

EXECUTIVE NOTE

THE PRIVATE LANDLORD REGISTRATION (INFORMATION AND FEES) (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/ 151

1. The above Regulations are made in exercise of the powers conferred by sections 83(1)(d) and 88(2C) of the Antisocial Behaviour etc. (Scotland) Act 2004. The instrument is subject to negative procedure.

Policy Objectives

2. The Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”) makes provision for private landlords to apply to the relevant local authority for entry on the register of landlords. Each application is accompanied by a principal fee – in most cases £55. This covers the investigations necessary for the fit and proper person test that local authorities must carry out on each applicant. The landlord must renew their registration every 3 years.

3. The Private Rented Housing (Scotland) Act 2011 (“the 2011 Act”) amends the 2004 Act, with the aim of supporting responsible landlords and addressing more effectively the problems caused by landlords who act unlawfully.

4. The 2011 Act expands the list of offences that local authorities must have regard to when deciding if the landlord is a fit and proper person to let property. The Regulations will require a landlord applying to register to declare firearms and sexual offences. The Regulations also update the list to reflect the enactment of the Equality Act 2010.

5. To further assist local authorities in determining information relevant to the fit and proper person test, landlords will be required to give details of any antisocial behaviour orders or notices served on their property, or a tenant residing at any of their properties.

6. Currently, where a registered landlord later notifies that they have an agent (who isn’t registered in their own right) the local authority requires to carry out investigations into whether that agent is fit and proper. However prior to the 2011 Act there was no provision for a local authority to charge for this work. The Regulations will allow the local authority to charge the landlord an additional £55, which is in line with the agent fee at registration.

7. This fee will not be payable where the agent is already registered, or has sought to become registered, with that local authority, whether with another landlord or in their own right. In these situations a fee will already have been paid. Nor is a fee payable if the agent is a charity, a local authority or a registered social landlord.

8. Where the agent is already registered by another local authority, or has submitted an application to another authority and is awaiting the decision the fee will be £27.50. The discounted rate is in line with that charged at the point of initial

registration. In line with the current agent fee at initial registration, where the landlord appoints the agent to act for them in more than one local authority area simultaneously the fee is £27.50.

9. Where a local authority becomes aware through other means that a landlord has appointed an agent, and where the local authority has requested on two separate occasions that the landlord submit formal notification in writing, an additional late application fee of £110 can be applied.

Consultation

10. Public consultation took place on the proposals as part of the Bill for the 2011 Act. There has been engagement with local authorities about commencement. There was support for the further agent fee to bring landlords appointing an agent after registration in line with those who appoint them at the beginning.

Impact Assessments

11. The finalised EQIA for the 2011 Act is available on the Scottish Government website at <http://www.scotland.gov.uk/Topics/People/Equality/18507/EQIASearch/PrivRentedHsg>. An EQIA on this instrument was also completed in May 2012. There are no identified equality impact issues. Copies of the EQIA can be requested from The Private Rented Sector Policy Team, 1-H South, Victoria Quay, Edinburgh, EH6 6QQ.

Financial Effects

12. There will be a cost to the Scottish Government for upgrading the IT system to include the additional offences and information required of landlords at application stage and for providing a new template for paper application forms. These costs will be met from the current landlord registration budget.

13. There will be no additional costs for local authorities associated with landlords declaring additional criminal convictions. A sample of local authorities advised that consideration of the additional factors for declaration was already normal working practice and would therefore not incur additional cost. There may be additional costs for local authorities in terms of enforcement associated with the new expanded test but it is difficult to quantify what these will be for each individual authority.

14. There will be modest additional income to local authorities from charging a landlord a fee for appointing an agent later than at initial registration.

15. The main financial impact will be for landlords who may have been able to appoint an agent after registration without paying a fee; however this fee now makes the system fairer and contributes towards the costs of the local authority to carry out the fit and proper person check on the agent.

16. The finalised Regulatory Impact Assessment for the 2011 Act is available on the Scottish Government website at <http://www.scotland.gov.uk/publications/2011/04/Impactassessment>.

17. A Business and Regulatory Impact Assessment was prepared for this instrument in May 2012.

Scottish Government
Housing, Regeneration, the Commonwealth Games and Sport Directorate
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