
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 432

HOUSING

The Letting Agent Registration (Scotland) Regulations 2016

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| <i>Made</i> | - - - - | <i>20th December 2016</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>22nd December 2016</i> |
| <i>Coming into force</i> | - - | <i>31st January 2018</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 29(2)(b), 30(2)(f), 32(2)(c) and (3) and 101(1) of the Housing (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Letting Agent Registration (Scotland) Regulations 2016 and come into force on 31st January 2018.

Interpretation

2. In these Regulations—

“the Act” means the Housing (Scotland) Act 2014;

“identified person” means any person who is required to be identified in an application by virtue of section 30(2)(d) or (e) of the Act;

“specified person” is a person specified in regulation 6;

“relevant qualification” means a qualification specified in regulation 7;

“verifiable formal training” means training—

- (a) which comprises courses, conferences, lectures, seminars or webinars; and
- (b) for which there is documentary evidence that the person has undertaken or delivered the training.

Additional information to be contained in an entry in the register

3. An entry in the register must include—

- (a) the trading name used by, if different from the name of, the person entered in the register;

- (b) the letting agent registration number allocated to that person;
- (c) details of a relevant website address (if any) belonging to that person; and
- (d) the contact telephone number of that person, if the inclusion of that number in the register is agreed to by that person.

Additional information to be included in an application for registration

4.—(1) An application under section 30 of the Act must include the additional information specified in paragraphs (2), (3) and (4).

(2) The information required for every application is—

- (a) a contact telephone number and email address (if any) for the applicant;
- (b) a relevant website address (if any) belonging to the applicant;
- (c) whether the application is—
 - (i) for the applicant to be entered in the register; or
 - (ii) to renew that person’s existing entry in the register;
- (d) if the application is to renew an existing entry, the letting agent registration number allocated to the applicant;
- (e) details of any previous application made by the applicant under section 30 of the Act which has been refused by the Scottish Ministers;
- (f) the trading name used by, if different from the name of, the applicant;
- (g) in the case where the applicant has been removed from the register by the Scottish Ministers under section 38, 39 or 40 of the Act, details of that removal including the number previously allocated to the applicant whilst registered;
- (h) in the case where the applicant is a member of the Law Society of Scotland, the identification number allocated by that society to the applicant;
- (i) in relation to the applicant, any information relevant to the material falling within section 34(2) of the Act unless an identification number has been provided by the applicant under sub-paragraph (h);
- (j) details of any letting agent enforcement order which has been made against the applicant;
- (k) in the case where the applicant is a body which is—
 - (i) entered in the Scottish Charity Register⁽²⁾;
 - (ii) registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011⁽³⁾; or
 - (iii) registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008⁽⁴⁾;
 that body’s charity number;
- (l) whether the applicant—
 - (i) holds professional indemnity insurance; or
 - (ii) has equivalent protection through membership of another body;
- (m) if the applicant holds professional indemnity insurance, the policy number, and the name of the provider, of that insurance;

(2) The Scottish Charity Register is kept by the Office of the Scottish Charity Regulator under section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(3) 2011 c.25. Section 30 was amended by S.I. 2016/997.

(4) 2008 c.12.

- (n) if the applicant has equivalent protection to professional indemnity insurance through membership of another body, details of that membership;
 - (o) confirmation that the applicant holds client money in one or more separate and dedicated client bank accounts;
 - (p) whether the applicant—
 - (i) holds client money protection insurance; or
 - (ii) has equivalent protection through membership of another body;
 - (q) if the applicant holds client money protection insurance, the policy number, and the name of the provider, of that insurance;
 - (r) if the applicant has equivalent protection to client money protection insurance through membership of another body, details of that membership;
 - (s) details of—
 - (i) any licence, voluntary accreditation or other registration connected with letting agency work, held by the applicant;
 - (ii) any such licence, voluntary accreditation or other registration previously held by the applicant which has been revoked; and
 - (iii) any refusal to grant such a licence, voluntary accreditation or other registration to the applicant; and
 - (t) the number of offices where letting agency work is undertaken, operated by the applicant.
- (3) The information required in relation to —
- (a) an applicant who is a natural person is—
 - (i) any previous names by which that person has been known;
 - (ii) the residential address for that person during the period of 5 years ending with the date of the application; and
 - (iii) the date of birth of that person;
 - (b) each identified person is—
 - (i) a contact telephone number and email address (if any) for that person;
 - (ii) any previous names by which that person has been known;
 - (iii) the residential address for that person during the period of 5 years ending with the date of the application;
 - (iv) the date of birth of that person;
 - (v) details of any application made by that person under section 30 of the Act which has been refused by the Scottish Ministers;
 - (vi) if that person has been removed from the register by the Scottish Ministers under section 38, 39 or 40 of the Act, the details of that removal including the number previously allocated to that person whilst registered;
 - (vii) if the person is a member of the Law Society of Scotland, the identification number allocated by that society to that person;
 - (viii) any information relevant to the material falling within section 34(2) of the Act unless an identification number has been provided under paragraph (vii); and
 - (ix) details of any letting agent enforcement order against that person.
- (4) The information required in relation to the training requirements in regulation 5, for each specified person is—

