c)**
- F8** S. 83(6)(a)(v)-(viii) inserted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 2 para. 9(b)(iii)**
- F9** 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)**
- F10** 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)**
- F11** Words in s. 83(6)(f)(i) substituted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 8(2)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 13)
- F12** Word following s. 83(6)(k) omitted (12.2.2009) by virtue of The Private Landlord Registration (Modification) (Scotland) Order 2009 (S.S.I. 2009/33), **art. 2(a)**
- F13** Word in s. 83(6) omitted (1.3.2022) by virtue of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (S.S.I. 2022/32), art. 1, **sch. 4 para. 1(2)(a)**
- F14** S. 83(6)(m) and preceding word inserted (12.2.2009) by The Private Landlord Registration (Modification) (Scotland) Order 2009 (S.S.I. 2009/33), **art. 2(b)**
- F15** Word in s. 83(6)(m) substituted (1.3.2022) by The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (S.S.I. 2022/32), art. 1, **sch. 4 para. 1(2)(b)**
- F16** Word in s. 83(6) omitted (12.5.2022) by virtue of The Private Landlord Registration (Modification) (Scotland) Order 2022 (S.S.I. 2022/163), arts. 1, **2(a)**
- F17** S. 83(6)(n) inserted (1.3.2022) by The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (S.S.I. 2022/32), art. 1, **sch. 4 para. 1(2)(c)**
- F18** S. 83(6)(o) and word inserted (12.5.2022) by The Private Landlord Registration (Modification) (Scotland) Order 2022 (S.S.I. 2022/163), arts. 1, **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.
M3 1986 c. 45. Section 388 was amended by regulation 17 of S.I. 2002/1240.

84 Registration

- (1) This section applies where a relevant person makes an application to a local authority in accordance with section 83.
- (2) Where [F19(subject to subsections (7) and (8))], 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.

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- (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
 - [^{F20}(d) either—
 - (i) the person is a registered letting agent, or
 - (ii) in the case of a person who is not a registered letting agent, the person is a fit and proper person to act for the landlord such as is mentioned in subsection (3)(c) 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 [^{F21}(ca)] of section 83(1) in the application made by the relevant person.
- [^{F22}(5A) An entry in a register under subsection (2)(a) shall state, in relation to the relevant person, a registration number (to be known as the “landlord registration number”).]
- (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.
- [^{F23}(7) The local authority may refuse to enter a person in the register maintained by the authority under section 82(1) if the person fails to comply with the duty, if applicable, imposed by section 92B(3).
- (8) The local authority must refuse to enter a person in the register maintained by the authority under section 82(1) if the person is disqualified by an order made under section 93A(2).]

Textual Amendments

- F19** Words in s. 84(2) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), [sch. para. 2\(a\)](#); S.S.I. 2013/82, art. 2(1), sch.
- F20** S. 84(4)(d) substituted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 60\(1\)](#), 104(3); S.S.I. 2016/412, art. 2, sch.
- F21** 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](#)

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- F22** S. 84(5A) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 3(1)**, 41(3); [S.S.I. 2013/82](#), art. 2(1), sch.
- F23** S. 84(7)(8) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), **sch. para. 2(b)**; [S.S.I. 2013/82](#), art. 2(1), sch.

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;
 - [^{F24}(ia) firearms (within the meaning of section 57(1) of the Firearms Act 1968 (c. 27));]
 - (ii) violence; or
 - (iii) drugs;
 - [^{F25}(aa) committed a sexual offence (within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995 (c. 46));]
 - (b) practised unlawful discrimination ^{F26} . . . in, or in connection with, the carrying on of any business; or
 - (c) contravened any provision of—
 - [^{F27}(zi) any Letting Code issued under section 92A;]
 - (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.
- [^{F28}(3A) Material falls within this subsection if it relates to any agreement between the relevant person and any person in terms of which that person acts for the relevant person in relation to a lease or occupancy arrangement such as is mentioned in section 84(3)(c).]
- (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.
- [^{F29}(4A) A local authority need not, despite subsection (1), have regard to any material falling within subsection (3A) in deciding for the purposes of section 84(4) whether a person specified in an application by virtue of section 83(1)(c) is a fit and proper person to act for a landlord.]
- (5) In subsection (3), “actings” includes failure to act.

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- [^{F30}(6) Examples of material which falls within subsection (2) (as mentioned in paragraph (c) (i) or (ii)) are (without prejudice to the generality of that provision)—
- (a) an offence or disqualification under—
 - (i) this Part;
 - (ii) Part 5 of the Housing (Scotland) Act 2006 (asp 1);
 - (b) a repairing standard enforcement order made under section 24(2) of that Act.
- (7) Examples of material which falls within subsection (3) are (without prejudice to the generality of that provision)—
- (a) an antisocial behaviour order (or any interim order) within the meaning of Part 2;
 - (b) an antisocial behaviour notice within the meaning of Part 7.
- (8) Examples of material which falls within subsection (4) are (without prejudice to the generality of that provision)—
- (a) complaints and other information which come to the attention of the local authority concerning the relevant person or, as the case may be the person, in relation to the fulfilment of any financial obligation in respect of any house which is included in the application;
 - (b) concerns and other information which come to the attention of the local authority in the exercise of any of its functions in connection with any house which is included in the application;
 - (c) where section 85A(3)(b) applies, the relevant person fails to provide the certificate within the period the local authority directs.
- (9) The Scottish Ministers may by order modify subsection (2).]

