



Landlord Registration Three Years On



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East Lothian Council

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Landlord Registration

- ◆ **Introduced in the Antisocial Behaviour etc. (Scotland) Act 2004.**
- ◆ **Took effect on the 30th April 2006.**
- ◆ **All owners who wish to let their properties must apply to the relevant local authorities before they seek to let them.**



Landlord Registration Ctd

- ◆ Applications can be made either online or by means of a paper application form.
- ◆ Online applications are made at www.landlordregistrationscotland.gov.uk
- ◆ Paper applications are made on forms which are available from the respective Local Authorities.

Recent Changes to Registration

- ◆ Following the Consultation Exercise that was completed in November 2008, there are a number of changes that have been made to the fees and discounts.
- ◆ These changes took effect from 12th February 2009.



Changes to Registration

- ◆ All applications must be paid for at the time of the application being made.
 - ◆ Landlords and Agents will no longer be able to request an invoice.
- ◆ The Accredited Landlord discount has been removed.
- ◆ The Single Property Agent discount has been removed.



Changes Continued

- ◆ The Charity discount has been increased from 80% to 100%.
- ◆ All joint owners (after the 1st owner) will now receive a 100% discount.
- ◆ Applications submitted to more than 1 Local Authority at the same time will receive a 50% discount on the Principal Fee.



Changes Continued

- ◆ Where a Landlord has already applied for Registration in 1 L.A. or more and subsequently applies for Registration in another L.A., the new application will be subject to a 50% discount on the Principal Fee (Internet Applications Only).
- ◆ A new 6 month exemption from Registration has been granted to Insolvency Practitioners.
- ◆ These changes apply to all New applications, Additions of Properties to existing applications and Renewals from the 12th February 2009.



Status Quo

- ◆ The Principal Fee remains at £55
- ◆ The Supplementary Property Fee remains at £11
- ◆ The Fee for adding an Agent who is not already Registered remains at £55
- ◆ HMO Licence holders continue to pay no Principal Fee and only pay the Supplementary Fee for properties non-HMO properties.
- ◆ The discount for applying online remains at 10%



Renewals

- ◆ Registrations will begin to expire in the coming months.
- ◆ A Renewals function has been made available on the Landlord Registration System.
- ◆ Landlords and Agents will be informed 3 Months prior to the expiry of their Registration that they should renew their application.



Renewals Continued

- ◆ The Landlord or Agent can then at anytime within that 3 months renew their application in order that they may become re-registered.
- ◆ A second reminder will be issued at 1 month to expiry. No further reminders will be issued.
- ◆ If a Registration reaches its expiry date without being renewed, then it will cease.



Renewals Continued

- ◆ Where Registrations expire, the Landlord cannot legally let or seek to let any property.
- ◆ A late application charge of £110.00 will be levied on all expired applications. (This is in addition to the fees due for renewal).
- ◆ A Rent Penalty Notice will be issued to stop all income from the property on the date of expiry.
- ◆ A report may also be issued to the Procurator Fiscal.

Rent Penalty Notices

- ◆ **A Rent Penalty Notice removes the right for a landlord to receive any rental or other income from a property on which the Notice is Served.**
- ◆ **It then becomes a criminal offence for a Landlord to demand rental payments from a tenant.**
- ◆ **The notice remains in force until it is revoked or cancelled by the Local Authority.**



When can an RPN be Served?

- ◆ **A Local Authority may serve an RPN if it is satisfied that:**
 - ◆ **A Property is being let or being advertised for let without first being included in a valid application for Registration.**
- OR**
- ◆ **The relevant fees accrued by a Landlord Registration Application have not been paid.**



What Must an RPN Specify?

- ◆ **An RPN must Specify?:**
 - ◆ **The Name of the Owner of the Property**
 - ◆ **The Address of the Property**
 - ◆ **The Date on which the Notice will take Effect (Not less than 1 Day later than Notice – Good Practice 2-4 Weeks)**
 - ◆ **The fact that the effect of the RPN is that no Rent or Other Charges are payable until the Notice is Revoked or Overturned on Appeal.**



Whom Must be Served?

- ◆ **An RPN must be served upon:**
 - ◆ **The Owner(s) of the Property**
 - ◆ **Any Person with a Lease or Occupancy Agreement relating to the Property**
 - ◆ **Anyone Acting for the Landlord in relation to the Letting**
 - ◆ **Failure to serve copies upon the Tenant or Agent does not invalidate the Notice.**



Identification Problems

- ◆ If an LA cannot identify the Owner of a property, the Notice may be served by publication in 2 Newspapers Circulating in the Area.
- ◆ If an LA knows the Owner's name but not their Current Address, the Notice may be served at any Previous Address the LA has for the Owner.

LA Obligations to Tenants

- ◆ Where LA's have served an RPN, they must give advice and assistance to the Tenants of the Property concerned, in the following areas:
 - ◆ Security of Tenure
 - ◆ Sources of Money and Benefits Advice
 - ◆ Homelessness Services
 - ◆ The Homeless Duties of the LA



Housing Benefit / LHA

- ◆ **LA's should ensure that where Tenants are in receipt of Housing Benefit / LHA:**
 - ◆ **The Benefits Section is notified when the RPN's are issued.**
 - ◆ **The Benefits Section is notified of the Go-Live Dates of the RPN's.**
 - ◆ **The Benefits Section is notified as and when any RPN is revoked, cancelled, withdrawn or appealed.**
 - ◆ **If an appeal by an Owner is successful, then back payments of Benefits will be a possibility.**



Monitoring

- ◆ **When an RPN is imposed the Owner may seek to obtain Money from the Tenants.**
- ◆ **LA's should monitor all situations where RPN's are imposed and report any evidence of harassment or illegal eviction to the PF and provide advice and assistance to the Tenants.**



Appeals

- ◆ Any Person with an Interest may Apply to the LA to have an RPN Revoked.
- ◆ An Owner may Appeal Against an RPN, or Against the Refusal of an LA to Revoke an RPN, to the Sheriff.
- ◆ Appeals must be made within 21 days of the Date of the Notice Taking Effect, or from the Date of the Decision not to Revoke.



Appeals Ctd

- ◆ Tenants must be made aware of the appeal, in order to set aside the rental monies, as a Sheriff **MAY**(not must), order the Back Payment of Rent in the Event of a Successful Appeal.
- ◆ The Owner must notify the Tenant of the appeal in writing.
- ◆ If the Owner fails to notify the Tenant, then no order to pay Back Rent can be made.



Experience in East Lothian

- ◆ **To Date there have been 170 RPN's served in East Lothian.**
- ◆ **Nationally there have been around 650 served.**
- ◆ **In East Lothian we are starting to combine the Service of RPN's with the imposition of the Late Application Charge (£110.00)**



East Lothian Experience Ctd

- ◆ **The RPN's have proved to be a very effective tool to obtain Fees and Applications.**
- ◆ **In most circumstances the RPN is a much more effective tool than submitting reports to the Procurator Fiscal.**
- ◆ **However, RPN's are not very useful in some areas e.g. Tied Accommodation and Migrant Worker Tenancies. In these cases alternative sanctions should be utilised.**



Refusals

- ◆ To date a total of 40 properties have been removed from the Private Rented Sector in East Lothian.
- ◆ This has been as a result of refusals of Registration.
- ◆ Several more cases are currently being prepared for our Licensing Committee, recommending refusal.



Contact Details

◆ Website:

www.landlordregistrationscotland.gov.uk

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