

# **Consultation on proposals for regulations supporting the new licensing system for mobile home sites with permanent residents**

**November 2015**

# **Consultation on proposals for regulations supporting the new licensing system for mobile home sites with permanent residents**

© Crown copyright 2015



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](http://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-78544-837-9

Published by The Scottish Government, November 2015

## HOW WE WOULD LIKE YOU TO HELP

The Scottish Government is putting in place a new system for licensing mobile home sites that have permanent residents. This consultation paper sets out what we intend to put into regulations to support that new system. We would welcome your views on the draft regulations, particularly on the specific questions we have asked in the consultation paper. Your views will help shape the final regulations that will be considered by the Scottish Parliament. The consultation paper also asks for views on a proposed increase to the maximum permitted caravan dimensions.

## RESPONDING TO THIS CONSULTATION PAPER

We are inviting written responses to this consultation paper by 12 February 2016.

**You can respond to the consultation online by going to:**

<https://consult.scotland.gov.uk/better-homes-division/new-licensing-system-for-mobile-home-sites>

**or you can send your response with the completed Respondent Information Form (see “Handling your Response” below) to:**

[MobileHomesConsultation@gov.scot](mailto:MobileHomesConsultation@gov.scot)

or

Housing Services Policy Unit  
Better Homes Division  
Scottish Government  
1-H South  
Victoria Quay  
Edinburgh  
EH6 6QQ

If you have any queries please contact Ged Millar using the above contact details.

We would be grateful if you would use the consultation questionnaire provided or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.gov.scot/consultations/current>.

The Scottish Government (SG) has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG

distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

## **HANDLING YOUR RESPONSE**

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public.

Please complete and return the **Respondent Information Form** as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the 2002 Act for information relating to responses made to this consultation exercise.

## **NEXT STEPS IN THE PROCESS**

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages within 25 days of the consultation closing. Copies of responses can be viewed by visiting the library or can also be provided by post. Charges for photocopies are made on a cost-recovery basis. To request copies by post and enquire about charges or make an appointment to view responses at the library, contact the Library on 0131 244 4565.

## **WHAT HAPPENS NEXT?**

Once the consultation has finished all the responses will be analysed and considered. We plan to issue a report on this consultation process in Spring 2016. The responses and other available evidence will help us produce the final set of regulations, which will be considered by the Scottish Parliament. We plan to lay the regulations before Parliament in Autumn 2016.

## **COMMENTS AND COMPLAINTS**

If you have any comments about how this consultation exercise has been conducted, please send them to Ben Haynes using the contact details above.

## **CONTENTS**

<b>Section</b>	<b>Page</b>
Respondent Information Form.....	5
Consultation Answer Form.....	7
Purpose of this Consultation .....	14
Background.....	15
Consultation on Proposed Contents of Regulations.....	17
Next Steps.....	29
Annex A: Draft regulations .....	30
Annex B: Flowcharts of Processes in the new Licensing System.....	37

## RESPONDENT INFORMATION FORM

### Consultation on proposals for regulations supporting the new licensing system for mobile home sites with permanent residents



## RESPONDENT INFORMATION FORM

**Please note:** this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Forename

### 2. Postal Address

<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Postcode</b>	<b>Phone</b>	<b>Email</b>

### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes  No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Are you content for your **response** to be made available?

**Please tick as appropriate**  
 Yes  No

Yes, make my response, name and address all available

**or**

Yes, make my response available, but not my name and address

**or**

Yes, make my response and name available, but not my address

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

Yes  No



## CONSULTATION ANSWER FORM

### Consultation on draft regulations supporting the new licensing system for mobile homes with permanent residents

#### Information

Q1: Do you agree that the same information should be required for a licence application, licence renewal, and licence transfer?

Yes  No  Don't know

Please provide reasons for why you agree or disagree with the proposal.

Comments

Q2: If you do not agree, and believe that different information should be provided with different types of application (e.g. for a licence application, licence renewal, or licence transfer), please complete the table below.

Type of application	Information you believe should be required	Reason
Licence application		
Licence renewal		
Licence transfer		

## Fees

<b>Consultation Questions</b>			
Q3: Do you agree with the matters set out in the draft regulations as the ones that a local authority can take into account when setting its fee levels?			
<b>Matters local authority can take into account when setting fees</b>	<b>Yes</b>	<b>No</b>	<b>Reasons for answer</b>
Receiving, logging and electronically storing information related to the application.			
Compiling and reviewing necessary documents and information.			
Making appointments and requesting any documents or other information from the applicant, or from any third party in connection with the licensing process.			
Checking the relevant planning permission is in place.			
Applying the 'fit and proper person' test.			
Review of documents and decision by managers and obtaining any expert advice (including from lawyers).			
Deciding whether to issue or refuse a licence, and preparing draft, renewed, and final licences.			
Carrying out any risk assessment process considered necessary.			
Reviewing representations made by an applicant received once a local authority has informed the applicant they are considering refusing the application.			
For a first licence application the cost of one visit to the site, including transport costs.			

Q4: Are there any additional costs a local authority should be able to take into account? If so, please set them out below.

Matter local authority should take into account when setting fees	Reasons

Q5: Do you agree with the proposal not to set a maximum fee level at this stage?

Yes  No  Don't know

Please provide reasons for why you agree or disagree with the proposal.

Comments

Timescales for making decisions

Q6: Do you agree with the proposed 3 month time limit for a local authority to decide on an application for:			
	Yes	No	Reasons for answer
a first site licence application			
a licence renewal			
a licence transfer			

Timescales for giving reasons

Q7: Do you agree that when a local authority is required to give reasons for its decision it should do so on the same day it communicates its decision?

Yes  No  Don't know

Please provide reasons for why you agree or disagree with the proposal.

Comments

Interim manager

Q8: Do you agree with the matters that we propose setting out in regulations relating to an interim manager?

<b>Provision</b>	<b>Yes</b>	<b>No</b>	<b>Reasons for answer</b>
Giving the interim manager the power to take possession of the site.			
Giving the interim manager the power to carry on the licence holder's business in so far as relating to the management of the site.			
Giving the interim manager the power to carry out works in connection with the management of the site.			
Giving the interim manager the power to execute documents on behalf of the site licence holder.			
Giving the interim manager the power to make any arrangements or compromise on behalf of the licence holder.			

Giving the interim manager the power to appoint and dismiss agents and staff.			
Giving the interim manager the power to appoint a solicitor, accountant or other professional to assist the interim manager.			
Giving the interim manager the power to make and receive payments.			
Giving the interim manager the power to take out insurance.			
Giving the interim manager the power to raise or defend legal proceedings.			
Giving the interim manager the power to refer a dispute to arbitration.			
A sheriff can only appoint someone as an interim manager if the sheriff is satisfied that the proposed interim manager has the relevant skills and experience.			
A sheriff can make provision related to an interim manager's appointment and termination of appointment.			
A sheriff must determine how an interim manager will be paid.			
Making it an offence to obstruct the interim manager in the performance of their functions.			

