

maintaining & managing your private sector tenancy

Private Landlords



PRIVATE LANDLORDS MAINTAINING AND MANAGING YOUR PRIVATE SECTOR TENANCY

As a private landlord, it is essential that you are aware of your responsibilities in relation to the management, maintenance and repairs of the properties you let.

THE REPAIRING STANDARD

The Housing (Scotland) Act 2006 introduced the Repairing Standard in September 2007. The Repairing Standard applies to the majority of tenancies within the private rented sector. It covers various aspects of the house, including the structure and exterior, various installations, i.e. gas, electricity and water as well as fixtures, the safety of furniture, and smoke alarms.

It is a landlord's duty to ensure that a house meets the Repairing Standard at the start of the tenancy and at all times during it. The landlord (or someone authorised by the landlord) must inspect the house before the tenancy starts allowing for any work or repairs to be identified. Arrangements can then be made between the landlord and tenant to have the required work or repairs carried out.

If the landlord becomes aware of any repairs or work required during the tenancy, the tenant must allow access to the landlord (or someone authorised by the landlord) to carry out these repairs or work. In order to comply with the duty, the landlord must carry out any necessary work within a reasonable time.

To meet the Repairing Standard a landlord will have to ensure that:

- **The house is wind and water tight and reasonably fit for human habitation** (taking account of the extent to which the house falls short of any building regulations, because of disrepair or sanitary defects);
- **The structure and exterior of the house** (including drains, gutters and external pipes) **are in reasonable repair and proper working order** (having regard to the house's age, character and prospective life and the locality). Where the house forms part of premises (eg, a flat), this criterion includes any part of the premises that the owner is responsible for maintaining, solely or communally, but the Repairing Standard only applies if any part of, or anything in, the premises that the tenant is entitled to use is adversely affected;
- **The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in repair and proper working order** (including installations outside the house but serving it, and which the owner is responsible for maintaining, solely or communally);
- **Any fixtures, fittings and appliances provided under the tenancy are in reasonable repair and proper working order;**
- **Any furnishings provided under the tenancy are capable of being used safely for the purpose for which they are designed;** and
- **There is satisfactory provision for detecting and giving warning of fires.** (any new detectors installed in a rental property must be mains powered and comply with the recommendations contained in the British Standard on the design of fire installations for dwellings (BS5839 pt 6).

THE PRIVATE RENTED HOUSING PANEL (PRHP)

Most landlords keep their properties in good condition, but if a tenant believes that the landlord is not meeting their responsibilities under the Repairing Standard, they can apply to the Private Rented Housing Panel.

A tenant must have told their landlord that work is required by writing to them with the details of the repairs and will have to provide the PRHP with details of this.

The PRHP will consider whether cases can be resolved by the tenant and landlord, including the possibility of mediation. Cases accepted by the PRHP will be heard by Private Rented Housing Committees, which have powers to require landlords to carry out work and repairs by issuing a Repairing Standard Enforcement Order. It will be a criminal offence if a landlord fails to comply with a Repairing Standard Enforcement Order without reasonable excuse.

Information about the PRHP is available at www.prhpscotland.gov.uk or from:

PRIVATE RENTED HOUSING PANEL

Europa Building | 450 Argyle Street | GLASGOW | G2 8LH
tel: 0141 242 0142 | fax: 0141 242
admin@prhpscotland.gov.uk

MEETING YOUR TENANTS NEEDS

The Housing (Scotland) Act 2006 gave private sector tenants the right to adapt their rented home. The landlord must give permission for any disabled adaptation and the tenant will be able to apply for a grant to have this work carried out. More information can be found in the Council leaflet 'Scheme of Assistance' or by calling the Private Sector Housing Grants Team on 0300 100 1800.

SMOKE DETECTORS IN RENTAL PROPERTIES

As part of the Repairing Standard, landlords must make sure that the property they rent out has “satisfactory provision for detecting and giving warning of fires.”

To meet the Repairing Standard there has to be at least one working smoke alarm on each floor of a property. Any smoke alarms installed from 3 September 2007 must be mains wired and comply with the recommendations contained in the British Standard on the design of fire detection installations for dwellings (BS5839 pt 6). Any existing smoke alarms fitted before this date can be either mains powered or battery powered, however, if a broken smoke alarm is replaced it must be mains wired.

In the case of HMO property where there is a more stringent smoke alarm requirement, this part of the Repairing Standard will only be met when the HMO smoke alarm conditions are met.

GAS SAFETY IN RENTAL PROPERTIES

As a landlord, you are legally responsible for the safety of your tenants. To make sure any property you own and let is safe, all gas appliances you provide must have a safety check carried out every 12 months by a Gas Safe registered engineer. You must give your tenant a record of that safety check within 28 days or to a new tenant before they move in. Remember you must also keep a record of each safety check for two years. It is also recommended that you advise your tenants to get any of their own gas appliances safety checked on an annual basis.

If you use a letting agent or property managing agent then you must make sure of exactly who is managing the gas duties at all properties. If it's contractually the responsibility of the letting or managing agent the same conditions apply to the agent as those of the landlord.

By law, only Gas Safe registered engineers should carry out work on gas appliances or installations in your properties. If someone other than a Gas Safe registered engineer does that gas work, you could be risking people's lives.