Textual Amendments

- F24** S. 85(2)(a)(ia) inserted (1.7.2012) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 1(1)(a)(i)**, 41(3); [S.S.I. 2012/150](#), **art. 2(1)**
- F25** S. 85(2)(aa) inserted (1.7.2012) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 1(1)(a)(ii)**, 41(3); [S.S.I. 2012/150](#), **art. 2(1)**
- F26** 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**
- F27** S. 85(2)(c)(zi) inserted (5.7.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 175(2)(a)**, 195 (with s. 193); [S.S.I. 2006/395](#), **art. 2**, Table
- F28** S. 85(3A) inserted (5.7.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 175(2)(b)**, 195 (with s. 193); [S.S.I. 2006/395](#), **art. 2**, Table
- F29** S. 85(4A) inserted (5.7.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 175(2)(c)**, 195 (with s. 193); [S.S.I. 2006/395](#), **art. 2**, Table
- F30** S. 85(6)-(9) inserted (1.7.2012) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 1(1)(b)**, 41(3); [S.S.I. 2012/150](#), **art. 2(1)**

Modifications etc. (not altering text)

- C1** S. 85 applied (31.8.2011) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 130(3)**, 195(3) (with s. 193); [S.S.I. 2010/159](#), **art. 3**

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[^{F31}85A Fit and proper person: criminal record certificate

- (1) A local authority may, in deciding for the purposes of section 84(3) or (4) whether a relevant person is, or is no longer, a fit and proper person, require the relevant person to provide the local authority with a criminal record certificate (within the meaning of section 113A of the Police Act 1997 (c. 50)).
- (2) A local authority may require a criminal record certificate to be provided under subsection (1) only if it has reasonable grounds to suspect that the information provided with an application for entry in the register maintained under section 82(1) in relation to material falling within subsection (2), (3) or (4) of section 85 is, or has become, inaccurate.
- (3) Where a local authority has required a criminal record certificate to be provided under subsection (1)—
 - (a) in the case of an application for entry in the register maintained under section 82(1), a relevant person may not be entered in the register until the certificate has been received by the local authority;
 - (b) in the case of a relevant person entered in the register, the relevant person must provide the certificate within such reasonable period as the local authority directs.]

Textual Amendments

F31 S. 85A inserted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 2**, 41(3); [S.S.I. 2011/270](#), **art. 2**, **sch.**

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 [^{F32}or subsection (7) or (8) of section 84],
 the authority shall, as soon as practicable after doing so, give notice of the fact to the person.
- [^{F33}(1A) Where a local authority gives notice of the fact of registration under subsection (1)(a) it must, in doing so, give notice of the landlord registration number.]
- (2) Where a local authority refuses to enter a person in its register under section 84(2)(b), [^{F34}(7) or (8),] 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.

Textual Amendments

F32 Words in s. 86(1)(b) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **s. 41(3)**, **sch. para. 3(a)**; [S.S.I. 2013/82](#), **art. 2(1)**, **sch.**

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- F33** S. 86(1A) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 3(2)**, 41(3); [S.S.I. 2013/82](#), art. 2(1), sch.
- F34** Words in s. 86(2) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), **sch. para. 3(b)**; [S.S.I. 2013/82](#), art. 2(1), sch.

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.

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)

[^{F35}87A] [^{F36}Duty of local authority to note decisions of the First-tier Tribunal for Scotland Housing and Property Chamber]

- (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 [^{F37}the First-tier Tribunal for Scotland Housing and Property Chamber] has, in pursuance of a decision of the [^{F38}First-tier Tribunal for Scotland Housing and Property Chamber] —
 - (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 [^{F39}First-tier Tribunal for Scotland Housing and Property Chamber] in the person's entry in the register.

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- (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

- F35** 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](#)
- F36** S. 87A title substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 5(3)** (with sch. 1)
- F37** Words in s. 87A(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 5(2)(a)(i)** (with sch. 1)
- F38** Words in s. 87A(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 5(2)(a)(ii)** (with sch. 1)
- F39** Words in s. 87A(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 5(2)(b)** (with sch. 1)

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.

[^{F40}(2A) Subject to subsections (2B) and (2C), the notice shall be accompanied by such fee as the local authority may determine.

- (2B) No fee shall be payable under subsection (2A) if, when the notice is given—
- (a) the person appointed is entered in the register as a relevant person;^{F41}...
 - (b) another relevant person's entry in the register states that the person appointed acts for the other relevant person.^{F42},or
 - (c) the person appointed is a registered letting agent.]

- (2C) The Scottish Ministers may by regulations prescribe for the purposes of subsection (2A)—
- (a) fees;
 - (b) how fees are to be arrived at;
 - (c) other cases in which no fee shall be payable.]

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- (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.
- [^{F43}(4) The condition is that either—
- (a) the person is a registered letting agent, or
 - (b) in the case of a person who is not a registered letting agent, 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 [^{F44}(4)(b)] 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.

