

2016 No. 433

HOUSING

**The Licensing of Relevant Permanent Sites (Scotland)
Regulations 2016**

Made - - - - - *20th December 2016*

Laid before the Scottish Parliament *22nd December 2016*

Coming into force - - - *1st May 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 32C(4), 32F(3), 32N(1) and 32Y(5) of the Caravan Sites and Control of Development Act 1960(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Licensing of Relevant Permanent Sites (Scotland) Regulations 2016 and come into force on 1st May 2017.

(2) In these Regulations, “the Act” means the Caravan Sites and Control of Development Act 1960 and “transferee” has the meaning given by section 32E(1) of the Act(b).

Application for a new Part 1A site licence

2. The information to be provided in an application for a new Part 1A site licence (in addition to that required by section 32B(2)(b) and (d) of the Act(c)) is—

- (a) the address of the land in respect of which the application is made;
- (b) the name of the site (if any);
- (c) for each occupier, their name and where that occupier uses or has used one or more other names, each of those names;
- (d) for each occupier that is a natural person—
 - (i) the date of birth of the occupier; and
 - (ii) the home address of the occupier during the period of 5 years ending with the date of the application;
- (e) for each occupier that is not a natural person, the name and address of the individual who holds the most senior position within the management structure of the relevant partnership, company or body;

(a) 1960 c.62. Section 32C is inserted by section 64 of the Housing (Scotland) Act 2014 (asp 14)(“the 2014 Act”); section 32F by section 65 of the 2014 Act; section 32N by section 70 of the 2014 Act and section 32Y by section 77 of the 2014 Act.
(b) Section 32E is inserted by section 65 of the 2014 Act.
(c) Section 32B is inserted by section 64 of the 2014 Act.

- (f) for each occupier that is a company registered under the Companies Act 2006^(a) the company's registered number;
- (g) for each occupier that is a body which is—
 - (i) entered in the Scottish Charity Register^(b);
 - (ii) registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011^(c); or
 - (iii) registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008^(d);
 that body's charity number;
- (h) the correspondence address for the applicant in relation to the management of the site and any email address to which correspondence may be sent;
- (i) a contact telephone number for the applicant;
- (j) the name of any person appointed, or to be appointed to manage the site ("the Site Manager") and where the Site Manager uses or has used one or more other names, each of those names;
- (k) in the case where the Site Manager is a natural person—
 - (i) the date of birth of the Site Manager; and
 - (ii) the home address of the Site Manager for the period of 5 years ending with the date of the application;
- (l) in the case where the Site Manager is not a natural person—
 - (i) the name of the individual who is to be directly concerned with the management of the site on behalf of that Site Manager and if that individual uses or has used one or more other names, each of those names;
 - (ii) the date of birth of that individual; and
 - (iii) the home address of that individual for the period of 5 years ending with the date of the application.

Application for the renewal of an existing Part 1A site licence

3. The information to be provided in an application for the renewal of an existing Part 1A site licence (in addition to that required by section 32B(2)(b) and (d) of the Act) is—

- (a) in the case where there has been no change in the information already provided to the local authority by virtue of Part 1A of the Act, confirmation that there has been no such change; or
- (b) in the case where there has been a change in such information, details of that change.

Application to transfer a Part 1A site licence

4.—(1) An application to transfer a Part 1A site licence must be in writing and in such format as is determined by the local authority.

(2) The information to be provided in an application for consent to transfer a Part 1A site licence is—

- (a) the address of the land in respect of which the application is made;
- (b) the name of the site (if any);

(a) 2006 c.46. Section 30 was amended by S.I. 2016/997.

(b) The Scottish Charity Register is kept by the Office of the Scottish Charity Regulator under section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(c) 2011 c.25.

(d) 2008 c.12 (N.I.).

