

HOUSING (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part Four – Letting Agents

Monitoring of compliance

116. [Section 52](#) gives the Scottish Ministers the power to require such documents and information as they may reasonably require from any person carrying out letting agency work (which will include from staff) where the letting agency is a company. For example, information could be requested from company directors, the company owner and its staff. The information is to be obtainable for the purposes of enabling the Scottish Ministers to exercise any of their functions under Part 4 of the Act. This power covers Ministerial requests for information about compliance with the code of practice or the registration requirements. It does not enable the disclosure of information if such disclosure would be contrary to any enactment or rule of law.
117. [Section 53](#) provides powers for the Scottish Ministers to authorise persons to carry out an inspection of premises which appear to be being used for the purpose of carrying out letting agency work. An authorised person has various powers which can be carried out at an inspection.
118. [Section 54](#) outlines the circumstances where a sheriff, justice of the peace or stipendiary magistrate may issue a warrant to enable an authorised person to enter premises, by force if necessary, for the purpose of carrying out an inspection. In granting a warrant, the sheriff, justice of the peace or stipendiary magistrate will have to be satisfied that there are reasonable grounds for entering the premises and that one of the grounds for obtaining a warrant set out in subsection (2)(b) are met.
119. [Section 55](#) provides a right for the person entering any premises to take such other persons and such equipment as the person considers necessary. The power of entry can only be exercised at a reasonable time and the occupier of the premises must be given at least 24 hours' notice, unless giving such notice would defeat the object of the proposed inspection. A person carrying out an inspection must, if required to do so, produce written evidence of the person's authorisation to exercise that right. If the premises are unoccupied or the occupier is temporarily absent, the person authorised to enter must leave the premises as effectively secured against trespassers as the person found them. A statement must be left on the premises giving particulars of what has been taken, and stating that the person has taken possession of it.
120. [Section 56](#) creates offences relating to the powers to obtain information and carry out inspections at sections 52 and 53. Subsection (1) makes it an offence to fail or refuse to provide information to the Scottish Ministers or an inspector without reasonable excuse or to make a false or misleading statement in a material particular. Subsection (2) provides that it is to be an offence for someone to intentionally obstruct a person in the exercise of a power of entry. It is also an offence to fail to provide information to an inspector or to fail to give an inspector such facilities and assistance as the inspector thinks necessary. Subsection (3) provides that a person committing an offence under

*These notes relate to the Housing (Scotland) Act 2014
(asp 14) which received Royal Assent on 1 August 2014*

subsection (1) or (2) is to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.