[^{F45}(9) A registered person is guilty of an offence who, without reasonable excuse—

 - (a) in giving notice under subsection (2), specifies information which is false in a material particular; or
 - (b) fails to comply with subsection (2).

(10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Textual Amendments

- F40** S. 88(2A)-(2C) inserted (31.8.2011 for specified purposes, 1.7.2012 in so far as not already in force) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 4(a)**, 41(3); S.S.I. 2011/270, art. 2, sch.; S.S.I. 2012/150, art. 2(2)
- F41** Word in s. 88(2B)(a) repealed (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(2)(a)(i)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F42** S. 88(2B)(c) and word inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(2)(a)(ii)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F43** S. 88(4) substituted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(2)(b)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F44** Word in s. 88(5) substituted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(2)(c)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F45** S. 88(9)(10) inserted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 4(b)**, 41(3); S.S.I. 2011/270, art. 2, sch.

[^{F46}88A Access to register

- (1) Each local authority shall, on the application of any person (“the applicant”), in relation to—

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- (a) a particular house, provide the applicant with—
 - [confirmation of whether any application relating to the house has been^{F47}(zi) made in accordance with section 83 but has not yet been determined;]
 - (i) the name of [^{F48}any owner of the house] 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 [^{F49}—
 - (i)] whether that other person is registered in its register^{F50}; and
 - (ii) whether its register includes a note under section 92ZA of a decision to refuse that other person's entry in, or to remove that other person from, the register.].
- (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

- F46** 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**
- F47** S. 88A(1)(a)(zi) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 5(1)(a)**, 41(3); [S.S.I. 2013/82](#), **art. 2(1)**, *sch.*
- F48** Words in s. 88A(1)(a)(i) substituted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 5(1)(b)**, 41(3); [S.S.I. 2013/82](#), **art. 2(1)**, *sch.*
- F49** Word in s. 88A(1)(b) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 5(1)(c)(i)**, 41(3); [S.S.I. 2013/82](#), **art. 2(1)**, *sch.*
- F50** S. 88A(1)(b)(ii) and word inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 5(1)(c)(ii)**, 41(3); [S.S.I. 2013/82](#), **art. 2(1)**, *sch.*

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

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(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 [F51(d)(ii)] of that section no longer applies.

[F52(3A) Where—

- (a) a person is registered by the local authority by virtue of section 84(4), and
 - (b) paragraph (d)(i) of that section no longer applies,
- the authority may remove the person from the register.]

[F53(4) Where a registered person, without reasonable excuse, fails to comply with the duty imposed by section 92B(1) the authority may remove the person from the register.

(5) Where—

- (a) a person is registered by a local authority; and
 - (b) the person is disqualified from being registered by virtue of an order under section 93A(2),
- the authority shall remove the person from its register.]

Textual Amendments

- F51** Word in s. 89(3)(b) substituted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(3)(a)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F52** S. 89(3A) inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(3)(b)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F53** S. 89(4)(5) added (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), **sch. para. 4**; S.S.I. 2013/82, art. 2(1), sch.

90 Notification of removal from register: registered person

- (1) Subsection (2) applies where under section 88(8) or 89(1) [F54, (3A)] [F55, (4) or (5)] 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.

Textual Amendments

- F54** Word in s. 90(1) inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(4)**, 104(3); S.S.I. 2016/412, art. 2, sch.

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F55 Words in s. 90(1) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), [sch. para. 5](#); S.S.I. 2013/82, art. 2(1), sch.

91 Notification of removal from register: other persons

- (1) Subsection (2) applies where under section 88(8) or 89(1) [^{F56}, (3A)] [^{F57}, (4) or (5)] 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.

Textual Amendments

F56 Word in s. 91(1) inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 60\(5\)](#), 104(3); S.S.I. 2016/412, art. 2, sch.

F57 Words in s. 91(1) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), [sch. para. 6](#); S.S.I. 2013/82, art. 2(1), sch.

92 Appeal against refusal to register or removal from register

- (1) Subsection (2) applies where—
 - (a) under section 84(2)(b) [^{F58}, (7) or (8)] 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) [^{F59}, (3A)] [^{F60} or (4)] an authority removes a person from the register.
- (2) The [^{F61}First-tier Tribunal] 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.
- ^{F62}(4)
- (5) An appeal against the decision of a [^{F63}First-tier Tribunal] granting or refusing an application under subsection (2) ^{F64}... 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 [^{F65}Upper Tribunal] on an appeal under this section shall be final.

Textual Amendments

F58 Words in s. 92(1)(a) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), s. 41(3), [sch. para. 7\(a\)](#); S.S.I. 2013/82, art. 2(1), sch.

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- F59** Word in s. 92(1)(b) inserted (31.1.2018) by Housing (Scotland) Act 2014 (asp 14), **ss. 60(6)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F60** Words in s. 92(1)(b) inserted (1.4.2013) by Private Rented Housing (Scotland) Act 2011 (asp 14), s. 41(3), **sch. para. 7(b)**; S.S.I. 2013/82, art. 2(1), sch.
- F61** Words in s. 92(2) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), **ss. 19(2)**, 104(3); S.S.I. 2017/330, art. 3, sch.
- F62** S. 92(4) repealed (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 57(a)**; S.S.I. 2017/330, art. 3, sch.
- F63** Words in s. 92(5) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 57(b)(i)**; S.S.I. 2017/330, art. 3, sch.
- F64** Words in s. 92(5) repealed (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 57(b)(ii)**; S.S.I. 2017/330, art. 3, sch.
- F65** Words in s. 92(6) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 57(c)**; S.S.I. 2017/330, art. 3, sch.

