

Draft Order laid before the Scottish Parliament under section 141(4) of the Antisocial Behaviour etc. (Scotland) Act 2004. For approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2009 No.

**HOUSING
LOCAL GOVERNMENT**

**The Private Landlord Registration
(Modification) (Scotland) Order 2009**

Made - - - - *2009*
Coming into force - - *12th February 2009*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 83(7) and 141(2) of the Antisocial Behaviour etc. (Scotland) Act 2004⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 141(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. This Order may be cited as the Private Landlord Registration (Modification) (Scotland) Order 2009 and shall come into force on 12th February 2009.

Modification of The Antisocial Behaviour etc. (Scotland) Act 2004

2. Section 83 of the Antisocial Behaviour etc. (Scotland) Act 2004 (application by landlords for registration) is modified as follows—

- (a) omit “or” which follows subsection (6)(k); and
- (b) after subsection (6)(l) insert— “or
 - (m) the house is owned by a person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986⁽²⁾ and has been so owned by that person for a period not exceeding six months.”.

(1) 2004 asp 8. Section 83 was amended by S.S.I. 2005/650; section 83(6)(c) is deleted by the Housing (Scotland) Act 2006 (asp 1), Schedule 7, paragraph 1, but this paragraph is not yet in force.
(2) 1986 c. 45. Section 388 was amended by regulation 17 of S.I.2002/1240.

St Andrew's House,
Edinburgh
2009

A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies section 83(6) of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”).

Section 83 of the Act provides for the application for registration by landlords for the purposes of Part 8 of the Act.

Section 83(6) lists categories of houses, the use of which is to be disregarded for the purposes of registration. It was modified by the Private Landlord Registration (Modification) (Scotland) Order 2005 (S.S.I. 2005/650) and this Order adds an additional category to the list of exempted uses.

Where a house is owned by a person acting as an insolvency practitioner, there is a six month exemption from registration as a landlord, unless the appointment is made by the Accountant in Bankruptcy. In that case, Crown immunity applies and there is a permanent exemption from registration. Those exempted will include trustees in bankruptcy and trustees of protected trust deeds.

A Regulatory Impact Assessment has been prepared covering this Order.