

Frequently Asked Questions on Registration

If you have a question which is not answered below please contact the Private Sector Housing Unit.

1. What is the point of a register of private landlords?

Registration has a number of aims. These are to:

- improve private renting in Scotland by enforcing minimum standards relating to letting
- remove those who do not meet these minimum standards from the sector
- allow tenants, neighbours and local authorities to identify and contact landlords and agents of private rented property
- provide information on the scale and distribution of the private rented sector in Scotland for the first time

2. How much does it cost to register?

The fee each landlord pays is worked out according to a national fee structure. Each local authority charges a principal fee (per landlord) for registering of £55, plus £11 for each property. The total fee charged takes in any relevant discounts or additional fees. Current fee levels are set by Scottish Ministers.

3. What if my application is late?

There is an additional fee for late application, as indicated in the guidance, after you have been issued two separate requests for an application to be made. The additional fee is twice the principal; fee i.e. a further £110, over and above the registration fee of £55. Internet and charity discounts apply to the total fee, this does NOT apply to any Late Application Fee.

4. When will registration need to be renewed?

Registration will last for 3 years, starting from the date of approval and *not* application.

5. Why does registration only last 3 years?

Any register needs to be updated periodically to make sure it is still accurate. Regular renewals make sure the local authority has an up-to-date picture of the private rented sector in its area, and allows them to check whether any complaints or problems have been reported about a property or landlord.

6. What if details provided about a landlord, an agent or a property change before the renewal date?

It is the applicant's responsibility to ensure that the information provided on the register and held by the local authority is up to date. If any details supplied on the application change before the date of renewal, the landlord should notify the local authority or amend the details online. No fee will be charged for making amendments to the register, except where a property is being added to a portfolio.

7. Can someone register who does not own property?

Yes.

Agents can register in their own right but are not legally obliged to do so. Any agent employed by a landlord must be listed on the landlord's application to register and the agency arrangement used must be found to be fit and proper. Agents who choose to register independently will be able to demonstrate that they have been found fit and proper by the local authority, and market themselves on this basis.

Prospective landlords who are about to enter the let property market are able to register prior to purchasing any property. They will then be assured before investing in property that the local authority has found them fit and proper to be letting.

8. Who is exempt?

Exemptions apply to properties rather than to people. If **all** of a landlord's properties are covered by one or more of the exemptions, he or she does not need to register. If some of his or her 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 (if there are more than 2 unrelated lodgers an HMO licence will be required)
- let to members of the landlord's family only (as defined by [s.108 Housing \(Scotland\) Act 2004](#))
- used for holiday lets only
- regulated by the Care Commission
- subject to a control order
- occupied by virtue of an agricultural tenancy, and occupied by the tenant farmer
- occupied by virtue of a crofting tenancy
- owned by a religious organisation for worship and advancement of religion and occupied by a leader or preacher of that faith
- used by a religious order
- occupied by virtue of a liferent
- held by an executor, for six months from the date of the previous owner's death
- possessed by a heritable creditor, for six months from the date of possession.

9. What about landlords who don't live in Scotland?

They must also apply to register. The legislation applies to anyone who owns let property in Scotland, regardless of whether they are resident in Scotland or not. If the landlord lives a long way from the property, whether in Scotland or elsewhere, the local authority may require them to appoint an agent to ensure effective management.

10. What about casual lets – such as owners who let out their own homes whilst they are abroad for a limited period?

They would need to register as they would be entering into the letting market. They would not count as resident landlords as they would not be living in their home alongside their tenants whilst they were abroad.

11. How do joint owners register?

If joint owners do not together form a 'legal person', both or all of the owners must register. If joint owners are members of the same family, only one principal fee will be charged.

12. What about companies or trusts which own property – do all trustees, directors and shareholders have to register?

A company is a 'legal person', which means that the organisation can act, form intentions and commit offences. If a house is owned by a corporate person, an application to register must be submitted on behalf of the organisation by a delegated individual, such as the company secretary.

Trusts cannot act as "legal persons" (unless they are incorporated), therefore all trustees must register as individuals.

13. What information is available through the registration website?

Only limited information is available to tenants and members of the public through the website. On entering a property's address, a member of the public can view:

- name of landlord
- name of agent (where applicable)
- contact address for the property

On entering a landlord's name and address, the system confirms whether or not that person is registered, but will not list their properties.

Telephone numbers and email addresses are not made available through the website. These are only used for the local authority to contact the landlord with any queries about their application.

Other information, such as the landlord's home address or a list of rented properties in an area, may be provided to enquirers by the local authority if it considers it appropriate. Such requests must be considered in accordance with the Freedom of Information (Scotland) Act 2002. However, information may not be released if doing so would breach Data Protection principles.

14. How does the fit and proper person test work?

The concept of fitness and propriety is well-established in law, but in this context refers specifically to a person being fit and proper *to let houses*. The local authority looks for proof of fitness and propriety by checking any available and relevant information on the applicant. Local authorities must take particular account of any evidence of:

- fraud, dishonesty, violence or drugs
- unlawful discrimination
- breaches of law relating to housing
- failure to act in relation to antisocial behaviour

The decision of the local authority is a *judgement* in the light of the totality of information available – there are no grounds for *automatic* refusal or removal of registration.

15. What are the penalties for letting while unregistered?

The landlord can be prosecuted and fined up to £5000. As an alternative, or in addition to seeking prosecution, the local authority can serve a Rent Penalty Notice, which means that no rent is to be paid for the property or properties. This will hit landlords in the pocket, and make sure that Housing Benefit is not paid to unregistered landlords.

16. How are unregistered landlords identified and contacted?

Local authorities will use a wide range of information sources to identify and chase up unregistered landlords. Examples might include:

- Council Tax registers,
- lists from organisations such as student accommodation services,
- HMO registers
- Adverts for rented housing
- Information from tenants or neighbours
- Information from other council departments who may come across rented property.

Use of any information must comply with Data Protection requirements, but there is specific provision in the 2004 Act to allow for information-sharing across local authority departments on the issue of antisocial behaviour, in order to facilitate partnership working.

17. How different groups benefit from registration?

Registration benefits various groups of people:

Landlords

- gain a stamp of approval from the local authority
- able to operate in a market without the unfair competition of bad landlords who provide poor housing or inadequate management
- able to identify and contact other landlords in neighbouring properties to organise common repairs
- able to contact the local authority for information and advice about good letting practice

Agents

- gain a stamp of approval from the local authority if they register in their own right
- able to use this stamp of approval to market themselves to future clients as fit and proper
- able to identify and contact other landlords in neighbouring properties to organise common repairs

Tenants

- assured that their landlord (and agent) is fit and proper
- know that the letting of their home will be conducted in a fit and proper way
- able to identify and contact their landlord (or agent) using the public register

Neighbours

- able to use the public register to identify and contact landlords (or agents) of private rented property to organise common repairs
- able to contact the local authority if antisocial behaviour is occurring in a neighbouring rented property

Local authorities

- able to use the information on the private rented sector to plan properly for housing need in their areas
- gain a tool to drive out the worst landlords
- able to deal more effectively with situations where private landlords are failing to address antisocial behaviour in their properties