[^{F66}92ZA Duty to note refusals and removals

- (1) Subsection (4) applies where—
- (a) a local authority decides to—
- (i) refuse to enter a person in its register under section 84(2)(b) or (7); or
- (ii) remove a person from its register under section 88(8) or 89(1) [^{F67}, (3A)] or (4); and
- (b) either—
- (i) the period for making an application to the [^{F68}First-tier Tribunal] in relation to the decision for the purposes of section 92(2) expires without an application being made; or
- (ii) such application is refused by the [^{F69}First-tier Tribunal] and—
- (A) the period for appealing against the [^{F70}First-tier Tribunal's] decision expires without an appeal being made; or
- (B) such an appeal is refused by the [^{F71}Upper Tribunal] .
- (2) Subsection (4) applies where—
- (a) a local authority decides to refuse to enter a person in its register under section 84(8); and
- (b) either—
- (i) the period for making an application to the [^{F72}First-tier Tribunal] in relation to the decision for the purposes of section 92(2) expires without an application being made; or
- (ii) such application is refused by the [^{F73}First-tier Tribunal] and—
- (A) the period for appealing against the [^{F74}First-tier Tribunal's] decision expires without an appeal being made; or
- (B) such an appeal is refused by the [^{F75}Upper Tribunal] .
- (3) Subsection (4) applies where a local authority removes a person from its register under section 89(5).
- (4) Where this subsection applies, the local authority must note the fact in its register that the person has been refused entry to, or removed from, its register.
- (5) Where a fact is noted by virtue of subsection (1) it must, subject to subsection (6)—

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- (a) remain on the register for 12 months from the date on which the local authority is required to note it in its register; and
 - (b) be removed from the register at the end of that period.
- (6) Where a person in respect of whom a local authority notes a fact in its register by virtue of subsection (1) is subsequently entered in the register before the end of the period mentioned in subsection (5)(a), the local authority must remove the fact from the register when the person is so registered.
- (7) Where a fact is noted by virtue of subsection (2) or (3) it must—
- (a) remain on the register for the period of disqualification specified in the order made under section 93A(2); and
 - (b) be removed from the register at the end of that period.]

Textual Amendments

- F66** S. 92ZA inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 5(2)**, 41(3); S.S.I. 2013/82, art. 2(1), sch.
- F67** Word in s. 92ZA(1)(a)(ii) inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(7)**, 104(3); S.S.I. 2016/412, art. 2, sch.
- F68** Words in s. 92ZA(1)(b)(i) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(a)(i)**; S.S.I. 2017/330, art. 3, sch.
- F69** Words in s. 92ZA(1)(b)(ii) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(a)(ii)**; S.S.I. 2017/330, art. 3, sch.
- F70** Words in s. 92ZA(1)(b)(ii)(A) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(a)(iii)**; S.S.I. 2017/330, art. 3, sch.; S.S.I. 2017/330, art. 3, sch.
- F71** Words in s. 92ZA(1)(b)(ii)(B) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(a)(iv)**; S.S.I. 2017/330, art. 3, sch.; S.S.I. 2017/330, art. 3, sch.
- F72** Words in s. 92ZA(2)(b)(i) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(b)(i)**; S.S.I. 2017/330, art. 3, sch.
- F73** Words in s. 92ZA(2)(b)(ii) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(b)(ii)**; S.S.I. 2017/330, art. 3, sch.
- F74** Words in s. 92ZA(2)(b)(ii)(A) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(b)(iii)**; S.S.I. 2017/330, art. 3, sch.; S.S.I. 2017/330, art. 3, sch.
- F75** Words in s. 92ZA(2)(b)(ii)(B) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 58(b)(iv)**; S.S.I. 2017/330, art. 3, sch.; S.S.I. 2017/330, art. 3, sch.

[^{F76}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 [^{F77} (other than a registered letting agent)] 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
 - (b) revoke and replace it.

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- (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

F76 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

F77 Words in s. 92A(1)(b) inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 60(8)**, 104(3); [S.S.I. 2016/412](#), **art. 2**, sch.