Q9: Are there any additional powers an interim manager should have? If so, please set them out below together with the reason you think it appropriate for the interim manager to have this power.

Matter	Reason

Effect of Appeal

Q10: Do you agree or disagree with the proposed effect of an appeal on:

	Agree	Disagree	Reasons for answer
First site licence application			
Site licence renewal			
Transfer of a site licence			
Revocation of a site licence			

Caravan Dimensions

Q11: Do you support the proposed increase to the maximum permitted dimensions?

Yes  No  Don't know

Please provide reasons for why you agree or disagree with the proposal.

Comments

## PURPOSE OF THIS CONSULTATION

1. The Housing (Scotland) Act 2014 creates a new licensing system for mobile home sites that are licensed to have permanent residents. Some of the key parts of the new licensing system will be:

- a requirement that someone holding a licence, and/or managing a site, is a fit and proper person to do so;
- a wider range of powers for local authorities to enforce licence conditions and tackle unscrupulous site owners;
- a requirement that licences are renewed every 5 years;
- new procedures around licence transfers;
- the ability for a local authority to revoke a licence, and ask a Sheriff to appoint an interim manager for a site.

2. The 2014 Act sets out the framework of the new system, and gives Scottish Ministers the power to make regulations (subject to approval by the Scottish Parliament) setting out in more detail how the system will work. This consultation seeks views on what we propose to include in the regulations. Draft regulations are set out at Annex A of this consultation paper, to help consultees see how the proposals might be reflected in regulations. We will use the responses to this consultation to assist us in developing the final version of the regulations, which will be considered by Parliament.

3. It is our view that the 2014 Act, and the proposals in the draft regulations, will sufficiently cover the process to be followed for issuing, renewing, transferring, transmitting, and revoking a site licence. However we do plan to publish guidance (which a local authority is legally required to have regard to) which will set out good practice, and suggested administrative processes an authority may wish to follow.

4. We have taken the opportunity in this consultation paper to seek views on another mobile home policy issue. We propose increasing the maximum permitted caravan dimensions in Scotland, and are seeking people's views on this change.



## BACKGROUND

5. In 1960, when the current licensing regime for mobile homes was established, very few people lived all year round in a mobile home. Fifty years later figures show that in Scotland there are over 3,000 mobile homes with permanent residents, on more than 90 sites.<sup>1</sup> The Scottish Government is committed to making sure that those living in mobile homes on sites licensed for permanent residents have appropriate rights and protections, similar to those enjoyed by people living in traditional housing.

6. We therefore consulted in 2012 on proposals to strengthen the licensing system and make it fit for modern circumstances. Following that consultation we developed the proposals further, and these were reflected in Part 5 of the Housing (Scotland) Act 2014, passed by the Scottish Parliament last year.

7. The Housing (Scotland) Act 2014 (referred to in this consultation paper as the 2014 Act) set the framework for a new system for licensing mobile home sites licensed to have permanent residents. Some of the key measures in the Act are:

- introducing new processes for handling first site licence applications, renewals, transferring a licence, and transmission of a licence;
- introducing a requirement that someone holding site licence and/or managing a site is a 'fit and proper' person to do so;
- giving a local authority a range of enforcement powers. These include the ability to serve penalty notices and enforcement notices on a site licence holder;
- enabling a local authority to be able to revoke a site licence in certain circumstances;
- providing for a sheriff to appoint an interim manager to run a site, in certain circumstances;
- allowing a local authority to charge a fee for handling an application to issue a first site licence application or renew an existing licence.

8. The 2014 Act gives the Scottish Ministers powers to make regulations, setting out in more detail how some parts of the new licensing system will work. This consultation sets out what we propose putting into regulations, and includes draft regulations, for comments.

9. The 2014 Act and regulations are two elements of what we will be introducing to support the new licensing system. We also plan to publish guidance for local authorities, information for site residents, and information for site owners. We will be developing these documents in discussion with representatives of the industry, local authorities, and resident groups. The guidance and information will give all those involved with the licensing system the information they need about how the new system operates.

---

<sup>1</sup> See *Stories to Be Told* published by Consumer Focus Scotland in 2013: <http://www.consumerfocus.org.uk/scotland/files/2013/05/Stories-to-be-told.pdf>

## **Assessments**

10. A Business and Regulatory Impact Assessment on the new licensing regime was prepared in 2013, before the proposals were introduced to the Scottish Parliament as part of the then Housing (Scotland) Bill<sup>2</sup>. This examined the costs and benefits to business of the changes. An Equality Impact Assessment was also prepared on the proposals<sup>3</sup>. As the draft regulations set out measures that sit within the overarching framework set by the 2014 Act we will consider what further assessments need to be undertaken before the final version of the regulations is considered by the Parliament.

## **Timetable**

11. We intend to bring the new licensing system into force in spring 2017. This will allow time for the results of this consultation to be considered, the Scottish Parliament to approve the final regulations, and for information and guidance on the new system to be developed.

---

<sup>2</sup> The assessment is available online at: <http://www.gov.scot/Resource/0043/00438342.pdf>.

<sup>3</sup> Available online at: <http://www.gov.scot/Resource/0043/00438083.pdf>.

## CONSULTATION ON PROPOSED CONTENTS OF REGULATIONS

12. This paper sets out the measures that we propose including in regulations, and why the Scottish Government has proposed this approach. Annex A sets out draft regulations which reflect our proposals.

### Information

13. The 2014 Act enables the Scottish Ministers to set out what information is required to be submitted with an application.<sup>4</sup> As part of the consultation in 2012 we asked for views on proposed minimum application criteria. A clear majority of respondents supported the introduction of the criteria.

14. Of those who disagreed with the proposed minimum criteria the majority felt additional criteria should be added. However, under the 2014 Act someone applying for a licence will be required to give a local authority any other information it may reasonably require, so we do not propose to go beyond the criteria consulted on in 2012.<sup>5</sup>

15. Given the support for these measures expressed in the 2012 consultation we do not intend to consult again on the information to be provided with an application. The draft regulations would therefore require an applicant to provide:

- a) the address of the land in respect of the application made;
- b) the applicant's name, address and date of birth and other names by which the applicant has been known;
- c) the correspondence address for the applicant;
- d) previous addresses of the applicant in the last 5 years;
- e) the name and address of all other joint owners of the land;
- f) if the site is to be managed by another individual or Managing Agent, then there would be a requirement to provide the Manager or Agent's profile as above;
- g) the contact address in connection with the day to day management of the site;
- h) if the application is from a company, then the company name and registration number.
- i) if the application is from a charity then the charity name and registration number.

16. The regulations would require the same information to be submitted for first site applications, renewals, and applications to transfer a licence, and we would like your views on this.

---

<sup>4</sup> Section 70 of the 2014 Act (which inserts section 32N into the Caravan Sites and Control of Development Act 1960) (referred to in these footnotes as the 1960 Act).

<sup>5</sup> Section 64 of the 2014 Act, which inserts section 32B(3) into the 1960 Act.