- (c) for each occupier, their name and where that occupier uses or has used one or more other names, each of those names;
- (d) for each transferee, their name and where the transferee uses or has used one or more other names, each of those names;
- (e) for each transferee that is a natural person—
 - (i) the date of birth of the transferee; and
 - (ii) the home address of the transferee for the period of 5 years ending with the application;
- (f) for each transferee that is not a natural person, the name and address of the individual who holds the most senior position within the management structure of the relevant partnership, company or body;
- (g) for each transferee that is a company registered under the Companies Act 2006^(a) the company's registered number;
- (h) for each transferee that is a body which is—
 - (i) entered in the Scottish Charity Register^(b);
 - (ii) registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011^(c); or
 - (iii) registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008^(d);
 that body's charity number;
- (i) the correspondence address for the transferee in relation to the management of the site and any email address to which correspondence may be sent;
- (j) a contact telephone number for the applicant and the transferee;
- (k) the name of any person appointed or to be appointed by the transferee to manage the site ("the Appointed Manager") and where the Appointed Manager uses or has used one or more other names, each of those names;
- (l) in the case where the Appointed Manager is a natural person—
 - (i) the date of birth of the Appointed Manager; and
 - (ii) the home address of the Appointed Manager for the period of 5 years ending with the date of the application;
- (m) in the case where the Appointed Manager is not a natural person—
 - (i) the name of the individual who is to be directly concerned with the management of the site on behalf of that Appointed Manager and if that individual uses or has used one or more other names, each of those names;
 - (ii) the date of birth of that individual; and
 - (iii) the home address of that individual for the period of 5 years ending with the date of the application; and
- (n) any information relevant to the material falling within section 32O(2) of the Act in relation to—
 - (i) the transferee;
 - (ii) the Appointed Manager; and
 - (iii) any other person whom the local authority is required to be satisfied is a fit and proper person in accordance with section 32E(2)(b) and (d) of the Act.

(a) 2006 c.46.

(b) The Scottish Charity Register is kept by the Office of the Scottish Charity Regulator under section 3 of the Charities and Trustee Investment (Scotland) Act 2005.

(c) 2011 c.25.

(d) 2008 c.12.

Time limit for determining applications

5.—(1) The time limit specified for the purpose of—

- (a) an application for a new Part 1A site licence is 3 months from the date the relevant local authority is in receipt of—
 - (i) an application which contains the information specified in regulation 2 and otherwise complies with section 32B(2) of the Act; and
 - (ii) a fee of such amount (if any) as is fixed by the relevant local authority;
- (b) an application for the renewal of an existing Part 1A site licence is 3 months from the date the relevant local authority is in receipt of—
 - (i) an application which contains the information specified in regulation 3 and otherwise complies with section 32B(2) of the Act; and
 - (ii) a fee of such amount (if any) as is fixed by the relevant local authority;
- (c) an application for consent to transfer a Part 1A licence is 3 months from the date the relevant local authority is in receipt of an application which contains the information specified in regulation 4.

(2) In calculating the time limit in paragraph (1), a local authority must, where it has given a notice to the applicant under section 32D(4) or section 32E(4), exclude the period beginning with the date on which the notice was given and ending with the earliest of—

- (a) the date written representations have been made by the applicant to the local authority;
- (b) the date the applicant has confirmed in writing to the local authority that the applicant will not be making written representations; or
- (c) the date specified in that notice.

Fees

6.—(1) The matters that a local authority is to take into account when fixing a fee for a relevant permanent site application are the expenses that the authority reasonably expects to incur in relation to—

- (a) receiving, logging and storing an application and any further related information given to the authority;
- (b) checking an application;
- (c) requesting further information and checking that information once received;
- (d) arranging any appointment and attending any meeting required in relation to an application;
- (e) checking that an applicant is entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order;
- (f) satisfying itself that the persons mentioned in paragraph (1)(b) or (2)(b) of section 32D to the Act are fit and proper persons;
- (g) carrying out any risk assessment of the site that the authority considers necessary;
- (h) carrying out a single inspection of a site in connection with an application, including the cost of travelling to and from a site;
- (i) drafting, revising and finalising a licence;
- (j) deciding whether to issue or refuse a licence and informing an applicant of a decision; and
- (k) considering any representations made in accordance with section 32D(4)(b) of the Act.

(2) The expenses in paragraph (1) include in particular the costs of obtaining expert advice (including legal advice).

The time limits for giving of reasons

7. The local authority must give—
- (a) the reasons required under section 32I(4) at the same time as it notifies a decision in terms of section 32I(1); and
 - (b) the reasons required under section 32L(5) at the same time as it serves a notice in terms of section 32L(4).