[^{F78}92B **Duty of certain persons to include landlord registration number in advertisements**

- (1) Where—
- (a) a person who is registered by a local authority (“the registered person”), in relation to a house that the person owns in the area of the authority, communicates with another person with a view to entering into a lease or an occupancy arrangement such as is mentioned in section 93(1)(a); and
 - (b) the communication is by way of an advertisement in writing,
- the registered person must ensure the advertisement includes the landlord registration number given by the authority.
- (2) Where the house is owned jointly by two or more persons registered by the local authority, the duty in subsection (1) is complied with if the advertisement includes the landlord registration number given by the authority in relation to one of the persons.
- (3) Where—
- (a) subsections (2) and (5) of section 93 apply; and
 - (b) the communication referred to in subsection (2)(b) of that section is by way of an advertisement in writing,
- the relevant person must ensure the advertisement includes the words “landlord registration pending”.
- (4) Subsection (5) applies where the house is owned jointly by—

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- (a) one or more persons who are registered by the local authority (“the registered persons”), and
 - (b) one or more relevant persons in relation to whom subsections (2) and (5) of section 93 apply.
- (5) The duties in subsections (1) and (3) are complied with if the advertisement includes either—
- (a) the landlord registration number given by the local authority in relation to one of the registered persons, or
 - (b) the words “landlord registration pending”.
- (6) In this section, “advertisement”—
- (a) includes any form of advertising whether to the public generally, to any section of the public or individually to selected persons; but
 - (b) does not include a notice board at or near the house concerned.]

Textual Amendments

F78 S. 92B inserted (1.6.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), ss. 6, 41(3); S.S.I. 2013/82, art. 2(2) (with art. 3(1))

Enforcement

93 Offences

- (1) Where—
- (a) a relevant person owns a house within the area of a local authority 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; and
 - (b) the relevant person is not registered by that authority,
- the relevant person shall be guilty of an offence.
- (2) Where—
- (a) a relevant person is not registered by a local authority; and
 - (b) in relation to a house that the relevant person owns in the area of the authority, the relevant person communicates with another person with a view to entering into a lease or an occupancy arrangement such as is mentioned in subsection (1)(a),
- the relevant person shall be guilty of an offence.
- (3) Where subsection (5) applies, nothing in subsection (1) makes it an offence for a relevant person to own a house which is subject to a lease or, as the case may be, occupancy arrangement such as is mentioned in subsection (1).
- (4) Where subsection (5) applies, nothing in subsection (2) makes it an offence for a relevant person to communicate with another person with a view to entering into

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a lease or, as the case may be, occupancy arrangement such as is mentioned in subsection (2).

- (5) This subsection applies where—
- (a) the relevant person has made an application under section 83 to the local authority within whose area the house is situated; ^{F79} . . .
 - ^{F80}(aa) the local authority has not, during the year which immediately preceded the making of the application, refused to enter the relevant person in pursuance of an earlier application under section 83;
 - ^{F81}[the relevant person is not disqualified from being registered by virtue of an order under section 93A(2);]
 - (ab) the application is accompanied by the fee determined under section 83(2); and]
 - (b) the application has not been determined under section 84 by the authority.
- (6) It shall be a defence for a person charged with an offence under subsection (1) or (2) to show that there was a reasonable excuse for acting in the way charged.
- (7) A person guilty of an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding ^{F82}£50,000].

Textual Amendments

- F79** Word following s. 93(5)(a) repealed (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\), ss. 176\(8\)\(a\), 195 \(with s. 193\); S.S.I. 2006/14, art. 2](#)
- F80** S. 93(5)(aa)(ab) inserted (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\), ss. 176\(8\)\(b\), 195 \(with s. 193\); S.S.I. 2006/14, art. 2](#)
- F81** S. 93(5)(aaa) inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\), s. 41\(3\), sch. para. 8; S.S.I. 2013/82, art. 2\(1\), sch.](#)
- F82** Sum in s. 93(7) substituted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\), ss. 7, 41\(3\); S.S.I. 2011/270, art. 2, sch. \(with art. 3\)](#)

^{F83}93A Disqualification orders etc.

- (1) This section applies where a court convicts a person of an offence under section 93(1) or (2).
- (2) The court may, in addition to imposing a penalty under section 93(7), by order disqualify the convicted person (and, where the person is not an individual, any director, partner or other person concerned in the management of the person) from being registered by any local authority for such period not exceeding 5 years as may be specified in the order.
- (3) A person may appeal against an order under subsection (2) in the same manner as the convicted person may appeal against sentence.
- (4) The court may suspend the effect of an order made under subsection (2) pending such an appeal.
- (5) The court may, on summary application by a person disqualified by an order under subsection (2), revoke the order with effect from such date as the court may specify.
- (6) But no such revocation may be made unless the court is satisfied that there has been a change of circumstances which justifies the revocation of the order.

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- (7) No application may be made for the purposes of subsection (5) during the first year of a disqualification.
- (8) The court may order the applicant to pay the whole or part of the expenses arising from an application made for the purposes of subsection (5).
- (9) Within 6 days of the court—
- (a) disqualifying a person under subsection (2); or
 - (b) revoking an order under subsection (5),
- the clerk of court must provide an extract of the disqualification or, as the case may be, the revocation to the local authority for the area in which the house concerned is situated.]