### Consultation questions

Q1: Do you agree that the same information should be required for a licence application, licence renewal, and licence transfer?

Yes

No

Don't know

Please provide reasons for why you agree or disagree with the proposal.

Q2: If you do not agree, and believe that different information should be provided with different types of application (e.g. for a licence application, licence renewal, or licence transfer), please complete the table below.

Type of application	Information you believe should be required	Reason
Licence application		
Licence renewal		
Licence transfer		

### Fees

17. Under the 2014 Act a local authority will be able to charge a fee for handling an application to issue or renew a site licence.<sup>6</sup> Such a fee cannot exceed the amount which a local authority consider represents the reasonable costs to an authority in deciding on a site application. A local authority can charge different fees for different applications or different types of applications. For example this means a local

<sup>6</sup> See section 64 of the 2014 Act, which inserts section 32C into the 1960 Act.

authority could charge different fees for a first licence application and a licence renewal application, or for applications from large, rather than small, businesses.

18. The 2014 Act gives the Scottish Ministers the powers to make regulations concerning these fees. The regulations can cover two things in particular:

- they can set the maximum fee a local authority can charge;
- they can set out what a local authority can take into account when setting its fee.

19. We view the power to set a maximum fee level as a backstop, and we do not plan to use it at the start of the new licensing system. However it will remain and could be used if there is evidence of a large and unjustifiable variation in the amounts local authorities charge, or evidence that local authorities are charging excessive fees.

20. We propose that the regulations set out the issues a local authority can take into account, but not the maximum fee that can be charged. We believe the matters a local authority should be able to take into account when deciding on the fee for a issuing or renewing a licence are the cost, including staff time, of:

- a) receiving, logging and electronically storing information related to the application;
- b) compiling and reviewing necessary documents and information;
- c) making appointments and requesting any documents or other information from the applicant, or from any third party in connection with the licensing process;
- d) checking the relevant planning permission is in place;
- e) applying the 'fit and proper person' test;
- f) review of documents and decision by managers and obtaining any expert advice (including from lawyers);
- g) deciding whether to issue or refuse a licence, and preparing draft, renewed, and final licences;
- h) carrying out any risk assessment process considered necessary;
- i) reviewing representations made by an applicant received once a local authority has informed the applicant they are considering refusing the application;
- j) for a first licence application the cost of one visit to the site, including transport costs.

21. Under the 2014 Act the only matters a local authority can take into account when setting its fees are those set out in the regulations. The draft regulations at Annex A reflect the criteria set out above.

### Consultation Questions

Q3: Do you agree with the matters set out in the draft regulations as the ones that a local authority can take into account when setting its fee levels?

Matters local authority can take into account when setting fees	Yes	No	Reasons for answer
Receiving, logging and electronically storing information related to the application.			
Compiling and reviewing necessary documents and information.			
Making appointments and requesting any documents or other information from the applicant, or from any third party in connection with the licensing process.			
Checking the relevant planning permission is in place.			
Applying the 'fit and proper person' test.			
Review of documents and decision by managers and obtaining any expert advice (including from lawyers).			
Deciding whether to issue or refuse a licence, and preparing draft, renewed, and final licences.			
Carrying out any risk assessment process considered necessary.			
Reviewing representations made by an applicant received once a local authority has informed the applicant they are considering refusing the application.			
For a first licence application the cost of one visit to the site, including transport costs.			

Q4. Are there any additional costs a local authority should be able to take into account? If so, please set them out below.

<b>Matter local authority should take into account when setting fees</b>	<b>Reasons</b>

Q5: Do you agree with the proposal not to set a maximum fee level at this stage?

Yes

No

Don't know

Please provide reasons for why you agree or disagree with the proposal.

### Timescales for making decisions

22. The 2014 Act requires Ministers to set timescales within which a local authority must decide on a licence application, renewal, or transfer<sup>7</sup>. If a local authority does not make a decision within these timescales then an application is automatically approved. These timescales are not targets local authorities should meet but legal deadlines that can only be extended by a Sheriff, and which if missed will mean an automatically application is approved. Annex B sets out flow charts of the new licensing processes in the 2014 Act, and the parts of the process that are covered by the timescale we set in the regulations.

23. Under the 2014 Act if a local authority is considering refusing an application or renewal, it must tell the applicant and give them the opportunity to provide any written comments in response. A local authority must then consider those

<sup>7</sup> Under section 65 of the 2014 Act, which inserts section 32F(3) into the 1960 Act.

comments. The time given to an applicant to submit comments, and for the local authority to consider them, is included in the timescales set in regulations.

24. Taking these factors into account we propose setting a timescale of 3 months. This timescale will apply to a decision on a first site licence application, licence renewal, and licence transfer. We believe this timescale is achievable for local authorities, and will provide a decision in a reasonable timescale for site owners. It is our expectation that straightforward applications will be dealt with in a shorter time, and we intend to cover this issue in the guidance issued to local authorities.

<b>Consultation Question</b>			
Q6: Do you agree with the proposed 3 month time limit for a local authority to decide on an application for:			
a first site licence application	<b>Yes</b>	<b>No</b>	<b>Reasons for answer</b>
a licence renewal	<b>Yes</b>	<b>No</b>	<b>Reasons for answer</b>
a licence transfer	<b>Yes</b>	<b>No</b>	<b>Reasons for answer</b>

#### Timescales for giving reasons

25. Under the 2014 Act the Scottish Ministers can set the timescales within which a local authority must provide reasons for its decisions under the new licensing system.<sup>8</sup> These include providing reasons for:

- refusing to issue a licence
- refusing to renew a licence;
- refusing to transfer a licence;
- transferring a licence without an application;
- revoking a licence.

26. The giving of reasons is an important part of good administration and natural justice, and we therefore plan to set timescales in regulations. We therefore propose

<sup>8</sup> See section 70 of the 2014 Act, which inserts section 32N(2)(f) into the 1960 Act.



requiring a local authority to provide its reasons on the day that it tells an applicant of its decision. A local authority should have clear reasons for making the above decisions, and it seems reasonable to expect these to be provided to an applicant at the same time as the decision.

### **Consultation Question**

Q7: Do you agree that when a local authority is required to give reasons for its decision it should do so on the same day it communicates its decision?

Yes

No

Don't know

Please provide reasons for why you agree or disagree with the proposal.

### Interim Manager

27. The 2014 Act gives a local authority who has issued a site licence the power to apply to a sheriff to appoint an interim manager for a site<sup>9</sup>. A sheriff can only appoint an interim manager if:

- a local authority has refused to renew a site licence;
- a local authority has revoked a site licence;
- the sheriff is satisfied that a site licence holder has failed to comply with licence conditions, or the site is not being managed by a fit and proper person, or there is no one managing the site.

