Landlord Registration

Antisocial Behaviour etc (Scotland) Act 2004



GUIDANCE NOTES

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| **You can apply for Landlord Registration online at:**[**www.landlordregistrationscotland.gov.uk**](http://www.landlordregistrationscotland.gov.uk) **OR**Contact the Landlord Registration Team at the details below for an application form.**You must register with each local authority where you let property. If you own properties in more than one area, applying online will allow you to register all your properties at the same time and reduce your total fee.** |

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| Email: landlord.registration@dundeecity.gov.uk |

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11. What is Landlord Registration?
	1. Under Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004, almost all private landlords must apply for registration with their local authority. The local authority must be satisfied that they are fit and proper persons to let property, before registering them (***see “Fit and Proper Person” – Item 5***).
	2. The legislation intends that all registered landlords meet minimum standards and removes the worst landlords from the sector. The register allows tenants and neighbours to identify and contact landlords of registered properties, and provides information to local authorities about the scale and distribution of the sector in Scotland.
	3. More detailed information is available from the Scottish Government website: <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent>
12. Who has to register?

* 1. Anyone who owns residential property in Scotland which is let is considered to be a landlord and must apply to register with the local authority for the area where the property is located, unless they are covered by one of the exemptions (***see Item 3.***). It is the owner(s) (i.e. **anyone named on the title deeds**) of the property who must register. An owner may be an individual, or an organisation/company. If an individual uses a trading/business name, then this must also be declared.
	2. A landlord(s) must declare if an agent is used to manage their property. An agent may be a professional such as a letting agent or solicitor, or a friend or relative who looks after the property, arranges repairs, collects rents and so on (***see “Fees” - Item 8.3.2.***).All individuals involved in letting agency work must comply with the Letting Agent Code of Practice, as well as having applied to the Letting Agent Register and have a valid LARN (Letting Agent Registration Number). You can search for your letting agent at <https://lettingagentregistration.gov.scot/>
	3. You can also register if you do not own any property, to check that you will be considered fit and proper before you invest in property to let.
	4. In some cases the owner of a property leases it to an organisation or person who then acts as the “landlord” for the occupiers. For example, a private owner may lease a house to a company which lets it out to its employees, or to a charity which lets it to people in need. The lessee may also use an agent to manage the tenancy. In these cases, the owner needs to register and the “landlord” is treated as an agent. The agent managing the tenancy must also be declared; this will also include “tied” property and sublet property.
	5. Properties subject to a “Houses in Multiple Occupation” (HMO) licence also have to be in included on the register, unless the landlord also resides in the property (***see “Exemptions” – Item 3.***). If the property is being let prior to the licence being granted, it is the landlord’s responsibility to register with the licensing authority. If the property remains vacant, the landlord is not required to register as the local authority will do so on their behalf once the licence is granted. However the landlord **must** declare any additional non-HMO properties they own.
1. Exemptions

* 1. Exemptions apply to properties rather than to people. If **all** of a landlord’s properties in a particular local authority area are covered by one or more of the exemptions, they do not need to register with that authority. If some of their properties are exempt, the other properties must still be registered. A property is exempt from registration if it is:

		+ - * The **only or main residence of the landlord** (where there are more than 2 lodgers, an HMO licence may be required (***see “Definitions” - Item 9.2****)*.
				* Let to **members of the landlord’s family only** (***see “Definitions” – Item 9.4.***).
				* **Occupied by a tenant farmer** **under an agricultural tenancy** (please note that any other properties on the land which are sub-let by the tenant farmer **will** require to be registered - including tied property - unless specifically exempt e.g. holiday accommodation).
				* Let under a **crofting tenancy**.
				* Occupied under a **liferent agreement**.
				* Used for **holiday lets** only.
				* Regulated by the **Care Commission**, in certain categories.
				* Owned by a **religious organisation** and occupied by a leader, or preacher of that faith.
				* Occupied only by **members of a religious order**.
				* Held by an **executor** for a period **less than 6 months**.
				* Possessed by a **heritable creditor** for a period **less than 6 months**.
				* Owned by a person acting as an **insolvency practitioner** for a period **less than 6 months**, unless the appointment is made by the Accountant in Bankruptcy. In that case, crown immunity applies and there is a permanent exemption from registration.
				* Owned by a **local authority** or **Registered Social Landlord**.
				* Owned by **The Crown**.
	2. If you are unsure whether an exemption applies to you, please contact the Landlord Registration Team for further advice (***see front page for contact details***).
1. When do landlords have to register?
	1. Landlord Registration came into effect on 30 April 2006. It is an offence for anyone to own and let residential property in Scotland, or actively seek a tenant by advertising such property, if they are not registered with the relevant local authority or have not made a valid application to register, **unless** they are covered by an exemption.
	2. It is not an offence to let property if you have submitted a **valid** application for registration which has not yet been processed by the local authority. An application is valid if you have completed all the required information accurately, and paid the appropriate fee.
	3. Registration lasts for 3 years from the date the application is approved by the local authority and **must** be renewed before the expiry date if the property is still being let.
	4. **Changes to Your Details**
		1. The law requires you to inform the local authority of **any changes** to the information provided in your application for registration. You can do that through the website or by writing to or emailing the Landlord Registration Team (***see front page for contact details***).
2. Fit and proper person
	1. To be registered, owners and their agents **must** be *fit and proper* to let residential property. Local authorities **must** take account of any evidence that the person has:
		* + - Committed any offence involving fraud, dishonesty, violence, drugs, discrimination, firearms or sexual offences.
				- Practised unlawful discrimination in connection to any business.
				- Contravened any provision of the law relating to housing, or landlord and tenant law, and the person’s actions, or failure to act, in relation to any antisocial behaviour affecting a house they let or manage, and **must** take account of the fact and nature of any agency arrangement.
	2. In addition to the information provided on the form, the local authority will also take account of any other relevant information they hold about the applicant. They will make a balanced judgement on the basis of all the available information, there is no automatic refusal.
	3. On 31 August 2011, local authorities were given the power to require a criminal record certificate when applying the fit and proper person test, particularly if the local authority has reasonable grounds to suspect that the information provided is, or has become, inaccurate.
	4. If you let property in more than one local authority area, the authorities will share information to ensure they have all relevant details, but each authority will make its decision independently.
3. Sanctions

* 1. It is an offence to let any house without being registered. Failure to register at all, or failure to validate an application by providing all required information and/or payment, will result in consideration of the following sanctions:

		+ - * **Late Application Fee** - a penalty charge of **£130** will be applied to applications received only when landlords have failed to respond to 2 letters from Dundee City Council advising of the requirement to register (includes renewal applications).
				* **Rent Penalty Notice** - can be issued on one, some or all of a landlord's properties. Prohibits a landlord from legally collecting any rent under the terms of the tenancy agreement (no other terms of the agreement are affected).
				* **Report to the Licensing Committee** - with recommendation for refusal/revocation, or conditions for approval:

**Approval with conditions** -e.g. mandatory appointment of a managing agent.

**Refusal** - prohibits a person operating as a landlord.

**Revocation** - prohibits a person operating as a landlord.

* + - * + **Report to the Procurator Fiscal**

The maximum fine for failing to declare a managing agentis **£1,000**.

The maximum fine for operating as an unregistered landlordis **£50,000**.