Textual Amendments

F83 S. 93A inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\), ss. 8, 41\(3\)](#); [S.S.I. 2013/82, art. 2\(1\), sch. \(with art. 3\(2\)\(3\)\)](#)

94 Circumstances in which no rent to be payable

- (1) Where a local authority is satisfied that the conditions in subsection (2) are met in relation to a house within its area, the authority may serve a notice under this section on the persons mentioned in subsection (5).
- (2) Those conditions are—
- (a) that the owner of the house is a relevant person;
 - (b) that the house 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) that the relevant person is not registered by the local authority; and
 - (d) that, having regard to all the circumstances relating to the relevant person, it is appropriate for a notice to be served under this section.
- (3) Where a notice is served under this section, during the relevant period—
- (a) no rent shall be payable under any lease or occupancy arrangement in respect of the house to which the notice relates;
 - (b) no other consideration shall be payable or exigible under any such lease or occupancy arrangement.
- (4) A notice served under this section shall specify—
- (a) the name of the relevant person to whom it relates;
 - (b) the address of the house to which it relates;
 - (c) the effect of subsection (3); and
 - (d) the date on which it takes effect (which must not be earlier than the day after the day on which it is served).
- (5) Those persons are—
- (a) the relevant person;

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- (b) if the local authority is aware of the name and address of a person who has, by virtue of a lease or an occupancy arrangement such as is mentioned in subsection (2)(b), the use of the house to which the notice relates, that person; and
 - (c) if the local authority is aware of the name and address of a person who acts for the relevant person in relation to such a lease or an occupancy arrangement, that person.
- (6) If—
- (a) the local authority is unable to identify the relevant person, it may serve the notice under this section by publishing it in two or more newspapers (of which one shall, if practicable, be a local newspaper) circulating in the locality of the house to which the notice relates;
 - (b) the local authority is aware of the relevant person’s identity but is unable to ascertain the relevant person’s current address, it may serve the notice under this section by serving it on the landlord—
 - (i) at the house to which the notice relates; and
 - (ii) if it is aware of a previous address of the relevant person, at that address.
- (7) The condition mentioned in subsection (2)(c) shall not be taken to be met where—
- (a) the relevant person has made an application under section 83 to the local authority in whose area the house is situated; but
 - (b) the application has not been determined under section 84 by the authority.
- (8) Except as provided in subsection (3), nothing in this Part affects the validity of any lease or occupancy arrangement under which an unconnected person has the use as a dwelling of a house during the relevant period.
- (9) Where a local authority is aware of the name and address of a person mentioned in paragraph (b) or, as the case may be, (c) of subsection (5), failure to serve a notice on the person shall not affect the validity of the notice.
- (10) In this section, “relevant period” means the period beginning with the date specified in the notice and ending with the earlier of—
- (a) the revocation of the notice under section 95(2); or
 - (b) where the effect of the decision made on an appeal under section 97 is that rent or, as the case may be, other consideration is payable or exigible, that decision.

95 Notices under section 94: revocation

- (1) Subsection (2) applies where a local authority serves a notice under section 94 in relation to a house.
- (2) If (whether on the application of a person having an interest in the case or otherwise) the local authority which served the notice is satisfied that the conditions mentioned in section 94(2) are no longer met in relation to the house, the authority shall, with effect from such day as it may specify, revoke the notice.
- (3) The revocation of a notice under subsection (2) shall not operate so as to make a person liable to pay any rent or other consideration in respect of the period during which the notice was in force.

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96 Notification of revocation of notice

- (1) Subsection (2) applies where a local authority revokes a notice under section 95 in relation to a house.
- (2) As soon as practicable after revoking the notice, the local authority shall give notice of the fact to—
 - (a) the relevant person;
 - (b) if the local authority is aware of the name and address of a person who has, by virtue of a lease or an occupancy arrangement such as is mentioned in section 94(2)(b), the use of the house to which the notice relates, that person; and
 - (c) if the local authority is aware of the name and address of a person who acts for the relevant person in relation to such a lease or an occupancy arrangement, that person.
- (3) Where a local authority is aware of the name and address of a person mentioned in paragraph (b) or, as the case may be, (c) of subsection (2), failure to serve a notice on the person may not be founded on in any proceedings.

97 Appeals

- (1) A relevant person on whom a notice under section 94 is served may, before the expiry of the period of 21 days beginning with the date specified by virtue of subsection (4)(d) of that section in the notice, appeal to the [F84First-tier Tribunal] against the decision of the local authority to serve the notice.
- (2) Where, on the application of a person having an interest, a local authority makes a decision refusing to revoke a notice under section 95(2), the person may, before the expiry of the period of 21 days beginning with the day on which the decision is made, appeal to the [F85First-tier Tribunal] against the decision.
- (3) Subsection (4) applies where a person appeals against a decision such as is mentioned in subsection (1) or (2).
- (4) The person shall (in addition to complying with any other requirements as to notification imposed by virtue of any enactment) give notice to the person who has the use as a dwelling of the house to which the notice relates (the “tenant”) of such matters as may be prescribed by the Scottish Ministers by regulations.
- (5) Regulations under subsection (4) may include provision for or in connection with—
 - (a) the form of the notice;
 - (b) the manner and timing of service of the notice.
- (6) If a person fails to comply with subsection (4), the [F86tribunal] hearing the appeal may not require the tenant to pay any sums that, but for the making of the [F87decision], would have been due by the tenant.
- (7) The Scottish Ministers may by regulations make provision for or in connection with specifying other circumstances in which the [F88[F89tribunal] hearing the appeal] shall not require a tenant to pay any sums that, but for the making of the [F90decision], would have been due by the tenant.
- (8) Regulations under subsection (7) may in particular include provision—
 - (a) specifying procedures;

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(b) imposing obligations on landlords.

