



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 2

#### ROGUE LANDLORDS AND PROPERTY AGENTS IN ENGLAND

### CHAPTER 3

#### DATABASE OF ROGUE LANDLORDS AND PROPERTY AGENTS

##### *The database and its content*

#### **28 Database of rogue landlords and property agents**

- (1) The Secretary of State must establish and operate a database of rogue landlords and property agents for the purposes of this Chapter.
- (2) Sections 29 and 30 give local housing authorities in England responsibility for maintaining the content of the database.
- (3) The Secretary of State must ensure that local housing authorities are able to edit the database for the purpose carrying out their functions under those sections and updating the database under section 34.

#### **29 Duty to include person with banning order**

- (1) A local housing authority in England must make an entry in the database in respect of a person if—
  - (a) a banning order has been made against the person following an application by the authority, and
  - (b) no entry was made under section 30, before the banning order was made, on the basis of a conviction for the offence to which the banning order relates.

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- (2) An entry made under this section must be maintained for the period for which the banning order has effect and must then be removed.

### **30 Power to include person convicted of banning order offence**

- (1) A local housing authority in England may make an entry in the database in respect of a person if—
- (a) the person has been convicted of a banning order offence, and
  - (b) the offence was committed at a time when the person was a residential landlord or a property agent.
- (2) A local housing authority in England may make an entry in the database in respect of a person who has, at least twice within a period of 12 months, received a financial penalty in respect of a banning order offence committed at a time when the person was a residential landlord or a property agent.
- (3) A financial penalty is to be taken into account for the purposes of subsection (2) only if the period for appealing the penalty has expired and any appeal has been finally determined or withdrawn.
- (4) Section 31 imposes procedural requirements that must be met before an entry may be made in the database under this section.
- (5) An entry made under this section—
- (a) must be maintained for the period specified in the decision notice given under section 31 before the entry was made (or that period as reduced in accordance with section 36), and
  - (b) must be removed at the end of that period.
- (6) Subsection (5)(a) does not prevent an entry being removed early in accordance under section 36.
- (7) The Secretary of State must publish guidance setting out criteria to which local housing authorities must have regard in deciding—
- (a) whether to make an entry in the database under this section, and
  - (b) the period to specify in a decision notice under section 31.

### **31 Procedure for inclusion under section 30**

- (1) If a local housing authority decides to make an entry in the database in respect of a person under section 30 it must give the person a decision notice before the entry is made.
- (2) The decision notice must—
- (a) explain that the authority has decided to make the entry in the database after the end of the period of 21 days beginning with the day on which the notice is given (“the notice period”), and
  - (b) specify the period for which the person’s entry will be maintained, which must be at least 2 years beginning with the day on which the entry is made.
- (3) The decision notice must also summarise the person’s appeal rights under section 32.

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- (4) The authority must wait until the notice period has ended before making the entry in the database.
- (5) If a person appeals under section 32 within the notice period the local housing authority may not make the entry in the database until—
  - (a) the appeal has been determined or withdrawn, and
  - (b) there is no possibility of further appeal (ignoring the possibility of an appeal out of time).
- (6) A decision notice under this section may not be given after the end of the period of 6 months beginning with the day on which the person—
  - (a) was convicted of the banning order offence to which the notice relates, or
  - (b) received the second of the financial penalties to which the notice relates.

### **32 Appeals**

- (1) A person who has been given a decision notice under section 31 may appeal to the First-tier Tribunal against—
  - (a) the decision to make the entry in the database in respect of the person, or
  - (b) the decision as to the period for which the person's entry is to be maintained.
- (2) An appeal under this section must be made before the end of the notice period specified in the decision notice under section 31(2).
- (3) The Tribunal may allow an appeal to be made to it after the end of the notice period if satisfied that there is a good reason for the person's failure to appeal within the period (and for any subsequent delay).
- (4) On an appeal under this section the tribunal may confirm, vary or cancel the decision notice.

### **33 Information to be included in the database**

- (1) The Secretary of State may by regulations make provision about the information that must be included in a person's entry in the database.
- (2) The regulations may, in particular, require a person's entry to include—
  - (a) the person's address or other contact details,
  - (b) the period for which the entry is to be maintained;
  - (c) details of properties owned, let or managed by the person;
  - (d) details of any banning order offences of which the person has been convicted;
  - (e) details of any banning orders made against the person, whether or not still in force;
  - (f) details of financial penalties that the person has received.
- (3) In relation to a case where a body corporate is entered in the database, the regulations may also require information to be included about its officers.

### **34 Updating**

A local housing authority must take reasonable steps to keep information in the database up-to-date.

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### **35 Power to require information**

- (1) A local housing authority may require a person to provide specified information for the purpose of enabling the authority to decide whether to make an entry in the database in respect of the person.
- (2) A local housing authority that makes an entry in the database in respect of a person, or that is proposing to make an entry in the database in respect of a person, may require the person to provide any information needed to complete the person's entry or keep it up-to-date.
- (3) It is an offence for the person to fail to comply with a requirement, unless the person has a reasonable excuse for the failure.
- (4) It is an offence for the person to provide information that is false or misleading if the person knows that the information is false or misleading or is reckless as to whether it is false or misleading.
- (5) A person who commits an offence under this section is liable on summary conviction to a fine.