

2019 No. 160

HOUSING

**The Private Landlord Registration (Fees) (Scotland) Regulations
2019**

Made - - - - - *30th April 2019*

Laid before the Scottish Parliament *2nd May 2019*

Coming into force in accordance with regulation 1(1)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 83(3), 87(4), 88(2C), 99 and 141(2) of the Antisocial Behaviour etc. Act 2004(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Private Landlord Registration (Fees) (Scotland) Regulations 2019 and come into force at 0900 hours on 11 June 2019.

(2) In these Regulations—

“the 2004 Act” means the Antisocial Behaviour etc. (Scotland) Act 2004,

“agent” means a person appointed to act for the registered person under section 88(1) of the 2004 Act”,

“HMO licence” has the meaning given in section 124(2) of the Housing (Scotland) Act 2006(b),

“internet-based application system” means the system known as the Scottish Landlord Register(c), and

“lead owner” means the person, where applicable, who is designated as such in the application for registration made under section 83(1) of the 2004 Act.

Registration - how fees are to be arrived at

2. The schedule prescribes the method of establishing the fee to accompany—

- (a) an application for registration under section 83(1),
- (b) a notice of a change to information under section 87(2), or
- (c) a notice of appointment of an agent under section 88(2),

(a) 2004 asp 8. Section 83 was amended by S.S.I. 2005/650, section 176(3)(b) and paragraph 1 of schedule 7 of the Housing (Scotland) Act 2006 (asp 1), S.S.I. 2009/33, S.S.I. 2011/211 and paragraph 8(2) of schedule 2 of the Land Reform (Scotland) Act 2016 (asp 18). Section 88(2C) was inserted by section 4(a) of the Private Rented Housing (Scotland) Act 2011 (asp 14).

(b) 2006 asp 1.

(c) landlordregistrationscotland.gov.uk

of the 2004 Act.

Applications made and notices given on or after 1 April 2020

3.—(1) Subject to paragraph (2), the fees payable in respect of applications made and notices given which are set out in paragraphs 1 and 2 of Part 1 of the schedule are to be varied with effect from 0900 hours on 1 April each year, beginning on 1 April 2020, and are to be determined in accordance with paragraph (3).

(2) Where 1 April in any year falls on a Saturday or Sunday, the fees are varied from 0900 hours on the Monday following 1 April.

(3) The fee payable is to be determined in accordance with the formula—

$$Fee_{i,t} = \left[\left(\frac{CPI_y}{CPI_{y-1}} \right) * Fee_{i,t-1} \right].$$

Explanation:

- $Fee_{i,t}$ is the value of the fee i (where i refers to the principal, property, agent and late fee) to be applied in the financial year t .
- CPI_y is the value of the Consumer Prices Index (All Items) for the calendar year y , where the calendar year y is the calendar year which precedes the financial year t .
- CPI_{y-1} is the value of the Consumer Prices Index (All Items) for the calendar year which precedes the calendar year y .
- $Fee_{i,t-1}$ is the value of the fee that was applied in the preceding financial year, $t - 1$.
- The unrounded value of the fee will be used in the formula, and the value of the fee applied in year t will be rounded to the nearest pound.

Amendment of the Private Landlord Registration (Advice and Assistance) (Scotland) Regulations 2005

4.—(1) The Private Landlord Registration (Advice and Assistance) (Scotland) Regulations 2005(a) are amended in accordance with paragraph (2).

(2) After regulation 3 (advice and assistance – landlords) insert—

“3A. A local authority will take such steps as they consider appropriate to publish on their website as soon as possible any fee determined in accordance with the Private Landlord Registration (Fees) (Scotland) Regulations 2019.”.

Revocations

5. Subject to regulation 6, the instruments specified in column 1 of the table in Part 2 of the schedule are revoked to the extent set out in the corresponding entry in column 3 of that table.

Saving provision

6. The Private Landlord Registration (Information and Fees) (Scotland) Regulations 2005(b) continue to have effect on and after 11 June 2019 as they had effect immediately before that date in relation to—

- (a) an application under section 83(1),
- (b) a notice of a change to information under section 87(2), or
- (c) a notice of appointment of an agent under section 88(2),

(a) S.S.I. 2005/557 amended by S.S.I. 2008/402.

(b) S.S.I. 2005/558 was amended by S.S.I. 2006/28, S.S.I. 2008/403, S.S.I. 2012/38, S.S.I. 2012/151 and S.S.I. 2018/292.

of the 2004 Act, received by a local authority before 0900 hours on 11 June 2019.