Textual Amendments

- F84** Words in s. 97(1) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 19(3)(a)**, 104(3); [S.S.I. 2017/330](#), **art. 3**, **sch.**
- F85** Words in s. 97(2) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 19(3)(b)**, 104(3); [S.S.I. 2017/330](#), **art. 3**, **sch.**
- F86** Word in s. 97(6) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 59(a)**; [S.S.I. 2017/330](#), **art. 3**, **sch.**
- F87** Word in s. 97(6) substituted (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(9)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**
- F88** Words in s. 97(7) substituted (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(10)(a)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**
- F89** Word in s. 97(7) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 59(b)**; [S.S.I. 2017/330](#), **art. 3**, **sch.**
- F90** Word in s. 97(7) substituted (29.1.2006) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 176(10)(b)**, 195 (with s. 193); [S.S.I. 2006/14](#), **art. 2**

Commencement Information

- I3** S. 97 wholly in force at 30.4.2006; s. 97 not in force at Royal Assent see s. 145(2); s. 97 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**)

[^{F91}Information

Textual Amendments

- F91** Ss. 97A, 97B and cross-heading inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 9, 41(3)**; [S.S.I. 2013/82](#), **art. 2(1)**, **sch.**

97A Power to obtain information

- (1) A local authority may, for the purpose of enabling or assisting it to exercise any function under this Part, require any person appearing to it to fall within subsection (2) to provide the local authority with, in relation to any house within the local authority's area—
- (a) confirmation of the nature of that person's interest in the house;
 - (b) the name and address of, and information about that person's relationship with, any other person whom that person knows to—
 - (i) own, occupy or have any other interest in the house;
 - (ii) act in relation to a lease or occupancy arrangement to which that house is subject; or
 - (iii) act for the person who owns the house with a view to a lease or occupancy arrangement being entered into in relation to that house;
 - (c) such other information relating to the house, or such other person, as the local authority may reasonably request.
- (2) A person falls within this subsection if the person—

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- (a) owns, occupies or has any other interest in the house concerned;
 - (b) acts in relation to a lease or occupancy arrangement to which that house is subject; or
 - (c) acts for the person who owns the house with a view to a lease or occupancy arrangement being entered into in relation to that house.
- (3) A local authority may, for the purpose of enabling or assisting it to exercise any function under this Part, require any person appearing to it to fall within subsection (4) to provide the local authority with—
- (a) confirmation of the nature of that person's interest in any house within the local authority's area in relation to which the person acts;
 - (b) the address of any such house;
 - (c) the name and address of, and information about that person's relationship with, any other person whom that person knows to own any such house;
 - (d) such other information relating to any such house, or such other person, as the local authority may reasonably request.
- (4) A person falls within this subsection if the person—
- (a) acts in relation to a lease or occupancy arrangement to which any house within the local authority's area is subject; or
 - (b) acts for the person who owns the house with a view to a lease or occupancy arrangement being entered into in relation to such a house.
- (5) A requirement under subsection (1) or (3) is to be made by serving it on the person concerned in accordance with section 97B.
- (6) It is an offence for a person—
- (a) without reasonable excuse, to fail to comply with a requirement made under this section; or
 - (b) knowingly or recklessly to provide information which is false or misleading in a material respect to a local authority or any other person—
 - (i) in purported compliance with a requirement made under this section; or
 - (ii) otherwise if the person knows, or could reasonably be expected to know, that the information may be used by, or provided to, a local authority in connection with its functions under this Part.
- (7) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

97B Power to obtain information: service of requirement

- (1) A requirement under section 97A(1) or (3) must be in writing.
- (2) A requirement under section 97A(1) or (3) is served on a person if it is—
- (a) delivered to the person at the place mentioned in subsection (3);
 - (b) sent, by post in a prepaid registered letter or by the recorded delivery service, to the person at that place; or
 - (c) sent to the person in some other manner (including by electronic means) which the local authority reasonably considers likely to cause it to be delivered to the person on the same or next day.

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- (3) The place referred to in subsection (2) is—
- (a) where the person is an individual, that person's place of business or usual or last known place of abode;
 - (b) where the person is an incorporated company or body, its registered or principal office.
- (4) Subsection (5) applies where service of a requirement by one of the methods described in subsection (2) has been attempted and failed.
- (5) Where this subsection applies, a requirement under section 97A(1) or (3) may be served on the person by—
- (a) where the person is an individual, leaving a copy of the requirement at that person's place of business or usual or last known place of abode;
 - (b) where the person is an incorporated company or body, leaving a copy of the requirement at the person's registered or principal office.
- (6) Subsection (7) applies where the local authority is unable to deliver or send a requirement under section 97A(1) or (3) to the owner or occupier of any house or other premises because the local authority is not (having made reasonable enquiries) aware of the name or address of that owner or occupier.
- (7) Where this subsection applies, a requirement under section 97A(1) or (3) may be served by addressing a copy of it to “The Owner” or, as the case may be, “The Occupier” of the house and leaving it at the house or other premises.
- (8) A requirement which is sent by electronic means is to be treated as being in writing if it is received in a form which is legible and capable of being used for subsequent reference.]

