

Landlord Registration Legal Obligations on Landlords

Local Authorities in deciding whether an applicant is a fit and proper person to act as a landlord must consider whether the applicant has “contravened any provision of the law relating to housing, or landlord and tenant law”. A brief list of some of the key issues is set out below however you should take legal advice if you are unsure of your obligations or those of your tenant.

Registration

- You must register all properties you let which are not covered by an exemption.
- You must notify Landlord Registration of any person or organisation acting on your behalf.
- You must notify Landlord Registration of any changes to your registration.

Starting and Ending a Tenancy

Your exact obligations will depend on the type of tenancy or occupancy arrangement in place.

- The tenant must be given the landlord’s name and address including their agent if applicable. Details of who to contact in an emergency should also be provided.
- Where an assured or short assured tenancy exists, a written agreement must be provided. A Short Assured Tenancy should be notified to your tenant by serving an AT5 **before** the start of the tenancy.
- The tenancy agreement must be clear, fair and lawful. Any terms that do not meet these conditions cannot be enforced. The agreement should include a statement that the tenant must not engage in any antisocial behaviour.
- An inventory should be prepared at the start of the tenancy and agreed by the tenant.
- You will normally be required to issue a formal Notice to Quit to tenants giving them adequate notice that you wish them to leave the property (minimum Notice to Quit periods exist). You may also need to issue a Notice of Proceedings (AT6).
- If the tenant does not leave when they are asked to, you must use the correct legal procedures for seeking possession of the accommodation. Ultimately you may require a Court Order. Under the Rent (Scotland) Act 1984, it is a criminal offence to evict a tenant unlawfully or to use harassment to try and make them leave.
- If you believe you have grounds for seeking possession (e.g. the tenant is not paying their rent or they are causing antisocial behaviour) then you can start to seek repossession before the tenancy period is up.

Charging and Handling of Rents and Deposits

- No charge must be made for a person to have their name put on a list for accommodation or for drawing up or copying a tenancy agreement.
- If a deposit is required, it must be no more than the equivalent of two months rent.
- If rent is paid weekly, the landlord must issue a rent book and enter a receipt for each weekly payment.
- The tenant cannot be required to pay rent before the start of the rental period to which it relates.
- The tenant must pay their rent on time.
- Rent Deposits **MUST** be placed with a Tenancy Deposit Scheme, even those taken before this period, or those held by an agent. You can find out more at <http://www.gov.scot/Topics/Built-Environment/Housing/privaterent/landlords/tenancy-deposit-schemes>
- You should aim to return the tenant's deposit as soon as possible after the end of the tenancy. If you feel that money should be deducted, you should give the tenant a written statement detailing the deductions being made. You should allow for reasonable wear and tear and take account of depreciation in the value of damaged items.

Management

- The tenant has a right to enjoy their home in peace.
- The tenant must not cause disturbance or nuisance to neighbours or other tenants.
- You must not practice unlawful discrimination on grounds of sex, colour, race, ethnic/national origins or disability.
- You should make sure that you have adequate Buildings (and where appropriate also Contents) Insurance for your property.

Repair

- You are required to ensure the property meets the Repairing Standard which means that you must keep the fabric of the accommodation wind and watertight and generally fit for human habitation. You must make sure that the structure and exterior of the property, water, electrical and gas installations and appliances for heating the house and water, fixtures and fittings and furnishings are kept in reasonable repair and proper working order. You can find out more about the Repairing Standard at <http://www.prhpscotland.gov.uk/prhp/135.26.30.html>
- You must make your tenant aware of their rights under the Repairing Standard and issue a Tenant Information Pack, which can be downloaded at <http://www.gov.scot/Resource/0041/00413146.pdf>
- You must ensure there is satisfactory provision for detecting and giving warning of fires, you can find out more at <http://www.prhpscotland.gov.uk/prhp/files/Smoke%20Alarms%20in%20Private%20Lets%20Sep%2014%20update.pdf>
- You must have any gas appliances checked annually by a Gas Safe Registered contractor, and obtain a landlords gas safety certificate. You

must provide tenants with a copy of the certificate and keep the records for at least 2 years (Gas Safety (Installation and Use) Regulations 1998). You can find a local engineer at www.gassaferegister.co.uk

- **Carbon Monoxide (CO) Detection** – From 1 October 2013 amended regulations and technical guidance came into force in connection with carbon monoxide detection. In order to alert occupants to the presence of levels of carbon monoxide which may be harmful to people, a detection system should be installed in all dwellings where:
 - a new or replacement fixed combustion appliance (excluding an appliance used solely for cooking) is installed in the dwelling or
 - a new or replacement fixed combustion appliance is installed in an inter-connected space, for example, an integral garage.

From 1 December 2015, a CO Detector will be mandatory.

- You have a duty to make sure that the electrical installations and appliances provided as part of the let are safe to use (Electrical Equipment (Safety) Regulations 1994). You are advised to have a Periodic Inspection Report on your property. **From 1 December 2015 Electrical Safety checks will be required to be carried out every 5 years.** (The Housing (Scotland) Act 2014) You can find out more about electrical safety at <http://www.electricalsafetyfirst.org.uk/guides-and-advice/for-landlords/>
- All furniture and furnishings provided by the landlord must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1998.
- If the tenancy commenced after 4 January 2009 you must display a copy of the Energy Performance Certificate (EPC) at the property, you can find out more at <http://www.gov.scot/Resource/0041/00412513.pdf>
- You must comply with any statutory notices regarding the property.
- The tenant must use the house in a proper manner, take care of it and make sure it is not damaged.
- The tenant must inform the landlord if any repairs are needed.
- The tenant has a right to adapt their home, either to make it suitable for a disabled person who lives there or to take advantage of a government scheme to install central heating or energy efficiency measures. The tenant must ask for your consent and is responsible for organising and funding the work. You cannot refuse permission or impose conditions without good reason.

Other Requirements

- You may need to pay income tax on your rental income. For further information about taxation issues for landlords please see www.hmrc.gov.uk
- If you are planning to rent your property out to three or more people who are not in the same family you are legally required to have a House in Multiple Occupation (HMO) Licence before you can rent out your property. Please contact Environmental Health by email on environmental.health@west-dunbarton.gov.uk or by phone on 01389 738290 for further information.

If you require further information please visit:

<https://www.west-dunbarton.gov.uk/business/environmental-health/private-landlord-registration/> or <https://rentingscotland.org/>