28. Our expectation is that it will be very rare for an interim manager to be appointed. However this measure provides a procedure for putting in place someone to manage a site and keep it in good repair, in a situation where the site owner was unable to run the site. We expect that it is most likely to be used in situations where a site licence has been revoked, and it is necessary to appoint someone to run a site to maintain acceptable living conditions for site residents. The role will be similar to that played by an administrator when a business goes into administration. The interim manager will run site, including collecting pitch fees, and take an administration fee from the site's income. Any remaining funds will be passed onto the person who owns the site.

29. The 2014 Act gives Scottish Ministers the power to set out in regulations matters around the appointment, powers, and duties of an interim manager.<sup>10</sup> We propose

<sup>9</sup> Under section 77 of the 2014 Act, which inserts section 32Y into the 1960 Act.

specifying in regulations that an order by a sheriff appointing an interim manager may give the interim manager the power to:

- take possession of the site;
- carry on the licence holder's business in so far as relating to the management of the site;
- carry out works in connection with the management of the site;
- execute documents on behalf of the site licence holder;
- make any arrangements or compromise on behalf of the licence holder;
- appoint and dismiss agents and staff;
- appoint a solicitor, accountant or other professional to assist the interim manager;
- make and receive payments;
- take out insurance;
- raise or defend legal proceedings;
- refer a dispute to arbitration.

30. The draft regulations also reflect a number of other measures relating to an interim manager that we propose making. These include making clear that a sheriff's order appointing an interim manager:

- can only be made where the sheriff is satisfied that the proposed interim manager has the relevant skills and experience;
- can make provision related to an interim manager's appointment and termination of appointment;
- must determine how an interim manager will be paid;
- making it an offence to obstruct the interim manager in the performance of their functions. Our intention is that the penalty if convicted of committing this offence would be a fine not exceeding level 3 on the standard scale.

Together we believe that these measures set out an appropriate framework within which an interim manager can be appointed and carry out their functions. The draft regulations at Annex A set out how these proposals could be put into regulations.

---

<sup>10</sup> See section 77 of the 2014 Act, which inserts section 32Y(5) into the 1960 Act.

### Consultation Questions

Q8: Do you agree with the matters that we propose setting out in regulations relating to an interim manager?

Provision	Yes	No	Reasons for answer
Giving the interim manager the power to take possession of the site.			
Giving the interim manager the power to carry on the licence holder's business in so far as relating to the management of the site.			
Giving the interim manager the power to carry out works in connection with the management of the site.			
Giving the interim manager the power to execute documents on behalf of the site licence holder.			
Giving the interim manager the power to make any arrangements or compromise on behalf of the licence holder.			
Giving the interim manager the power to appoint and dismiss agents and staff.			
Giving the interim manager the power to appoint a solicitor, accountant or other professional to assist the interim manager.			
Giving the interim manager the power to make and receive payments.			
Giving the interim manager the power to take out insurance.			

Giving the interim manager the power to raise or defend legal proceedings.			
Giving the interim manager the power to refer a dispute to arbitration.			
A sheriff can only appoint someone as an interim manager if the sheriff is satisfied that the proposed interim manager has the relevant skills and experience.			
A sheriff can make provision related to an interim manager's appointment and termination of appointment.			
A sheriff must determine how an interim manager will be paid.			
Making it an offence to obstruct the interim manager in the performance of their functions.			

Q9: Are there any additional powers an interim manager should have? If so, please set them out below together with the reason you think it appropriate for the interim manager to have this power.

Matter	Reason

## Effect of an appeal

31. Under the 2014 Act an applicant can appeal against the decisions a local authority makes under the licensing system, including a decision not to issue a licence, not to renew a licence, and to revoke a licence. The appeals are made to the sheriff court. The 2014 Act gives Scottish Ministers the power to set out what happens until an appeal is decided or withdrawn (for example, what would happen if a local authority refused to renew a licence, and the applicant appealed).

32. We propose taking an approach which means that the current situation continues until an appeal is decided or withdrawn. This would mean that if an appeal is lodged:

- for a first site licence application an applicant is not given a licence until the appeal is decided or withdrawn;
- for a site licence renewal an applicant keeps their licence until the appeal is decided or withdrawn;
- for a site licence transfer the current licence holder keeps their licence (so it is not transferred) until the appeal is decided or withdrawn.

33. In relation to revocation, if a local authority revokes a licence and the licence holder appeals, the licence remains revoked unless the appeal is successful. However, the site licence holder will not be committing an offence if they continue to run the site until any appeal is decided or withdrawn, or during the period someone has to make an appeal.<sup>11</sup> The draft regulations at Annex A reflect this approach.

<b>Consultation question</b>			
Q10: Do you agree or disagree with the proposed effect of an appeal on:			
First site licence application	<b>Agree</b>	<b>Disagree</b>	<b>Reasons for answer</b>
Site licence renewal	<b>Agree</b>	<b>Disagree</b>	<b>Reasons for answer</b>
Transfer of a site licence	<b>Agree</b>	<b>Disagree</b>	<b>Reasons for answer</b>
Revocation of a site licence	<b>Agree</b>	<b>Disagree</b>	<b>Reasons for answer</b>

<sup>11</sup> See section 74 of the 2014 Act, which inserts section 32S(3) into the 1960 Act.

## Caravan Dimensions

34. Separate from the work to implement the new licensing regime the Scottish Government is considering making changes to the maximum permitted caravan dimensions, and are therefore seeking views on that issue as part of this consultation. The Caravan Sites Act 1968 sets out the maximum permitted size of a caravan in Scotland (in legal terms a mobile home is a caravan). The current maximum dimensions for a caravan in Scotland are:

- 60 feet long (18.288 metres) (exclusive of drawbar);
- 20 feet wide (6.096 metres);
- 10 feet tall (3.048 metres).

35. Given the changes in the use of mobile homes over the past decades, and with people now living in them as permanent homes, we believe the maximum permitted size of a caravan should be larger. We therefore propose increasing the maximum permitted dimensions of a “twin unit caravan” to:

- 65.616 feet long (20 metres) (exclusive of drawbar);
- 23.309 feet wide (6.8 metres);
- 10.006 feet tall (3.05 metres).

36. This change would increase the maximum permitted size of a caravan by around 10%. It would also bring the maximum caravan dimensions in Scotland in line with those that apply in England and in Wales. Section 13(3) of the Caravan Sites Act 1968 gives the Scottish Ministers the power to increase the dimensions through an Order laid in the Scottish Parliament.

37. We are interested in your views on this proposed change. We will need to discuss the full implications of any change with the industry, local authorities, and residents.

### **Consultation question**

Q11: Do you support the proposed increase to the maximum permitted dimensions?

Yes

No

Don't know

Please provide reasons for why you agree or disagree with the proposal.

## **NEXT ACTIONS**

38. Once the consultation has closed the responses will be analysed, and an analysis report published summarising the views expressed in the consultation. We will consider the views and comments, and develop the final version of the regulations. This will be considered by Parliament in 2016. Alongside that work we will be developing guidance for local authorities, and information for site residents and site owners on the new licensing system. We plan to introduce the new licensing system in Spring 2017. Existing site licence holders will have two years from the day the new system begins to apply for a licence under the new system.