1. What information is available to the public?
	1. Limited information is available to the public - the website enables a member of the public to request information with respect to a particular residential property or a particular person. The website **does not** enable visitors to obtain lists of registered persons or houses in the local authority’s area, and **will not** disclose a landlord’s telephone number or email address. This also applies to requests made directly to Dundee City Council’s Landlord Registration Team.
	2. **From the Landlord Registration Website**
		1. The Landlord Registration website ([www.landlordregistrationscotland.gov.uk](http://www.landlordregistrationscotland.gov.uk)) has a public search facility to enable you to search for a registered landlord or a registered property.
		2. To search for an owner of a property, you need to select **Search the Register** - enter the postcode for the property address and click **Find Address** - this will show you a list of all properties with that postcode. You then select the required property - this will enter the full property address into the search box and click **Continue** - this will give you the name of the registered landlord(s) and any agent used to manage the property, together with a contact address for writing to the landlord.
		3. If you know a landlord's registration number and want to check that this is valid/genuine, select **Search the Register** for a **Landlord Registration Number** - enter the registration number and click S**earch the Register** - this will confirm which local authority the number is valid for and will show the landlord's name.
		4. Please contact the Landlord Registration Team for assistance if required (***see front page for contact details***).
	3. **From Dundee City Council’s Landlord Registration Team**
		1. The Landlord Registration Team may provide additional information if they are satisfied it is appropriate to do so. Provision of information other than what is available through the website will **only** be considered following a request under Freedom of Information legislation.
		2. Information is **exempt** from being released under Freedom of Information if releasing it would breach the Data Protection Principles.
		3. You can find out more about Freedom of Information from the Scottish Information Commissioner’s website: <http://www.itspublicknowledge.info/home/> and about the Data Protection Principles from the UK Information Commissioner’s website: [www.ico.gov.uk](http://www.ico.gov.uk)
	4. **Withheld information**
		1. The Landlord Registration Team can withhold information from the Landlord Register if they believe that publishing that information could put people or properties at risk. For example, the register will not identify women's refuges.
	5. **Personal Information**
		1. Other information that has to be supplied in an application for registration is personal information and will be treated in accordance with the Data Protection Act. You can find out more about the Data Protection Act from the Information Commissioner’s website: [www.ico.gov.uk](http://www.ico.gov.uk)

1. Fees (Applies to New and Renewal Applications)
	1. **Principal and Property Fee**
		1. Each landlord and agent applying for registration must pay a principal fee of **£65** to each local authority in which they apply and, in the case of landlords, a property fee of **£15** for each property registered.
	2. **Discounts**
		1. **50%** discount - applied to the principal fee of **£65** where applications are made to multiple local authorities.
		2. **100%** discount on both the principal and property fee is given to:

			* + **Registered Charities**
				+ **Joint Owners** – If a property is owned jointly by more than one person, the first person named on the application form will be designated the “Lead Owner”. The lead owner will pay both the principal fee and the property fee(s) for each of the jointly owned properties. Any joint owner who is not the lead joint owner is exempt from paying both the principal fee and any property fees for the jointly owned properties. If a non-lead joint owner also rents out properties which are not jointly owned then they **must** pay the relevant fee for registering these properties.
				+ **HMO Licence Holders** - no principal fee is payable if the landlord registers with the local authority which issued that licence, and no property fee is payable for the HMO property covered by that licence. However ***the discount does not apply to non-HMO properties*** registered by the licence holder, and the £15 property fee must be paid for each one.
	3. **Additional Fees**
		1. **Late Application Penalty Fee** - Where an application is submitted **only** after the local authority has issued two separate requests for an application to be made, an additional fee of **£130** is payable.
		2. **Agent Fee** - If you use a managing agent who has not already registered separately, then you **must** pay an agent fee of **£65** in order for your agent to be assessed as fit and proper; however, agents may register in their own right if they wish, and pay the £65 themselves. It is an offence for landlords **not** to notify the local authority if they appoint an agent. **(*Please contact the Landlord Registration Team for further clarification)****.*
	4. **How to Pay**
		1. You can make a single payment online for all your applications, using a debit or credit card. These payments go to a bank account owned by the Scottish Government, and the relevant amounts are then distributed to local authorities. The Scottish Government does not see the information in your application, just the information it needs about your payment card and a reference number which the local authorities can use to match the payment to the application.
		2. Alternatively when submitting a paper application you must enclose a cheque for the full amount payable to “Dundee City Council” ***(please contact the Landlord Registration Team if you require assistance in calculating your fee)***.

