
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

HOUSING

The Letting Agent Code of Practice
(Scotland) Regulations 2016

Made - - - - - 2016

Coming into force 31st January 2018

THE LETTING AGENT CODE OF PRACTICE
(SCOTLAND) REGULATIONS 2016

1. Citation and commencement
2. Letting Agent Code of Practice
Signature

SCHEDULE — Letting Agent Code of Practice

SECTION 1

1. Background
2. Section 46 of the Housing (Scotland) Act 2014 (“the 2014...)
3. The Code forms part of a broader regulatory framework for...
4. These measures strengthen regulation of the letting-agent industry in Scotland....
5. Who does the Code apply to?
6. The Code will also help landlords and tenants understand the...
7. What if a letting agent does not comply with the Code?
8. The 2014 Act enables the Tribunal to decide whether a...
9. If the Tribunal decides a letting agent has failed to...
10. If the Tribunal decides that a letting agent has failed...
11. How do the requirements of professional bodies and other legislation relate to the Code?
12. All letting agents must comply with the Code but some...
13. Using the Code
14. Most letting agents offer a wide range of services to...
15. In the Code “you” means a letting agent.

SECTION 2

16. You must conduct your business in a way that complies...
17. You must be honest, open, transparent and fair in your...
18. You must provide information in a clear and easily accessible...
19. You must not provide information that is deliberately or negligently...
20. You must apply your policies and procedures consistently and reasonably....
21. You must carry out the services you provide to landlords...
22. You must not unlawfully discriminate against a landlord, tenant or...
23. You must ensure all staff and any sub-contracting agents are...
24. You must maintain appropriate records of your dealings with landlords,...
25. You must ensure you handle all private information sensitively and...
26. You must respond to enquiries and complaints within reasonable timescales...
27. You must inform the appropriate person, the landlord or tenant...
28. You must not communicate with landlords or tenants in any...

SECTION 3

29. Before taking instructions
30. Terms of business
31. If you know that a client is not meeting their...
32. Your terms of business must be written in plain language...
33. You and the landlord must both sign and date your...
34. In line with the Consumer Contracts (Information, Cancellation and Additional...
35. Any subsequent changes to your terms of business should be...
36. If a landlord or tenant (including former landlord and tenant)...
37. Ending the agreement

SECTION 4

38. Marketing and advertising
39. You must get the landlord's permission for advertising and marketing...
40. You must take all reasonable steps to ensure your letting...
41. You must comply with relevant legislation on the marketing and...
42. You must not advertise in a way that unlawfully discriminates...
43. Giving correct information to prospective tenants
44. You must also inform prospective tenants how to apply and,...
45. You must make prospective tenants aware of the Code and...
46. You must not knowingly omit relevant information or evade questions...
47. Charging fees
48. In particular you must comply with section 82 of the...
49. You must not, as a condition of granting the tenancy,...
50. Viewings
51. In deciding how you will conduct viewings on the landlord's...
52. If you are to conduct viewings on the landlord's behalf,...
53. If a tenant lives at the property, you must give...
54. Applications
55. You must inform the landlord in writing of all applications...
56. Applicants must be informed as soon as possible about the...

57. References and checks
58. If you are to check references and make other checks,...
59. If you have contracted a third party to check references,...
60. You must ensure you handle all private information sensitively and...
61. You must take all reasonable steps to confirm the applicant's...
62. Tenancy agreement
63. If you arrange for the tenancy agreement to be signed,...
64. At the start of the tenancy, you must give the...
65. Tenancy deposits
66. If you lodge tenancy deposits on a landlord's behalf, you...
67. Moving in (inventory/check-in)
68. If you are responsible for managing the check-in process, you...
69. If the tenant is not present for the making of...
70. You must take reasonable steps to remind the tenant to...
71. You must provide the tenant with a signed copy of...
72. If the tenant asks in writing for the landlord's name...

SECTION 5

73. If you have said in your agreed terms of business...
74. If you carry out routine visits/inspections, you must record any...
75. Breaches of the tenancy agreement must be dealt with promptly...
76. Rent collection
77. If you collect rent on the landlord's behalf, you must,...
78. You should inform the landlord in writing of the late...
79. In managing any rent arrears, you must be able to...
80. Property access and visits
81. You must take reasonable steps to ensure keys are only...
82. You must give the tenant reasonable notice of your intention...
83. If the tenant refuses access, you, the landlord or any...
84. You must make it clear to the tenant or occupier...
85. Carrying out repairs and maintenance
86. You must put in place appropriate written procedures and processes...
87. If emergency arrangements are part of your service, you must...
88. You must give the tenant clear information about who will...
89. When notified by a tenant of any repairs needing attention,...
90. Repairs must be dealt with promptly and appropriately having regard...
91. You must inform the tenant of the action you intend...
92. Where access is needed for repairs you must give the...
93. If there is any delay in carrying out the repair...
94. You must pursue the contractor or supplier to remedy the...
95. Contractors and third parties
96. On request, you must disclose to landlords, in writing, whether...

SECTION 6

97. Bringing the tenancy to an end
98. You must have clear written procedures in place for managing...
99. You must apply your policy and procedures consistently and reasonably....
100. You must not try to persuade or force the tenant...
101. Inventory/check-out
102. If you are responsible for managing the check-out process, you...

- 103. If the tenant wishes to be present during the check-out...
- 104. You must give the tenant clear written information (this may...
- 105. Tenancy deposits
- 106. In the event of a dispute, the agent and tenant...

SECTION 7

- 107. Communications
- 108. You must respond to enquiries and complaints within reasonable timescales....
- 109. You must provide landlords and tenants with your contact details...
- 110. You must make landlords and tenants aware of the Code...
- 111. You must not communicate with landlords or tenants in any...
- 112. Complaints resolution
- 113. The procedure must also set out how you will handle...
- 114. You must not charge for handling a complaint.
- 115. You must retain (in electronic or paper form) all correspondence...
- 116. You must comply with any Tribunal request to provide information...

SECTION 8

- 117. In this section “client money” means money held or rent...
- 118. Client accounts
- 119. You must keep adequate records and accounts to show all...
- 120. You must be able to account immediately to them for...
- 121. You must ensure you hold client money in one or...
- 122. You must have written confirmation from any bank or building...
- 123. You must regularly record and monitor all transactions and reconcile...
- 124. You must ensure clients’ money is available to them on...
- 125. You must pay or repay client money as soon as...
- 126. You must hold a client money protection insurance policy unless...
- 127. Debt recovery
- 128. Any charges you impose on late payment must not be...
- 129. When you contact landlords, tenants or guarantors who owe you...
- 130. Professional indemnity arrangements
- 131. Cover must be on a full civil liability basis and...
- 132. You must give further details (such as the name of...
- 133. Provision of insurance products
- 134. On request you must disclose to landlords and tenants, in...
- 135. If applicable, you must have a procedure in place for...
- 136. You must keep the insurance claimant informed of the progress...
- 137. Criminal activity

Explanatory Note