Appeals

8. Where an appeal has been made under—
- (a) section 32M(1)(a) of the Act and the appeal is successful—
 - (i) the applicant is for all purposes to be treated as having been issued with a Part 1A site licence by the local authority under section 32D of the Act on the day that the appeal is determined; and
 - (ii) in the case of renewal of a Part 1A site licence, the original licence is to be treated as having continued to have effect until the day that the appeal is determined;
 - (b) section 32M(1)(b) of the Act and the appeal is successful, the local authority is to be treated as having consented to the transfer on the day that the appeal is determined;
 - (c) section 32M(1)(c) of the Act and the appeal is successful, the local authority is to be treated as having transferred the licence to the previous holder of the licence on the day that the appeal is determined;
 - (d) section 32M(1)(d) of the Act and the appeal is successful, the revoked licence is to be treated as having continued in effect.

Appointment of an interim manager

9.—(1) An order appointing an interim manager under section 32Y of the Act must confer on the interim manager such powers as the sheriff considers necessary for the management of the site.

(2) Any such order may in particular confer on the interim manager the power to do any of the following—

- (a) take possession of the site (and raise legal proceedings for that purpose);
- (b) carry on the licence holder's business in so far as relating to the management of the site;
- (c) carry out works, or do anything else, in connection with the management of the site;
- (d) execute documents;
- (e) make any arrangement or compromise;
- (f) appoint and dismiss agents and staff;
- (g) appoint a solicitor, accountant or other professional to assist the interim manager;
- (h) make and receive payments;
- (i) take out insurance;
- (j) raise or defend legal proceedings;
- (k) refer a dispute to arbitration;
- (l) do anything incidental to the exercise of the above powers.

(3) Any such order may be granted subject to such conditions as the sheriff thinks fit and in particular may make provision regarding—

- (a) the period of the appointment;
- (b) the termination of the appointment; or
- (c) both.

(4) The sheriff may only make such an order where the sheriff is satisfied that the proposed interim manager has the relevant skills and experience to manage the site.

(5) An interim manager acts as the licence holder's agent and is accordingly not personally liable in relation to an agreement entered into as interim manager.

(6) Anyone dealing with an interim manager in good faith and for value need not inquire whether the interim manager is acting within the powers conferred by virtue of this section.

(7) The sheriff must determine the amount of the interim manager's remuneration or the method of calculation of such remuneration.

(8) The remuneration of an interim manager shall be payable out of the income from the site in respect of which the interim manager is appointed.

(9) The sheriff may, on the application of the local authority who applied for the order, vary or discharge that order.

Assistance to be provided to an interim manager

10. The licence holder or any person appointed by the licence holder to manage the site must—

- (a) comply with any reasonable direction made by an interim manager exercising a power conferred on that interim manager in terms of regulation 9(1); and
- (b) in particular, give that interim manager such information as that interim manager reasonably requires.

Offences

11.—(1) A person commits an offence if, without reasonable excuse, the person contravenes regulation 10.

(2) A person commits an offence if the person intentionally obstructs an interim manager in the exercise of a power conferred on that interim manager in terms of regulation 9(1).

(3) A person who commits an offence under paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences by bodies corporate

12.—(1) Where—

- (a) an offence under these Regulations 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 paragraph (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, a member;
- (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.

St Andrew's House,
Edinburgh
20th December 2016

KEVIN STEWART
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the licensing of relevant permanent sites under Part 1A of the Caravan Sites and Control of Development Act 1960 (“the Act”).

Regulation 2 sets out the information which must be supplied in an application for a new Part 1A site licence and regulation 3 sets out what is needed for an application for renewal of an existing site licence. These applications must also meet the other requirements contained in section 32B of the Act.

The information which must be supplied in an application to transfer a Part 1A site licence is set out in regulation 4.

Regulation 5 sets out the respective 3 month time limits for determining a relevant permanent site application and an application for consent to transfer a Part 1A site licence.

The matters that a local authority can take into account when setting a fee for a relevant site application are detailed in regulation 6.

Regulation 7 ensures that the reasons for a decision by the local authority in relation to a licence are provided at the same time as the decision is notified.

Regulation 8 makes provision regarding the effect of various appeals, if successful.

In terms of regulation 9(1) the sheriff must ensure that the appointment of an interim manager contains such powers as the sheriff considers are necessary to enable the interim manager to manage the site. Regulation 9(2) sets out some specific examples of powers that can be included.

Regulation 10 requires the licence holder and any site manager to assist the interim manager and provide the interim manager with such information as the interim manager reasonably requests.

Regulation 11 creates offences of contravening regulation 10 and of obstruction. Regulation 12 makes it clear that individuals can be liable even where it is a body corporate that has committed the offence.

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