---

 SCOTTISH STATUTORY INSTRUMENTS
 

---

2016 No.

## HOUSING

 Licensing of Relevant Permanent Sites (Scotland) Regulations  
 2016

<i>Made</i>	- - - -	2016
<i>Laid before the Scottish Parliament</i>		2016
<i>Coming into force</i>	- -	2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 32C(5), 32F(3), 32N(1) and of the Caravan Sites and Control of Development Act 1960(a) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Licensing of Relevant Permanent Sites (Scotland) Regulations 2016 and come into force on 2017.

(2) In these Regulations, “the Act” means the Caravan Sites and Control of Development Act 1960 and “transferee” has the meaning given by section 32E(1) of the Act(b).

**Relevant permanent site application**

2. The information to be provided in a relevant permanent site application (in addition to that required by section 32B(2)(b) and (d) of the Act(c) is—

- (a) the address of the land in respect of which the application is made;
- (b) for each occupier, their name and where that occupier uses or has used one or more other names, each of those names;
- (c) for each occupier that is a natural person—
  - (i) the date of birth of the occupier; and
  - (ii) the home address of the occupier and where the occupier has changed their home address within 5 years prior to the application being made, each previous home address;
- (d) for each occupier that is not a natural person, the name and address of the individual who holds the most senior position within the management structure of the relevant partnership, company or body;

---

(a) 1960 c.62. Sections 32F and 32N(1) are inserted by sections 65 and 70 respectively of the Housing (Scotland) Act 2014 (asp 14)(“the 2014 Act”).

(b) Section 32E is inserted by section 65 of the 2014 Act.

(c) Section 32B is inserted by section 64 of the 2014 Act.



- (e) for each occupier that is a company registered under the Companies Act 2006<sup>(a)</sup> the company's registered number;
- (f) for each occupier that is a body which is—
  - (i) entered in the Scottish Charity Register<sup>(b)</sup>;
  - (ii) registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011<sup>(c)</sup>; or
  - (iii) registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008<sup>(d)</sup>;
 that body's charity number;
- (g) the correspondence address for the applicant in relation to the management of the site and any email address to which correspondence may be sent;
- (h) a contact telephone number for the applicant;
- (i) the name of any person appointed, or to be appointed to manage the site ("the Site Manager") and where the Site Manager uses or has used one or more other names, each of those names;
- (j) in the case where the Site Manager is a natural person—
  - (i) the date of birth of the Site Manager; and
  - (ii) the home address of the Site Manager and where the Site Manager has changed their home address within 5 years prior to the application being made, each previous home address;
- (k) in the case where the Site Manager is not a natural person—
  - (i) the name of the individual who is to be directly concerned with the management of the site on behalf of that Site Manager and if that individual uses or has used one or more other names, each of those names;
  - (ii) the date of birth of that individual; and
  - (iii) the home address of that individual and where that individual has changed their home address within 5 years prior to the application being made, each previous home address.

### **Application to transfer a Part 1A site licence**

**3.** The information to be provided by the applicant in relation to an application for consent to transfer a Part 1A site licence is:—

- (a) the address of the land in respect of which the application is made;
- (b) for each occupier, their name and where that occupier uses or has used one or more other names, each of those names;
- (c) for each transferee and where the transferee uses or has used one or more other names, each of those names;
- (d) for each transferee that is a natural person—
  - (i) the date of birth of the transferee; and
  - (ii) the home address of the transferee and where the transferee has changed their home address within 5 years prior to the application being made, each previous home address;

---

(a) 2006 c.46.

(b) The Scottish Charity Register is kept by OSCR in terms of section 1 of the Charities and Trustee Investment (Scotland) Act 2005.

(c) 2011 c.25.

(d) 2008 c.12.

- (e) for each transferee that is not a natural person, the name and address of the individual who holds the most senior position within the management structure of the relevant partnership, company or body;
- (f) for each transferee that is a company registered under the Companies Act 2006<sup>(a)</sup> the company's registered number;
- (g) for each transferee that is a body which is—
  - (i) entered in the Scottish Charity Register<sup>(b)</sup>;
  - (ii) registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011<sup>(c)</sup>; or
  - (iii) registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008<sup>(d)</sup>; that body's charity number;
- (h) the correspondence address for the transferee in relation to the management of the site and any email address to which correspondence may be sent;
- (i) a contact telephone number for the applicant and the transferee;
- (j) the name of any person appointed, or to be appointed to manage the site ("the Site Manager") and where the Site Manager uses or has used one or more other names, each of those names;
- (k) in the case where the Site Manager is a natural person—
  - (i) the date of birth of the Site Manager; and
  - (ii) the home address of the Site Manager and where the Site Manager has changed their home address within 5 years prior to the application being made, each previous home address;
- (l) in the case where the Site Manager is not a natural person—
  - (i) the name of the individual who is to be directly concerned with the management of the site on behalf of that Site Manager and if that individual uses or has used one or more other names, each of those names;
  - (ii) the date of birth of that individual; and
  - (iii) the home address of that individual and where that individual has changed their home address within 5 years prior to the application being made, each previous home address; and
- (m) any information relevant to the material falling within section 32O(2) of the Act in relation to—
  - (i) the transferee;
  - (ii) any person to be appointed by the transferee to manage the site; and
  - (iii) any other person whom the local authority is required to be satisfied is a fit and proper person in accordance with section 32E(b) and (d) of the Act.

**Time limit for determining applications**

**4.—(1)** The time limit specified for the purpose of a relevant permanent site application is 3 months from the date the relevant local authority is in receipt of:—

- (a) an application which contains the information specified in regulation 3 and otherwise complies with section 32B(2) of the Act; and

---

(a) 2006 c.46.

(b) The Scottish Charity Register is kept by OSCR in terms of section 1 of the Charities and Trustee Investment (Scotland) Act 2005.

(c) 2011 c.25.

(d) 2008 c.12.

(b) a fee of such amount (if any) as fixed by the relevant local authority.

(2) The time limit specified for the purpose of an application for consent to transfer a Part 1A licence is 3 months from the date the relevant local authority is in receipt of an application which contains the information specified in regulation 4.

### **Fees**

**5.**—(1) The matters that a local authority is to take into account when fixing a fee for a relevant permanent site application are the expenses that the authority reasonably expects to incur in relation to—

- (a) receiving, logging and storing an application and any further information given to the authority;
- (b) checking an application;
- (c) requesting further information and checking that information once received;
- (d) arranging any appointments and attending any meetings, required in relation to an application;
- (e) checking that an applicant is entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order;
- (f) satisfying itself that the persons mentioned in paragraphs (1)(b) or (2)(b) of section 32D to the Act are fit and proper persons;
- (g) carrying out any risk assessment the authority considers necessary;
- (h) carrying out an inspection of a site in connection with an application for a new Part 1A site licence, including the cost of travelling to and from a site;
- (i) drafting, revising and finalising a licence;
- (j) deciding whether to issue or refuse a licence and informing an applicant of a decision; and
- (k) considering any representations made in accordance with section 32D(4)(b) of the Act.