St Andrew's House,
Edinburgh
30th April 2019

KEVIN STEWART
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulations 2 and 5

PART 1

Regulation 2

Fees

- 1.** Unless any exemptions or discounts apply, the fee charged for registration under section 83(1) of the 2004 Act comprises—
 - (a) a principal fee of £65 (“the principal fee”),
 - (b) a property fee of £15 for each house in terms of section 83(1)(b) of the 2004 Act (“the property fee”), and
 - (c) where the applicant has specified another person under section 83(1)(c) of the 2004 Act, a fee of £65 (“the agent fee”) in addition to the principal fee.
- 2.** An additional fee up to a maximum of £130 is charged where the local authority has issued 2 separate requests for—
 - (a) an application for registration to be made under section 83(1),
 - (b) a notice of change of information under section 87(2), or
 - (c) a notice of the appointment of an agent under section 88(2),
of the 2004 Act.
- 3.** Where a registered person gives notice of a change of information under section 87(2) of the 2004 Act which includes information in terms of section 83(1)(b) relating to a house which is not already entered in the register maintained under section 82(1) of the 2004 Act, the fee charged is the property fee.
- 4.** Subject to paragraph 8, where a registered person gives notice under section 88(2) of the 2004 Act of the appointment of an agent then, unless no fee is payable in terms of subsection (2B) of that section, the fee charged is the agent fee.

Exemptions

- 5.** Where the application is submitted by a body entered in the Scottish Charity Register kept under section 3 of the Charities and Trustee Investment (Scotland) Act 2005^(a), no principal fee or property fee is due.
- 6.** Where the application is submitted by a person who is the holder of a current HMO licence issued by the authority to which the application is submitted, no principal fee is due and no property fee is due in respect of any house which is included in that licence.
- 7.** Where the application is submitted by a joint owner of the house, who is not the lead owner of it, no principal fee or property fee is due.
- 8.** The agent fee is not due if the agent—
 - (a) is already registered under section 84 of the 2004 Act by the local authority to which the application is submitted,
 - (b) has made a valid application under section 83(1) of the 2004 Act to be registered by that authority,
 - (c) would be exempt, as provided by paragraph 5 or 6, from payment of a principal fee if that person were the applicant,

(a) 2005 asp 10.

- (d) is a local authority or a body registered as a social landlord in terms of section 20(1) of the Housing (Scotland) Act 2010,
- (e) is entered in the register of letting agents kept under section 29 of the Housing (Scotland) Act 2014(a), or
- (f) has made a valid application under section 29 of the Housing (Scotland) Act 2014.

9. Where a registered person gives notice of a change in information under section 87(2) of the 2004 Act which is not information to which paragraph 3 applies, no principal fee is due.

Discounts

10. An applicant who requires to pay the principal fee may claim either (but not both) of the following discounts—

- (a) where an application is made to more than one local authority at the same time, using the internet-based application system, 50% of the principal fee in each case, or
- (b) where an application is made to a local authority, using the internet-based application system and the applicant is currently registered by another local authority or has submitted an application to another local authority and has not been notified of a decision on it, 50% of the principal fee.

11. An applicant who requires to pay the agent fee may claim either (but not both) of the following discounts—

- (a) where the specified person acts for the applicant in respect of houses in more than one local authority area and the application is made to more than one local authority at the same time using the internet-based application system, 50% of the agent fee in each case, or
- (b) where the specified person is registered by a local authority other than that to which the application is submitted, or has submitted an application to such a local authority and has not been notified of a decision on it, 50% of the agent fee.

PART 2

Regulation 5

Revocations

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
The Private Landlord Registration (Information and Fees) (Scotland) Regulations 2005	S.S.I. 2005/558 (b)	Regulations 3 to 5 and schedule 2
The Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2006	S.S.I. 2006/28	The whole instrument
The Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2008	S.S.I. 2008/403	The whole instrument
The Housing (Scotland) Act 2010 (Consequential Modifications) Order 2012	S.S.I. 2012/38	Schedule, Part 2 , paragraph 7

(a) 2014 asp 14.

(b) S.S.I. 2005/558 was amended by S.S.I. 2006/28, S.S.I. 2008/403, S.S.I. 2012/38, S.S.I. 2012/151 and S.S.I. 2018/292.

The Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2012	S.S.I. 2012/151	Regulations 2 and 3
The Private Landlord Registration (Information and Fees) (Scotland) Amendment Regulations 2018	S.S.I. 2018/292	The whole instrument

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the fees that a person must pay in order to make a valid application for registration as a landlord or for details of a person's registration to be amended.

Regulation 2 and Part 1 of the schedule set out how the prescribed fees are arrived at.

Regulation 3 provides for the annual revision of fees as at 1st April (or the first working day after that date) by reference to changes in Consumer Prices Index figures.

Regulation 4 amends the Private Landlord Registration (Advice and Assistance) (Scotland) Regulations 2005 to add a duty for a local authority to publish the fees on their website.

Regulation 5 revokes the instruments set out in Part 2 of the schedule. Regulation 6 makes saving provision in relation to applications and notices received by a local authority before 0900 hours on 11 June 2019.

A Business and Regulatory Impact Assessment has been prepared for this instrument and will be placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Directorate for Housing and Social Justice, Victoria Quay, Edinburgh EH6 6QQ.

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£6.90

S201905011001 05/2019 19585

<http://www.legislation.gov.uk/id/ssi/2019/160>

ISBN 978-0-11-104203-8



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