

POLICY NOTE

THE LETTING AGENT REGISTRATION (SCOTLAND) AMENDMENT REGULATIONS 2018

SSI 2018/196

The above instrument was made in exercise of the powers conferred by section 30(2)(f) of the Housing (Scotland) Act 2014 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Background

The Letting Agent Registration (Scotland) Regulations 2016 (as amended) require those applying to join the Scottish Letting Agent Register (the Register) to confirm in their application that, if they hold client money, this is held in one or more separate and dedicated client bank accounts and that they have client money protection insurance (CMPI).

The deadline for making an application to join the Register is 1 October 2018; after this date it is a criminal offence for a person to carry out letting agency work without having made an application to join the Register.

Policy Objectives

These regulations are in response to difficulties being experienced by some letting agents in opening a suitable client bank account following changes to the UK money laundering regulations (MLR).

Under the MLR, banks are required to carry out certain due diligence steps on the identity of their customer (in this case the letting agent) and the underlying clients (in this case the landlords and tenants) of the customer. Where a customer of the bank is subject to the MLR a simplified due diligence process can be used, which enables access to an undesignated (pooled) client account. As many letting agents are not subject to the MLR, this has caused problems for them in accessing this type of client bank account.

Agents unable to open a client bank account and obtain CMPI are currently prevented by the requirements of the Letting Agent Registration (Scotland) Regulations 2016 from making an application to join the Register.

These amendment regulations will ensure letting agents who have been unable to open a client bank account and obtain client money protection insurance through no fault of their own, are not prevented from making an application to the Register by 1 October 2018 deadline.

Consultation

The Scottish Government has engaged extensively with representatives from the letting agent industry, landlords' and tenants' groups in the implementation of letting agent regulation. Draft regulations were also shared with the Scottish Government's letting agent regulation stakeholder group for their views.

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.

Scottish Government
Housing and Social Justice Directorate

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