(2) The expenses in paragraph (1) include in particular the costs of obtaining expert advice (including legal advice).

### **The time limits for giving of reasons**

**6.** The local authority must give—

- (a) the reasons required under section 32I(4) at the same time as they notify a decision in terms of section 32I(1); and
- (b) the reasons required under section 32L(5) at the same time as they serve a notice in terms of section 32L(4).

### **Appeals**

**7.** Where an appeal has been made under—

- (a) section 32M(1)(a) of the Act and the appeal is successful then—
  - (i) the local authority is to be treated as having issued a Part 1A site licence on the day that the appeal is determined;
  - (ii) the relevant person is for all purposes to be treated as having been issued a Part 1A site licence by the authority under section 32D of the Act; and
  - (iii) in the case of renewal of a Part 1A site licence, the original licence shall be treated as having continued to have effect until the day that the appeal is determined.
- (b) section 32M(1)(b) of the Act and the appeal is successful, the local authority is to be treated as having consented to the transfer on the day that the appeal is determined.

- (c) section 32M(1)(c) of the Act and the appeal is successful, the local authority is to be treated as having transferred the licence to the previous holder of the licence on the day that the appeal is determined.
- (d) section 32M(1)(d) of the Act and the appeal is successful, the revoked licence is to be treated as having continued in effect.
- (e) Appointment of an interim manager

**8.**—(1) An order appointing an interim manager under section 32Y of the Act must confer on the interim manager such powers as the sheriff considers necessary for the management of the site.

(2) Any such order may in particular confer on the interim manager the power to do any of the following—

- (a) take possession of the site (and raise legal proceedings for that purpose),
- (b) carry on the licence holder’s business in so far as relating to the management of the site,
- (c) carry out works, or do anything else, in connection with the management of the site,
- (d) execute documents on behalf of the licence holder,
- (e) make any arrangement or compromise on behalf of the licence holder,
- (f) appoint and dismiss agents and staff,
- (g) appoint a solicitor, accountant or other professional to assist the interim manager,
- (h) make and receive payments,
- (i) take out insurance,
- (j) raise or defend legal proceedings,
- (k) refer a dispute to arbitration,
- (l) do anything incidental to the exercise of the above powers.

(3) Any such order may be granted subject to such conditions as the sheriff thinks fit and in particular may make provision regarding—

- (a) the period of the appointment;
- (b) the termination of the appointment; or
- (c) both.

(4) The sheriff may only make such an order where the sheriff is satisfied that the proposed interim manager has the relevant skills and experience to manage the site.

(5) An interim manager acts as the licence holder’s agent and is accordingly not personally liable on an agreement entered into as interim manager.

(6) Anyone dealing with an interim manager in good faith and for value need not inquire whether the interim manager is acting within the powers conferred by virtue of this section.

(7) The sheriff must determine the amount of the interim manager’s remuneration or the method of calculation of such remuneration.

(8) The remuneration of an interim manager shall be payable out of the income from the site in respect of which the interim manager is appointed.

(9) The sheriff may, on the application of the local authority who applied for the order, vary or discharge that order.

**Assistance to be provided to an interim manager**

**9.** The licence holder or any person appointed by the licence holder to manage the site must—

- (a) comply with any reasonable direction made by an interim manager exercising a power conferred on that interim manager in terms of regulation 8(1); and
- (b) in particular, give that interim manager such information as that interim manager reasonably requires.

**Offence of obstruction**

**10.**—(1) A person commits an offence if, without reasonable excuse, the person contravenes regulation 9.

(2) A person commits an offence if the person intentionally obstructs an interim manager in the exercise of a power conferred on that interim manager in terms of regulation 8(1).

St Andrew's House,  
Edinburgh

2016

Authorised to sign by the Scottish Ministers

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in connection with the licensing of relevant permanent sites under Part 1A of the Caravan Sites and Control of Development Act 1960 (“the Act”).

Regulation 2 sets out the information which must be supplied in a relevant permanent site application. The application must also meet the other requirements contained in section 32B of the Act.

The information which must be supplied in an application to transfer a Part 1A site licence is set out in regulation 4.

Regulation 5 sets out the respective 3 month time limits for determining a relevant permanent site application and an application for consent to transfer a Part 1A site licence.

The matters that a local authority can take into account when setting a fee for a relevant site application are detailed in regulation 6.

Regulation 6 ensures that the reasons for a decision by the local authority in relation to a licence are provided at the same time as the decision is notified.

Regulation 7 makes provision regarding the effect of various appeals, if successful.

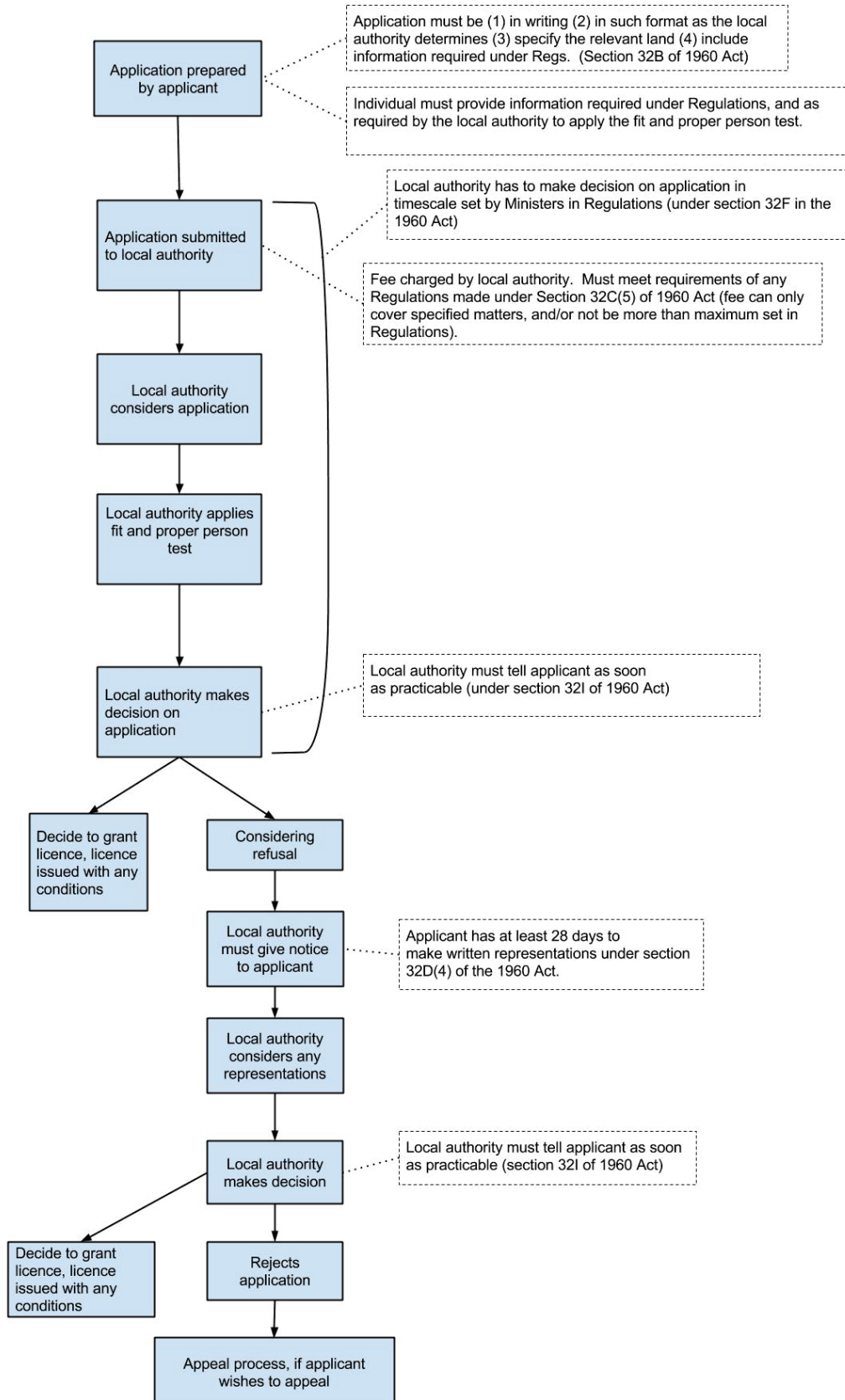
In terms of regulation 8(1) the sheriff must ensure that the appointment of an interim manager contains such powers as the sheriff considers are necessary to enable the interim manager to manage the site. Regulation 8(2) sets out some specific examples of powers that can be included.

