

POLICY NOTE

THE LETTING AGENTS (NOTICE REQUIRING INFORMATION) (SCOTLAND) REGULATIONS 2018

SSI 2018/115

The above instrument was made in exercise of the powers conferred by section 52(2) of the Housing (Scotland) Act 2014 (the Act) and all other powers enabling them to do so. The instrument is subject to negative procedure.

Background

From 31 January 2018, under Part 4 of the Act, letting agents in Scotland are required by law to comply with a Letting Agent Code of Practice (the code) and to join a Register of Letting Agents.

Policy Objectives

Section 52 of the Act enables the Scottish Ministers to require such documents and information from any person carrying out letting agency work for the purpose of monitoring compliance with Part 4 of the Act.

This instrument makes use of the Scottish Ministers' regulation making power to prescribe the form of the notice requiring information, the manner of its service and the timescale within which the requested information must be provided.

Regulation 2 provides that the notice requiring information must be in one of the forms set out in the schedule. Part 1 of the schedule provides the form of the notice that must be sent to a person who is unregistered, but who appears to be carrying out letting agency work. Part 2 of the schedule provides the form of the notice that must be sent to a person who is a registered letting agent to establish whether they are complying with the code.

Regulation 3 specifies that a notice can be delivered personally to the person; sent to the person's address by registered post or recorded delivery; or sent to the person's email address provided in their application for registration as a letting agent. Where a notice is sent by post or email, it is deemed to have been received 48 hours after it was sent, unless the contrary can be shown.

Regulation 4 provides that there is a 28 day time limit to comply with the notice and allows for this time limit to be extended by another 28 days if the Scottish Ministers are satisfied that there is good reason and the request to extend is made before the time limit expires.

Consultation

While no specific consultation has been carried out in relation to these Regulations, the Scottish Government has engaged extensively with representatives from the letting agent industry, landlords' and tenants' groups in the implementation of letting agent regulation.

Impact Assessments

An equality impact assessment has been completed on the regulation of letting agents and has been published on the Scottish Government's website.

The Scottish Government's assessment of the likely impact of the regulation of letting agents upon those within the protected characteristics (age, disability, sex, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief or sexual orientation) has identified a number of potential positive impacts including opportunities to eliminate unlawful discrimination and advance equality of opportunity. It has not identified any negative impacts.

Financial Effects

Business and Regulatory Impact Assessments (BRIA) have been completed in relation to the Letting Agent Code of Practice /Registration requirements and the Application Fee for registration and are published on the Scottish Government's website.

While there are no direct additional financial impacts as a result of this instrument, a business carrying out letting agency work who has failed to comply with their legal requirement to register will be required to pay an additional £270 as part of their application fee for registration. This will cover the costs of the additional work incurred in scrutinising a late application.