

EXPLANATORY MEMORANDUM TO

THE HOUSING AND PLANNING ACT 2016 (DATABASE OF ROGUE LANDLORDS AND PROPERTY AGENTS) REGULATIONS 2018

2018 No. 258

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Housing and Planning Act 2016 (“the Act”) provides that the Secretary of State must establish and operate a database of rogue landlords and property agents for the purpose of Chapter 3 of Part 2 of the Act. This instrument makes provision about the information that must be included in a person’s entry in the database of rogue landlords and property agents.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These regulations make provision about the information that must be included in a person’s entry on the database of rogue landlords and property agents. The Act provides that the Regulations may require a person’s entry to include the person’s address or other contact details; the period for which the entry is to be maintained; details of properties the person owns, lets or manages; details of any banning order offences of which the person has been convicted; details of any banning orders made against the person, whether or not still in force; and details of financial penalties that the person has received. In relation to a case where a body corporate is entered on the database, the regulations may also require information to be included about its officers. . This is the first use of the power under the Act.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 Although the majority of landlords in the private rented sector provide decent and well managed accommodation, there are a small number of rogue landlords and property agents who knowingly flout their legal obligations and rent out accommodation which is substandard, frequently to vulnerable tenants. The government is determined to crack down on these landlords and disrupt their business model.
- 7.2 The Act introduced a range of measures to help local authorities tackle rogue landlords and drive up standards in the private rented sector. These measures include establishing and operating a database of rogue landlords and property agents.
- 7.3 The purpose of the database is to provide a tool for local housing authorities in England to keep track of rogue landlords and property agents and to help them target their enforcement activities. Local housing authorities will be under a duty to make an entry in respect of a person subject to banning orders and will have the power to make entries for a landlord or property agent convicted of a banning order offence or who has received a financial penalty for a banning order offence at least twice within a period of 12 months.
- 7.4 Local housing authorities are responsible for maintaining the content of the database. The purpose of these Regulations is to set out for local housing authorities the information that they must include when making an entry. It is necessary to include the specified information in an entry to accurately identify the person to whom it relates and the reason(s) for making the entry, as well as the period for which the entry must be maintained.

8. Consultation outcome

- 8.1 No consultation exercise was conducted.

9. Guidance

- 9.1 Guidance for local authorities on using the database and the information to include in an entry is currently being developed and will be published by 6 April 2018.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities undertaken by small businesses.

12. Monitoring & review

- 12.1 There are no plans to monitor or review this instrument.

13. Contact

- 13.1 Jonathan Bramhall at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 1803 or email: jonathan.bramhall@communities.gsi.gov.uk can answer any queries regarding the instrument.