



# Housing (Scotland) Act 2014

## 2014 asp 14

### PART 4

#### LETTING AGENTS

##### *Inclusion in the register*

#### **34 Fit and proper person considerations**

- (1) In deciding under this Part if a person is a fit and proper person, the Scottish Ministers must have regard to all of the circumstances of the case, including any material falling within subsections (2) and (4).
- (2) Material falls within this subsection if it shows that the person has—
  - (a) been convicted of an offence—
    - (i) involving fraud or other dishonesty,
    - (ii) involving violence,
    - (iii) involving drugs,
    - (iv) involving firearms,
    - (v) which is a sexual offence within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995 (c.46),
  - (b) practised unlawful discrimination on the grounds of any of the protected characteristics in Part 2 of the Equality Act 2010 (c.15),
  - (c) contravened any provision of—
    - (i) the law relating to housing,
    - (ii) landlord and tenant law,
    - (iii) the law relating to debt.
- (3) Material which shows that a person has a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 (c.53) does not fall within subsection (2).
- (4) Material falls within this subsection if it shows the extent to which any person mentioned in subsection (1) has—
  - (a) complied with any Letting Agent Code of Practice made under section 46,

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*Status: This is the original version (as it was originally enacted).*

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- (b) complied with any Letting Code issued under section 92A of the 2004 Act,
  - (c) failed to comply with a duty applying to that person in accordance with section 36 to use a letting agent registration number,
  - (d) contravened any provision of any letting agent enforcement order issued under section 48,
  - (e) failed to pay any costs for which the person is liable under this Part arising from an application to the First-tier Tribunal under section 48,
  - (f) failed to provide information in accordance with section 52 or 53(2)(d)(i),
  - (g) obstructed a person acting in the proper exercise of the persons' functions under sections 53 to 55,
  - (h) failed to comply with a requirement made by a person who is so acting.
- (5) The Scottish Ministers may by order modify this section by adding to, removing or varying any material in subsections (2) and (4).