Regulation 9 requires the licence holder and any site manager to assist the interim manager and provide the interim manager with such information as the interim manager reasonably requests.

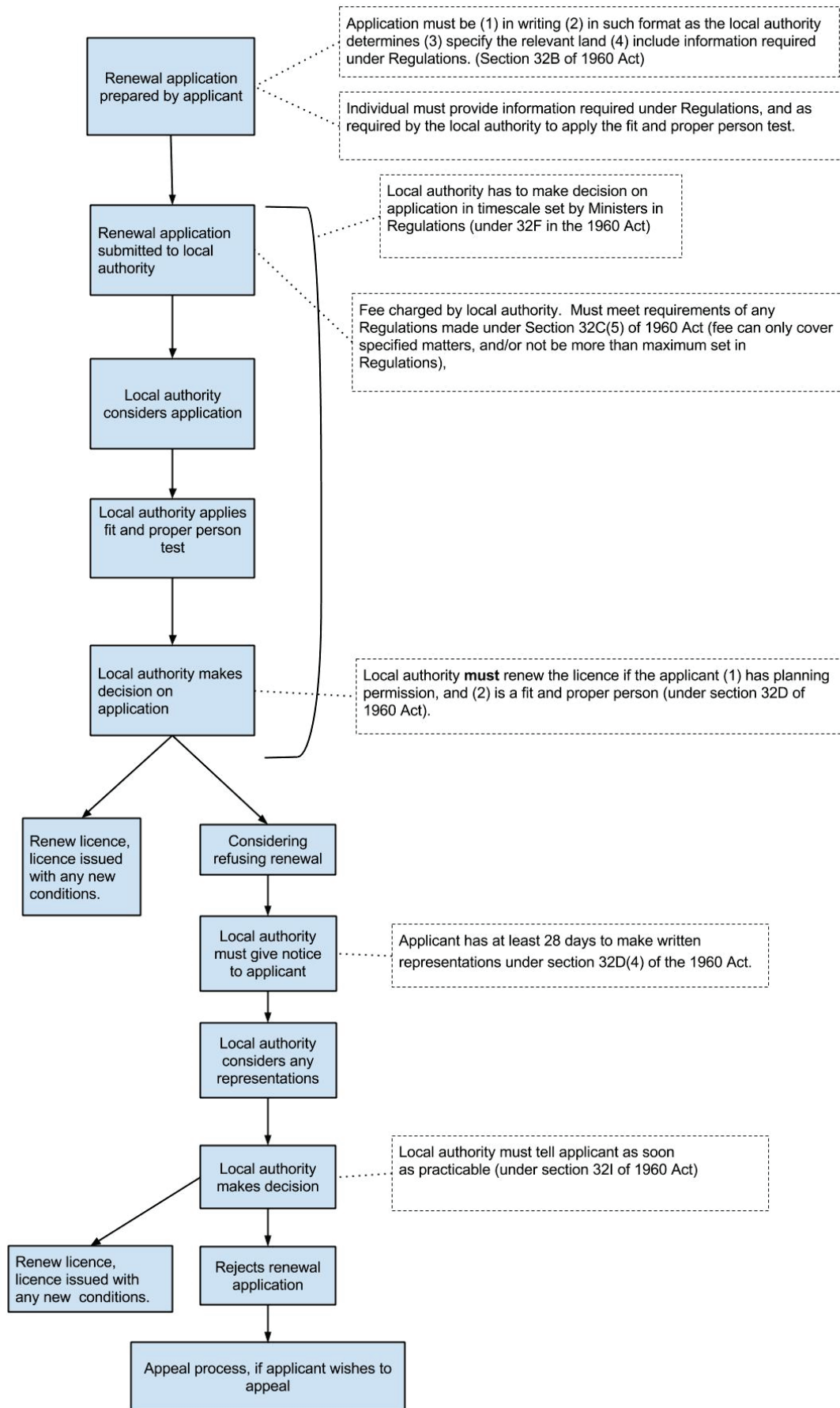
Regulation 10 creates an offence of obstruction.

