



Private Rented Housing (Scotland) Act 2011

2011 asp 14

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 17th March 2011 and received Royal Assent on 20th April 2011

An Act of the Scottish Parliament to make provision about private rented housing.

PART 1

REGISTRATION OF PRIVATE LANDLORDS

1 Fit and proper person: considerations

(1) In section 85 of the 2004 Act (section 84: considerations)—

(a) in subsection (2)—

(i) in paragraph (a), after sub-paragraph (i) insert—

“(ia) firearms (within the meaning of section 57(1) of the Firearms Act 1968 (c. 27));”,

(ii) after that paragraph, insert—

“(aa) committed a sexual offence (within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995 (c. 46));”,

(b) after subsection (5) insert—

“(6) Examples of material which falls within subsection (2) (as mentioned in paragraph (c)(i) or (ii)) are (without prejudice to the generality of that provision)—

(a) an offence or disqualification under—

(i) this Part;

(ii) Part 5 of the Housing (Scotland) Act 2006 (asp 1);

(b) a repairing standard enforcement order made under section 24(2) of that Act.

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Private Rented Housing (Scotland) Act 2011. (See end of Document for details)

- (7) Examples of material which falls within subsection (3) are (without prejudice to the generality of that provision)—
 - (a) an antisocial behaviour order (or any interim order) within the meaning of Part 2;
 - (b) an antisocial behaviour notice within the meaning of Part 7.
- (8) Examples of material which falls within subsection (4) are (without prejudice to the generality of that provision)—
 - (a) complaints and other information which come to the attention of the local authority concerning the relevant person or, as the case may be the person, in relation to the fulfilment of any financial obligation in respect of any house which is included in the application;
 - (b) concerns and other information which come to the attention of the local authority in the exercise of any of its functions in connection with any house which is included in the application;
 - (c) where section 85A(3)(b) applies, the relevant person fails to provide the certificate within the period the local authority directs.
- (9) The Scottish Ministers may by order modify subsection (2).”
- (2) In section 141(4)(a) of that Act (orders and regulations), after “83(7),” insert “ 85(9),”.

Commencement Information

II [S. 1](#) in force at 1.7.2012 by [S.S.I. 2012/150](#), [art. 2\(1\)](#)

2 **Fit and proper person: criminal record certificate**

After section 85 of the 2004 Act insert—

“85A Fit and proper person: criminal record certificate

- (1) A local authority may, in deciding for the purposes of section 84(3) or (4) whether a relevant person is, or is no longer, a fit and proper person, require the relevant person to provide the local authority with a criminal record certificate (within the meaning of section 113A of the Police Act 1997 (c. 50)).
- (2) A local authority may require a criminal record certificate to be provided under subsection (1) only if it has reasonable grounds to suspect that the information provided with an application for entry in the register maintained under section 82(1) in relation to material falling within subsection (2), (3) or (4) of section 85 is, or has become, inaccurate.
- (3) Where a local authority has required a criminal record certificate to be provided under subsection (1)—
 - (a) in the case of an application for entry in the register maintained under section 82(1), a relevant person may not be entered in the register until the certificate has been received by the local authority;

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Private Rented Housing (Scotland) Act 2011. (See end of Document for details)

- (b) in the case of a relevant person entered in the register, the relevant person must provide the certificate within such reasonable period as the local authority directs.”.

Commencement Information

I2 [S. 2](#) in force at 31.8.2011 by [S.S.I. 2011/270](#), [art. 2](#), [Sch.](#)

3 Landlord registration number

- (1) In section 84 of the 2004 Act (registration), after subsection (5) insert—

“(5A) An entry in a register under subsection (2)(a) shall state, in relation to the relevant person, a registration number (to be known as the “landlord registration number”).”.

- (2) In section 86 of that Act (notification of registration or refusal to register), after subsection (1) insert—

“(1A) Where a local authority gives notice of the fact of registration under subsection (1)(a) it must, in doing so, give notice of the landlord registration number.”.

- (3) In section 101 of that Act (interpretation of Part 8), after the definition of “landlord” insert—

““landlord registration number” has the meaning given by section 84(5A);”.

