



# Housing (Scotland) Act 2014

## 2014 asp 14

### PART 4

#### LETTING AGENTS

##### *Monitoring of compliance*

#### **52 Power to obtain information**

- (1) The Scottish Ministers may, for the purpose of monitoring compliance with the provisions of this Part, serve a notice on a person who appears to be a letting agent requiring the person to provide them with information specified in the notice.
- (2) The Scottish Ministers may by regulations make further provision about the requiring of information under subsection (1) and, in particular, may make provision about—
  - (a) the form of the notice and manner of service,
  - (b) the time within which information must be provided.
- (3) Nothing in this section authorises the Scottish Ministers to require the disclosure of any information if such disclosure would make the person holding it susceptible under any enactment or rule of law to any sanction or other remedy.

#### **53 Power to carry out inspections**

- (1) For the purpose of monitoring compliance with the provisions of this Part, an authorised person may carry out an inspection of premises which appear to be being used for the purpose of carrying out letting agency work.
- (2) For the purposes of carrying out the inspection, the authorised person may—
  - (a) enter and inspect the premises,
  - (b) require the production of any book, document, data or record (in whatever form it is held) and inspect it, and take copies of or extracts from it,
  - (c) take possession of any book, document, data or record (in whatever form it is held) which is on the premises and retain it for as long as the authorised person considers necessary,
  - (d) require any person to—

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*Status: This is the original version (as it was originally enacted).*

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- (i) give the authorised person such information as the authorised person considers necessary,
  - (ii) afford the authorised person such facilities and assistance as the authorised person considers necessary.
- (3) Nothing in this section authorises the authorised person to require the disclosure of any information if such disclosure would make the person holding it susceptible under any enactment or rule of law to any sanction or other remedy.
- (4) In this section—
  - “authorised person” means a person authorised by the Scottish Ministers,
  - “premises” includes any place and any vehicle, vessel, or moveable structure.

#### **54 Warrants for entry**

- (1) A sheriff, justice of the peace or stipendiary magistrate may by warrant authorise a person to enter premises (if necessary using reasonable force) for the purpose of carrying out an inspection under section 53.
- (2) A warrant may be granted under subsection (1) only if the sheriff, justice or magistrate is satisfied by evidence on oath—
  - (a) that there are reasonable grounds for entering the premises in question, and
  - (b) that—
    - (i) entry to the premises has been or is likely to be refused and that notice of the intention to apply for a warrant under this section has been given to the occupier,
    - (ii) a request for entry, or the giving of such notice, would defeat the object of the proposed entry,
    - (iii) the premises are unoccupied, or
    - (iv) the occupier is temporarily absent and it might defeat the object of the entry to await the occupier’s return.

#### **55 Inspections: supplemental**

- (1) A person entering any premises under section 53(2)(a) or in accordance with a warrant granted under section 54 may take on to the premises such other persons and such equipment as the person considers necessary.
- (2) A right to enter any premises conferred by section 53(2)(a) may be exercised only at a reasonable time.
- (3) The occupier of the premises concerned must be given at least 24 hours’ notice before a person carries out an inspection under section 53 unless the person carrying out the inspection considers that giving such notice would defeat the object of the proposed inspection.
- (4) A person carrying out an inspection under section 53 must, if required to do so, produce written evidence of the person’s authorisation to carry out the inspection.
- (5) On leaving any premises which a person is authorised to enter by a warrant granted under section 54, the person must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as the person found them.

- (6) A person who takes possession of any item under section 53(2)(c) must leave a statement on the premises from which the item was removed—
- (a) giving particulars of what has been taken, and
  - (b) stating that the person has taken possession of it.

## **56 Information and inspection: offence**

- (1) It is an offence for a person who has been required to provide information in accordance with section 52 or section 53(2)(d)(i)—
- (a) without reasonable excuse, to fail or refuse to provide the information,
  - (b) to knowingly or recklessly make any statement in respect of that information which is false or misleading in a material particular.
- (2) It is an offence for a person—
- (a) to intentionally obstruct a person acting in the proper exercise of the persons' functions under sections 53 to 55,
  - (b) without reasonable excuse, to fail to comply with any requirement made under section 53(2)(b) or (d)(ii) by a person who is so acting.
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.