FLOWCHARTS OF PROCESSES IN THE NEW LICENSING SYSTEM

Process for a First Licence Application

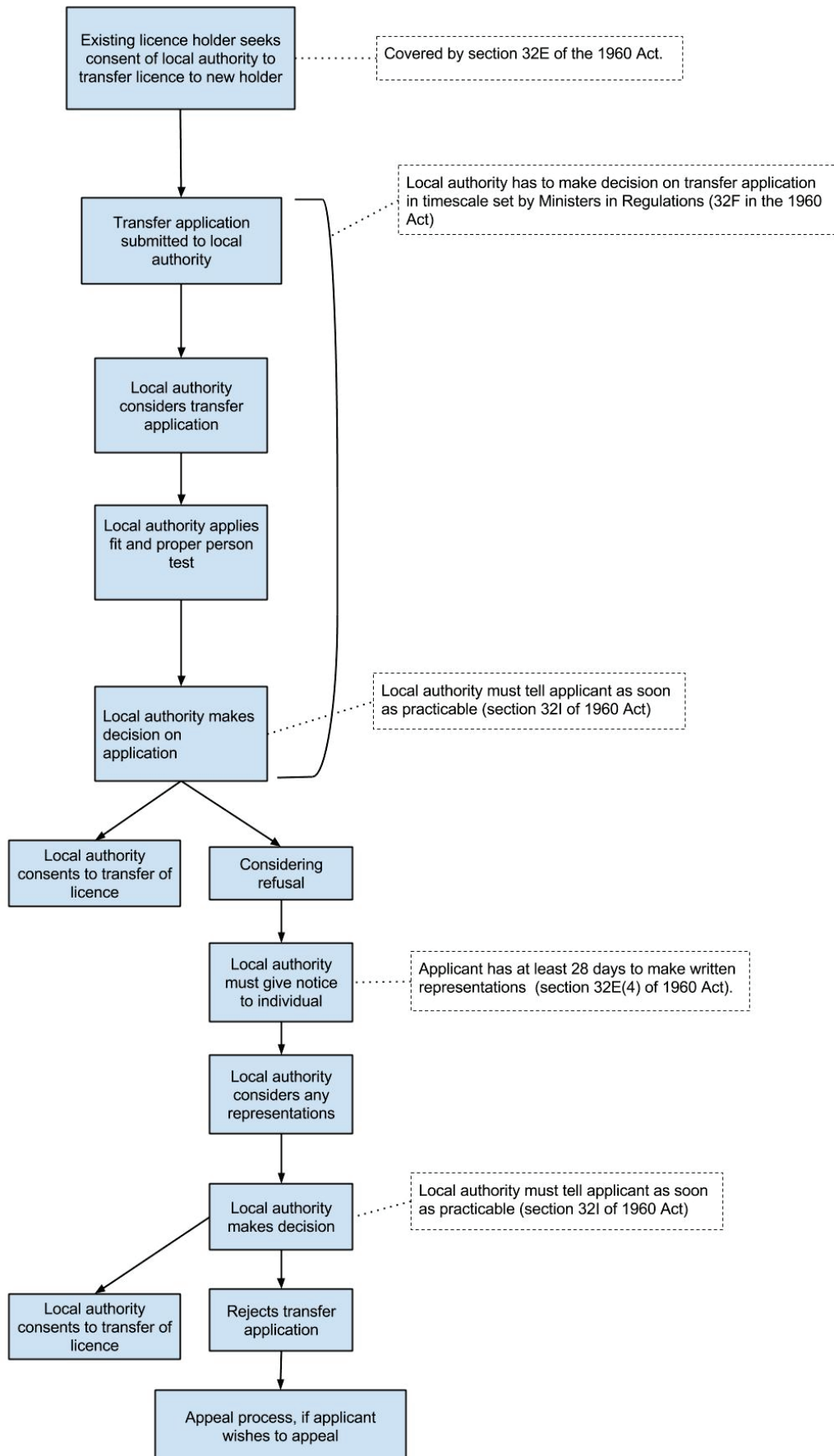


## Process for Renewing a Site Licence

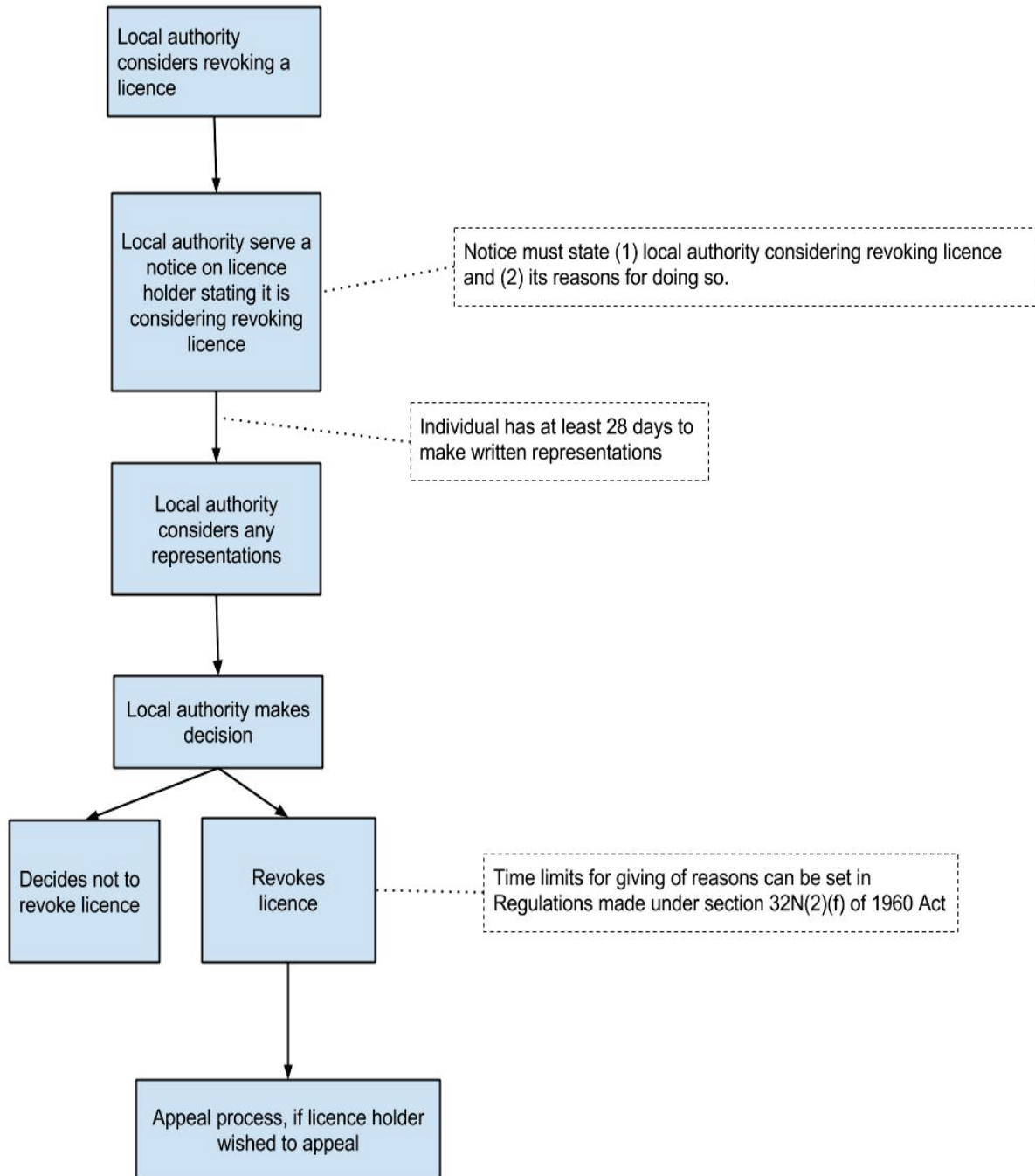




## Process for Transferring a Site Licence



## Process for Revoking a Site Licence





**The Scottish  
Government**  
Riaghaltas na h-Alba

© Crown copyright 2015

ISBN: 978-1-78544-837-9

This document is also available on The Scottish Government website:  
**[www.gov.scot](http://www.gov.scot)**

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA

PPDAS58262 (11/15)

**w w w . g o v . s c o t**