



Housing (Scotland) Act 2014

2014 asp 14

PART 4

LETTING AGENTS

Inclusion in the register

34 Fit and proper person considerations

- (1) In deciding under this Part if a person is a fit and proper person, the Scottish Ministers must have regard to all of the circumstances of the case, including any material falling within subsections (2) and (4).
- (2) Material falls within this subsection if it shows that the person has—
 - (a) been convicted of an offence—
 - (i) involving fraud or other dishonesty,
 - (ii) involving violence,
 - (iii) involving drugs,
 - (iv) involving firearms,
 - (v) which is a sexual offence within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995 (c.46),
 - (b) practised unlawful discrimination on the grounds of any of the protected characteristics in Part 2 of the Equality Act 2010 (c.15),
 - (c) contravened any provision of—
 - (i) the law relating to housing,
 - (ii) landlord and tenant law,
 - (iii) the law relating to debt.
- (3) Material which shows that a person has a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 (c.53) does not fall within subsection (2).
- (4) Material falls within this subsection if it shows the extent to which any person mentioned in subsection (1) has—
 - (a) complied with any Letting Agent Code of Practice made under section 46,

Changes to legislation: *Housing (Scotland) Act 2014, Section 34 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) complied with any Letting Code issued under section 92A of the 2004 Act,
 - (c) failed to comply with a duty applying to that person in accordance with section 36 to use a letting agent registration number,
 - (d) contravened any provision of any letting agent enforcement order issued under section 48,
 - (e) failed to pay any costs for which the person is liable under this Part arising from an application to the First-tier Tribunal under section 48,
 - (f) failed to provide information in accordance with section 52 or 53(2)(d)(i),
 - (g) obstructed a person acting in the proper exercise of the persons' functions under sections 53 to 55,
 - (h) failed to comply with a requirement made by a person who is so acting.
- (5) The Scottish Ministers may by order modify this section by adding to, removing or varying any material in subsections (2) and (4).

Commencement Information

II [S. 34](#) in force at 31.1.2018 by [S.S.I. 2016/412](#), art. 2, [sch.](#)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.S.I. 2016/412, art. 3(1) (a) by [S.S.I. 2017/330 art. 2](#)
- specified provision(s) amendment to earlier commencing SSI 2015/272 Sch. by [S.S.I. 2015/349 art. 2\(2\)](#)