Grants

98 Grants to local authorities

- (1) The Scottish Ministers may make a grant to a local authority in respect of costs incurred by the authority by virtue of this Part.
- (2) The payment of a grant under subsection (1) may be made subject to such conditions (including conditions as to repayment) as the Scottish Ministers may determine.

Regulations

99 Regulations about advice and assistance: Part 8

For the purposes of this Part, the Scottish Ministers may by regulations make provision requiring local authorities to provide advice and assistance of such description as may be specified in the regulations to persons of such description as may be so specified.

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Commencement Information

- I4** S. 99 wholly in force at 30.4.2006; s. 99 not in force at Royal Assent see s. 145(2); s. 99 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)

^{F92}Guidance

Textual Amendments

- F92** S. 99A and cross-heading inserted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), ss. 10, 41(3); [S.S.I. 2011/270](#), art. 2, sch.

99A Guidance

- (1) A local authority must have regard to any guidance issued by the Scottish Ministers about—
 - (a) the discharge of its functions under this Part; and
 - (b) matters arising in connection with the discharge of those functions.
- (2) Before issuing any such guidance the Scottish Ministers must consult—
 - (a) local authorities; and
 - (b) such other persons as they think fit.]

Amendment of Housing (Scotland) Act 1988

100 Amendment of Housing (Scotland) Act 1988

In subsection (6)(a) of section 18 of the Housing (Scotland) Act 1988 (c. 43) (orders for possession)—

- (a) the word “or”, where it thirdly occurs, shall be repealed; and
- (b) after “10” there shall be inserted “, Ground 15 ”.

Interpretation

101 Interpretation of Part 8

- (1) In this Part—
 - [^{F93}“First-tier Tribunal” means the First-tier Tribunal for Scotland,]
 - “house” means, subject to subsection (2), a building or part of a building occupied or intended to be occupied as a dwelling;
 - “landlord”, in relation to an occupancy arrangement, means the person who under the arrangement permits another to occupy the building or, as the case may be, the part of the building;
 - [^{F94}“landlord registration number” has the meaning given by section 84(5A);]
 - “occupancy arrangement” means any arrangement under which a person having the lawful right to occupy a house permits another, by way of contract or

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otherwise, to occupy the house or, as the case may be, part of it; but does not include a lease;

“registered”, in relation to a relevant person and a local authority, means entered by virtue of section 84(2)(a) in the register maintained by the authority under section 82(1); and cognate expressions shall be construed accordingly;

[^{F95}“registered letting agent” has the meaning given by section 32(4) of the Housing (Scotland) Act 2014 (asp 14),]

“relevant person” has the meaning given by section 83(8);

“unconnected person” has the meaning given by section 83(8); and

[^{F96}“Upper Tribunal” means the Upper Tribunal for Scotland.]

“use as a dwelling” shall be construed in accordance with section 83(6).

[^{F97}(1A) This subsection applies where—

- (a) a person other than the owner of a house is the landlord in relation to a lease or occupancy arrangement by virtue of which another person uses the house as a dwelling; and
- (b) that other person is not a member of the family of the owner or of the person who is the landlord.

(1B) Where subsection (1A) applies, both—

- (a) the person who is the landlord; and
- (b) any other person who acts for that person in relation to the lease or occupancy arrangement,

shall, for the purposes of this Part, be treated as having been appointed by the owner to act for, and as acting for, the owner in relation to a lease or occupancy arrangement by virtue of which a person who is not a member of the family of the owner may use the house as a dwelling.]

- (2) If two or more dwellings within a building share the same toilet, washing or cooking facilities, then those dwellings shall be deemed to be a single house for the purposes of this Part.
- (3) For the purposes of this Part, any reference to a person’s being a member of another’s family shall be construed in accordance with section 108(1) and (2) of the Housing (Scotland) Act 2001 (asp 10).
- (4) For the purposes of this Part, a person engages in antisocial behaviour if the person—
 - (a) acts in a manner that causes or is likely to cause alarm, distress, nuisance or annoyance; or
 - (b) pursues a course of conduct that causes or is likely to cause alarm, distress, nuisance or annoyance,

to a person residing in, visiting or otherwise engaging in lawful activity at, or in the locality of, a house; and “antisocial behaviour” shall be construed accordingly.

Textual Amendments

F93 Words in s. 101(1) inserted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 60\(a\)](#); S.S.I. 2017/330, art. 3, sch.

F94 Words in s. 101 inserted (1.4.2013) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\), ss. 3\(3\), 41\(3\)](#); S.S.I. 2013/82, art. 2(1), sch.

F95 Words in s. 101 inserted (31.1.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 60\(9\), 104\(3\)](#); S.S.I. 2016/412, art. 2, sch.

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- F96** Words in s. 101(1) inserted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 60(b)**; S.S.I. 2017/330, art. 3, sch.
- F97** S. 101(1A)(1B) inserted (29.1.2006) by Housing (Scotland) Act 2006 (asp 1), **ss. 176(11)**, 195 (with s. 193); S.S.I. 2006/14, **art. 2**

Changes to legislation:

Antisocial Behaviour etc. (Scotland) Act 2004, Part 8 is up to date with all changes known to be in force on or before 26 May 2024. 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 85B inserted by [2014 asp 14 s. 21\(1\)](#)