

POLICY NOTE

THE PRIVATE LANDLORD REGISTRATION (MODIFICATION) (SCOTLAND) ORDER 2022

SSI 2022/163

The above instrument was made in exercise of the powers conferred by Section 83(7) and 141(2) of the Antisocial Behaviour etc. (Scotland) Act 2004. This instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be called “the AB Amendment Order”.

The AB amendment order will exempt people who offer their second homes for free as part of Homes for Ukraine Scheme, from having to register under Landlord Registration (£350 a month gift from the UK Government is not classed as rent). The purpose is to simplify the process and reduce administrative burdens and costs for those seeking to help, and increase the number of properties being offered through the scheme and so support more Ukrainians fleeing conflict.

Policy Objectives

1. The AB Amendment order will ensure that anyone offering their property (second homes/holiday lets) for free (the £350 gift is not considered income) to Ukrainians displaced as a result of war, is be exempt from the landlord register. This provides legal clarity for individuals seeking to provide such support and prevents people who are not seeking to be landlords in normal circumstances from having to register. Currently there is a fee associated with registration so exempting such people from registration should also encourage greater take-up and reduce the administrative burden them.
2. The AB Amendment order only exempts occupancy arrangements entered into through the Homes for Ukraine Scheme and where no rent is paid to ensure that it only removes landlord registration in very specific circumstances. Should any commercial arrangement subsequently be entered into, for example the guests and host agree to a longer term stay where rent is paid, the host would then have to register as a landlord as normal and offer the correct tenancy agreement. The regulations should not, therefore, provide any loopholes or unfair disadvantages for professional landlords.
3. This exemption is purely for those who are not already landlords and aims to increase the number of people willing to offer their homes through the Homes for Ukraine Scheme only. Legislative changes are being progressed simultaneously with the AB Amendment order so that those offering accommodation under the Homes for Ukraine scheme will be subject to enhanced disclosure checks. The AB Amendment order therefore serves to encourage participation in the scheme while changes to the disclosure regime enable greater checks on those who apply.

Consultation

4. In ordinary circumstances, the Scottish Ministers would consult with stakeholders to inform the determinations that they make in this context. However, they have had to respond at speed in this situation, recognising the need to identify housing options for Ukrainians quickly.

5. No consultation has been carried out due to the pace at which a legislative response was needed in order to respond to the circumstances. It is intended that consultation and review will form part of the scheme as it rolls out.

Impact Assessments

6. A partial Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. Given the urgency of ensuring the effective and swift resettlement of people displaced by the war in Ukraine, an Equalities Impact Assessment (EQIA) has not been prepared at this time but will follow the laying of the Instrument. The Scottish Government is working with key partners, such as COSLA, the Scottish Refugee Council and Police Scotland, to ensure effective coordination of plans to address the practical challenges of resettling those coming to Scotland.

Financial Effects

7. The policy does not impact on businesses as it is only in place to ensure that people who do not intend to earn money from their property and are simply providing it for philanthropic reasons are not financially disadvantaged by having the register to be a landlord. However, to ensure that no other landlords are disadvantaged by this, should rent be taken at any point the exemption will no longer be valid. The attached BRIA provides further detail.

Scottish Government

Directorate for Local Government and Housing
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