



Housing (Scotland) Act 2014

2014 asp 14

PART 5

MOBILE HOME SITES WITH PERMANENT RESIDENTS

Part 1A site licence

65 Issue, renewal, transfer and transmission of a Part 1A site licence

After section 32C of the 1960 Act (inserted by section 64), insert—

“32D Issue and renewal of a Part 1A site licence

- (1) A local authority may issue a Part 1A site licence if—
 - (a) the applicant is, when the Part 1A site licence is issued, entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order, and
 - (b) the authority is satisfied—
 - (i) that the applicant is a fit and proper person to hold a site licence,
 - (ii) in the case where an applicant is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence,
 - (iii) that any person to be appointed by the applicant to manage the site is a fit and proper person to do so, and
 - (iv) in the case where a person to be appointed by the applicant to manage the site is not a natural person, that any individual who is to be directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- (2) A local authority must renew a Part 1A site licence if—
 - (a) the applicant is, when the Part 1A site licence is renewed, entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order, and

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- (b) the authority is satisfied—
 - (i) that the applicant is a fit and proper person to hold a site licence,
 - (ii) in the case where an applicant is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence,
 - (iii) that any person appointed, or to be appointed, by the applicant to manage the site is a fit and proper person to do so, and
 - (iv) in the case where a person appointed, or to be appointed, by the applicant to manage the site is not a natural person, that any individual who is, or is to be, directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- (3) The local authority must not issue a Part 1A site licence to a person whom the local authority knows has held a site licence which has been revoked under this Act less than 3 years before that time.
- (4) Before refusing to issue or renew a Part 1A site licence, the authority must give to the applicant a notice stating that—
 - (a) it is considering refusing the application and its reasons for doing so, and
 - (b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (5) In making its decision under this section the local authority must consider the application and any representations made in accordance with subsection (4)(b).

32E Application to transfer a Part 1 A site licence

- (1) This section applies where, under section 10(1), the holder of a Part 1A site licence seeks the consent of the local authority for the transfer of the licence to a person who is to become the occupier of the relevant permanent site (in this section the “transferee”).
- (2) The local authority may refuse consent to the transfer on the ground that the authority is not satisfied—
 - (a) that the transferee is a fit and proper person to hold a site licence,
 - (b) in the case where the transferee is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence,
 - (c) that any person to be appointed by the transferee to manage the site is a fit and proper person to do so, and
 - (d) in the case where a person to be appointed by the transferee to manage the site is not a natural person, that any individual who is to be directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.

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- (3) The applicant and the transferee must, either at the time of making the application or subsequently, give to the local authority such information as the authority may reasonably require in order to determine if the persons mentioned in subsection (2) are fit and proper persons.
- (4) Before refusing to consent to the transfer under subsection (2), the authority must give to the applicant a notice stating that—
 - (a) it is considering refusing the application and its reasons for doing so, and
 - (b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (5) In making its decision under this section the local authority must consider the application and any representations made in accordance with subsection (4)(b).

32F Time limit for determining application

- (1) This section applies where a person—
 - (a) makes a relevant permanent site application to a local authority in accordance with section 32B, or
 - (b) makes an application for consent to transfer a licence mentioned in section 32E.
- (2) The local authority must determine the application under section 32D or, as the case may be, sections 10 and 32E before the time limit specified under subsection (3).
- (3) The Scottish Ministers must, by regulations subject to the negative procedure, specify a time limit for the purposes of each application to which this section applies (and in doing so may specify different limits for different applications or types of application).
- (4) The period mentioned in subsection (2) may be extended by the sheriff, on summary application by the local authority, by such period as the sheriff thinks fit.
- (5) The sheriff may not extend a period unless the local authority applies for the extension before the period expires.
- (6) The applicant is entitled to be a party to any proceedings on such summary application.
- (7) The sheriff's decision on such summary application is final.
- (8) If the local authority does not determine a relevant permanent site application within the period required by this section—
 - (a) the authority is to be treated as having issued a Part 1A site licence, on the day by which the authority was required to determine the application, and
 - (b) the relevant person is for all purposes to be treated as having been issued a Part 1A site licence by the local authority under section 32D.

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- (9) If the local authority does not determine an application for consent to transfer a licence mentioned in section 32E within the period required by this section, the authority is to be treated as having given its consent to the transfer on the day on which the application was made.

32G Local authority power to transfer licence where no application

- (1) This section applies where—
- (a) the holder of a Part 1A site licence does not seek the consent of the local authority for the transfer of the licence under section 10(1), and
 - (b) it appears to the authority that the licence holder is no longer the occupier of the relevant permanent site.
- (2) The local authority may transfer the licence to a person whom the authority considers to be the occupier of the relevant permanent site (in this section the “transferee”).
- (3) Before deciding to transfer the licence under subsection (2), the authority must give to the licence holder and the transferee a notice stating that—
- (a) it is considering transferring the licence to the transferee under this section and its reasons for doing so, and
 - (b) the licence holder and the transferee each have the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (4) In making its decision under this section the local authority must consider any representations made in accordance with subsection (3)(b).
- (5) The licence holder and the transferee must give to the local authority such information as the authority may reasonably require in order to make a decision under this section.
- (6) It is an offence for a person to knowingly or recklessly provide information which is false or misleading in a material respect to a local authority in purported compliance with a request under subsection (5).
- (7) A person who commits an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

32H Transfer of Part 1A site licences on death: relevant permanent sites

Where a Part 1A site licence is transferred to a person in accordance with section 10(4), that person must give to the local authority such information as the authority may reasonably require in order to make a determination under section 32L.

32I Notification of decision on Part 1A site licence

- (1) A local authority must, as soon as practicable after making a decision mentioned in subsection (2), notify the persons mentioned in subsection (3) of—
- (a) the making of the decision, and

- (b) the right to appeal under section 32M.
- (2) The decisions are—
- (a) the determination of a relevant permanent site application,
 - (b) the determination of an application for consent to transfer a licence mentioned in section 32E,
 - (c) the decision to transfer a licence mentioned in section 32G.
- (3) The persons are—
- (a) in the case of a determination of a relevant permanent site application, the applicant,
 - (b) in the case of a determination of an application for consent to transfer a licence mentioned in section 32E, the applicant and the transferee,
 - (c) in the case of a decision of the local authority to transfer a licence under section 32G, the previous holder of the Part 1A site licence and the transferee.
- (4) A local authority must give to the persons mentioned in subsection (3) its reasons for making a decision mentioned in subsection (2).”