- (a) the name of that person;
- (b) the job title of that person;
- (c) that person's business role;
- (d) the title and date of the relevant qualification held by that person;
- (e) the name and contact details of the body which awarded that relevant qualification; and
- (f) in the case where regulation 5(1)(b) applies a record which contains—
 - (i) a description of each item of training completed by that person indicating whether the item constitutes verifiable formal training;
 - (ii) the number of hours attributable to each item of training; and
 - (iii) where requested by the Scottish Ministers, the documentary evidence in respect of each item of verifiable formal training completed by that person.

Training requirements

5.—(1) The requirements in relation to training which are prescribed for the purposes of section 32(2)(c) of the Act are that—

- (a) each specified person must have a relevant qualification; and
 - (b) where the relevant qualification was attained by a specified person more than 3 years prior to the date of the application then that person must have undertaken the training specified in paragraph (2) within the period specified in paragraph (3).
- (2) The training specified is 20 hours of training which must —
- (i) be related to carrying out letting agency work; and
 - (ii) include at least 15 hours of verifiable formal training.
- (3) The period specified is the 3 year period ending with the date the application for registration was made.

Specified persons

6. A specified person is—
- (a) in the case where the applicant is a natural person—
 - (i) the applicant; and
 - (ii) each person directly concerned with managing and supervising the day-to-day running of the applicant's letting agency work;
 - (b) in the case where the applicant is not a natural person —
 - (i) the individual who holds the most senior position within the management structure of the applicant unless that individual has no involvement in the day-to day running of the applicant's letting agency work; and
 - (ii) each individual directly concerned with managing and supervising the day-to-day running of the applicant's letting agency work; and
 - (c) in the case where an applicant operates an office where letting agency work is undertaken and in which there is no individual based who falls within paragraphs (a) or (b), an individual based in that office.

Relevant qualification

7. The qualification is one which—

- (a) is at, or is at the equivalent of, level 6 or above on the Scottish Credit and Qualifications Framework⁽⁵⁾; and
- (b) includes training on—
 - (i) the legal obligations relating to letting agency work;
 - (ii) the rights and responsibilities of landlords and tenants;
 - (iii) handling landlords' and tenants' money;
 - (iv) arranging, managing and ending a tenancy;
 - (v) managing repairs to and maintenance of a property;
 - (vi) customer communications and complaints handling; and
 - (vii) equality issues.

Application for registration: criminal conviction certificate

8. The Scottish Ministers may require an applicant who is a natural person or an identified person to provide a criminal conviction certificate (within the meaning of section 112 of the Police Act 1997⁽⁶⁾) if they have reasonable grounds to suspect that the information provided under regulation 4(2)(i) or 4(3)(b)(viii) is, or has become, inaccurate.

St Andrew's House,
Edinburgh
20th December 2016

KEVIN STEWART
Authorised to sign by the Scottish Ministers

(5) The levels are set in the SCQF Level Descriptors document dated August 2012 (ISBN 978-1-5272-0328-0) and available at: http://www.sqa.org.uk/files_ccc/SCQF-LevelDescriptors.pdf.

(6) 1997 c.50. Section 112 was amended by section 79(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) and S.S.I. 2006/50.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the registration of letting agents.

Regulation 3 sets out information which must be included in the register of letting agents (“the register”) in addition to the name and address of the person entered in the register which is required by section 29(2)(a) of the Housing (Scotland) Act 2014 (“the Act”).

Section 30 of the Act specifies certain information which must be included in an application to be entered in the register or to renew an existing entry in the register. Regulation 4 sets out additional information which must also be included.

Regulation 5 sets out the training requirements which must be met. The persons who must have undertaken the training are specified in regulation 6. The training includes a qualification specified in regulation 7 and where the qualification was attained more than 3 years prior to the date the application was made then the person must have undertaken relevant training as set out in regulation 5(2).

Regulation 8 provides that an applicant who is a natural person or an identified person must provide a criminal conviction certificate (a “basic disclosure”) where this is required by the Scottish Ministers if they suspect that the information provided in the application in relation to that individual by virtue of regulation 4(2)(i) or 4(3)(b)(viii) is, or has become, inaccurate.