Commencement Information

I3 [S. 3](#) in force at 1.4.2013 by [S.S.I. 2013/82](#), [art. 2\(1\)](#), [Sch.](#)

4 Appointment of agents

In section 88 of the 2004 Act (registered person: appointment of agent)—

- (a) after subsection (2) insert—

“(2A) Subject to subsections (2B) and (2C), the notice shall be accompanied by such fee as the local authority may determine.

(2B) No fee shall be payable under subsection (2A) if, when the notice is given—

- (a) the person appointed is entered in the register as a relevant person; or
- (b) another relevant person's entry in the register states that the person appointed acts for the other relevant person.

(2C) The Scottish Ministers may by regulations prescribe for the purposes of subsection (2A)—

- (a) fees;
- (b) how fees are to be arrived at;
- (c) other cases in which no fee shall be payable.”.

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Private Rented Housing (Scotland) Act 2011. (See end of Document for details)

(b) after subsection (8) insert—

“(9) A registered person is guilty of an offence who, without reasonable excuse—

- (a) in giving notice under subsection (2), specifies information which is false in a material particular; or
- (b) fails to comply with subsection (2).

(10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

Commencement Information

- I4** S. 4(a) in force for specified purposes at 31.8.2011 by S.S.I. 2011/270, art. 2, Sch.
- I5** S. 4(a) in force in so far as not already in force at 1.7.2012 by S.S.I. 2012/150, art. 2(2)
- I6** S. 4(b) in force at 31.8.2011 by S.S.I. 2011/270, art. 2, Sch.

5 Access to register: additional information

(1) In section 88A(1) of the 2004 Act (access to register)—

(a) in paragraph (a), before sub-paragraph (i) insert—

“(zi) confirmation of whether any application relating to the house has been made in accordance with section 83 but has not yet been determined;”,

(b) in paragraph (a)(i), for “the owner” substitute “any owner of the house”,

(c) in paragraph (b)—

(i) after “applicant” insert “—
(i)”,

(ii) after “register” insert “; and

(ii) whether its register includes a note under section 92ZA of a decision to refuse that other person's entry in, or to remove that other person from, the register.”.

(2) After section 92 of the 2004 Act insert—

“92ZA Duty to note refusals and removals

(1) Subsection (4) applies where—

(a) a local authority decides to—

(i) refuse to enter a person in its register under section 84(2)(b) or (7); or

(ii) remove a person from its register under section 88(8) or 89(1) or (4); and

(b) either—

(i) the period for making an application to the sheriff in relation to the decision for the purposes of section 92(2) expires without an application being made; or

(ii) such application is refused by the sheriff and—

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Private Rented Housing (Scotland) Act 2011. (See end of Document for details)

- (A) the period for appealing against the sheriff's decision expires without an appeal being made; or
 - (B) such an appeal is refused by the sheriff principal.
- (2) Subsection (4) applies where—
 - (a) a local authority decides to refuse to enter a person in its register under section 84(8); and
 - (b) either—
 - (i) the period for making an application to the sheriff in relation to the decision for the purposes of section 92(2) expires without an application being made; or
 - (ii) such application is refused by the sheriff and—
 - (A) the period for appealing against the sheriff's decision expires without an appeal being made; or
 - (B) such an appeal is refused by the sheriff principal.
- (3) Subsection (4) applies where a local authority removes a person from its register under section 89(5).
- (4) Where this subsection applies, the local authority must note the fact in its register that the person has been refused entry to, or removed from, its register.
- (5) Where a fact is noted by virtue of subsection (1) it must, subject to subsection (6)—
 - (a) remain on the register for 12 months from the date on which the local authority is required to note it in its register; and
 - (b) be removed from the register at the end of that period.
- (6) Where a person in respect of whom a local authority notes a fact in its register by virtue of subsection (1) is subsequently entered in the register before the end of the period mentioned in subsection (5)(a), the local authority must remove the fact from the register when the person is so registered.
- (7) Where a fact is noted by virtue of subsection (2) or (3) it must—
 - (a) remain on the register for the period of disqualification specified in the order made under section 93A(2); and
 - (b) be removed from the register at the end of that period.”.

Commencement Information

I7 [S. 5](#) in force at 1.4.2013 by [S.S.I. 2013/82](#), art. 2(1), [Sch.](#)

6 Duty to include certain information in advertisements

After section 92A of the 2004 Act insert—

“92B Duty of certain persons to include landlord registration number in advertisements

- (1) Where—