1. Definitions

* 1. Registrations or licences are required by law, and are issued by local or central government. In Scotland this applies to registration of all landlords under the Antisocial Behaviour etc. (Scotland) Act 2004 and licensing of Houses in Multiple Occupation under the Housing (Scotland) Act 2006. You should also include any similar permissions you hold, or have had refused or revoked, in other parts of the UK ie registrations or licences with local authorities relating to letting properties.
	2. **Houses in Multiple Occupation (HMO)**
		1. A property may be an HMO if:
			+ - at least 3 people live there, **and**
				- the people who live there belong to 3 or more families, **and**
				- they share a kitchen, bathroom or toilet
		2. All HMOs in Scotland must be licensed by the local authority. If you think your property may be an HMO and you do not have a licence, please contact the HMO Team for advice on ***Freephone*** ***0800 085 3638***.
	3. **Voluntary Accreditation**
		1. Voluntary accreditation is something landlords or agents can apply for, to show they meet high standards in letting. Accreditation schemes may be run by local authorities, landlord organisations, or a combination of the two.
		2. Dundee Landlord Accreditation (DLA) has been set up by local landlords and letting agents, along with Dundee City Council, to promote and recognise those who take a responsible approach to letting their properties. Membership of Dundee Landlord Accreditation is free and is open to any private landlord or letting agent in Dundee. For further information contact:

		**Dundee Landlord Accreditation**
		Tel: 01382 307118
		Email: dla@dundeecity.gov.uk
		3. Landlord Accreditation Scotland (LAS) is the national voluntary accreditation scheme in Scotland. For further information about LAS go to: [www.landlordaccreditationscotland.com](http://www.landlordaccreditationscotland.com)
	4. **Meaning of “family” and “spouse”: Cohabitation**
		1. **A person (“A”) is a member of another’s (“B’s”) family if:**
* A is the spouse of B, or A and B live together as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex, or
* A is B’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

	+ 1. **In Addition:**
* A relationship by marriage is to be treated as a relationship by blood.
* A relationship of the half-blood is to be treated as a relationship of the whole blood.
* The stepchild of a person is to be treated as that person’s child.
* A person brought up or treated by another person as if the person were the child of the other person is to be treated as that person’s child.

1. Convictions
	1. **If you are unsure whether you need to declare a conviction or court or tribunal judgement made against you, please contact the Landlord Registration Team for further advice (*see front page for contact details*).**
	2. **Discrimination**
		* + - The Equal Pay Act 1970 (c.41)
				- The Sex Discrimination Act 1975 (c.65)
				- The Race Relations Act 1976 (c.74)
				- The Disability Discrimination Act 1995 (c.50)
				- The Equality Act 2010 (c.15)
				- The Employment Equality (Sexual Orientation) Regulations 2003 (S.I 2003/1661) or
				- The Employment Equality (Religion or Belief) Regulations 2003 (S.I 2003/1660)
	3. **Housing Legislation**
		1. For further details on housing legislation go to: <http://www.legislation.gov.uk/browse/uk>
	4. **Firearm Offences**
		1. Within the meaning of section 57(1) of the Firearms Act 1968 (c.27)
	5. **Sexual Offences**

		1. Within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995 (c.46)
	6. **Repairing Standard Enforcement Order**
		1. A Repairing Standard Enforcement Order made under s24(2) of the Housing (Scotland) Act 2006. For further information on the Housing and Property Chamber go to:
		<https://www.housingandpropertychamber.scot/>
	7. **Antisocial Behaviour Order**
		1. Antisocial Behaviour Order (ASBO) within the meaning of Part 2 of the Antisocial Behaviour etc. (Scotland) Act 2004. For further details go to: <http://www.legislation.gov.uk/asp/2004/8/part/2>
	8. **Antisocial Behaviour Notice**
		1. Antisocial Behaviour Notice (ASBN) within the meaning of Part 7 of the Antisocial Behaviour etc. (Scotland) Act 2004. For further details go to: <http://www.legislation.gov.uk/asp/2004/8/part/7>