FINDING A GAS SAFE REGISTERED ENGINEER IS EASY

All registered engineers are listed on the Gas Safe Register website at www.GasSafeRegister.co.uk or you can call 0800 408 5500 to find a local engineer who is on the register.

ELECTRICAL SAFETY IN RENTAL PROPERTIES

It is recommended by the Electrical Safety Council (ESC) that landlords use a registered electrician to carry out a Periodic Inspection in their rental properties at least every five years (or on a change of occupancy). Periodic Inspections test the safety of the electrics and identify deficiencies with the installation which can then be rectified to avoid potential dangers.

The ESC's Landlords' Guide to Electrical Safety is specifically designed to help landlords in Scotland understand their responsibilities and legal obligations in relation to electrical safety – and help them to keep both their tenants and their rental properties safe. The guide is available from www.esc.org.uk or in a printed version by contacting the Electrical Safety Council Consumer Helpline on 0870 040 0561.

ENERGY EFFICIENCY

From December 2009, as part of the EU directive, an Energy Performance Certificate (EPC) is required for all private rented property in Scotland. The EPC provides vital information about energy consumption and will suggest low cost measures to improve the energy efficiency of the property. For further information and advice the Council's Home Energy Advisor can be contacted on 01896 661392.

BUILDINGS INSURANCE

As a landlord you will need buildings insurance. Insurers need to know who is living in your property in order to calculate this risk.

PRIVATE LANDLORD REGISTRATION

It is a legal requirement under the Antisocial Behaviour etc. (Scotland) Act 2004 for all private landlords to register with the Council where they let property. Failure to register is a criminal offence. Registration can be done online at www.landlordregistrationscotland.gov.uk or by calling the Council on 01896 661392 to ask for a paper application form. Landlords must have an active registration before they can rent a property.

FURNISHINGS

Upholstered furnishings must comply with the Furnishing (Fire) Safety Regulations 1988. This applies to furnishings such as sofas, chairs, mattresses and padded headboards, basically anything that has been upholstered.

HOUSE IN MULTIPLE OCCUPATION (HMO) LICENSING

If a property is occupied by three or more unrelated tenants then it is likely to need an HMO licence. For more information please call the Council on 0300 100 1800.

GETTING REFERENCES

Where possible the landlord should take up references from previous landlords.

The sort of information you should check is:

- Length of previous tenancies
- Late rent or arrears
- Details of anti social behaviour
- Condition of the property after the tenancy.

Landlords may also want to carry out a credit check on prospective tenants. There are some organisations that specialise in providing a tenancy referencing and credit check service to landlords. A search on the internet will provide details on such organisations.

ASSURED AND SHORT ASSURED TENANCIES

Assured and Short Assured Tenancies were introduced by the Housing (Scotland) Act 1988 and apply to most properties that have been rented from private landlords after 2 January 1989.

- A short assured tenancy is a specific form of assured tenancy, which must last for at least 6 months initially
- Assured tenancies have no minimum period, but it is usually more difficult to recover possession of an assured tenancy
- A short assured tenancy will only exist if the landlord gave the tenant an AT5 form before they signed the tenancy agreement.

TENANCY AGREEMENTS

Once the landlord is satisfied that they have completed all the relevant steps and both the landlord and the prospective tenant are both happy to proceed then they need to sign the tenancy agreement.

Here are a few tips:

- All tenants are entitled to a written tenancy agreement. If the landlord doesn't provide a tenancy agreement the tenant can apply to the court to make the landlord provide one. This would be at the landlord's expense
- The landlord cannot charge the tenant for a tenancy agreement
- Tenants have legal rights even if they do not have a written tenancy agreement
- Failure to provide a tenancy agreement automatically gives the tenant a tenancy for a minimum period of one year.

ENDING A TENANCY

A tenancy can be ended in a number of ways:

- The landlord can serve their tenant with a Notice to Quit to end the tenancy at the end of the tenancy agreement
- The tenant can give the landlord a written notice to end the tenancy at the end of the tenancy agreement
- The landlord and tenant can both agree to end the tenancy at any time

To end a tenancy the landlord must always serve a Notice to Quit. If the landlord wants the tenant to leave, they must also serve the tenant with a notice of proceedings (AT6) and a Section 33 notice. The landlord may run into problems if they don't use all the required forms and notices to set up and end a tenancy.

PROVIDING CONTACT DETAILS

The landlord must provide the tenant with their contact details or the details of someone acting on their behalf. The landlord should let the tenant know when it is appropriate to contact them and what circumstances would be considered an emergency. The landlord should advise the tenant what they should do if a repair is required. Emergency, urgent and non-urgent repairs will require different actions and responses from both parties so the tenant needs to be clear on these procedures. The landlord may also wish to provide the tenant with a list of emergency repair tradesmen. The landlord should also ask the tenant for their daytime and evening contact numbers and if the tenant is willing, also an emergency contact number for a next of kin in the case of an emergency.

THE DEPOSIT

A deposit is money held as security against any of the tenant's obligations. This means that the landlord can use this money to cover damage to the property, fixtures and fittings. Normal practice is to take a deposit after the tenant has signed the tenancy agreement. The maximum deposit the landlord can request is the equivalent of two months rent and they should make it very clear in the tenancy agreement the conditions that must be met for the deposit to be returned at the end of the tenancy.

THE INVENTORY

The inventory is the main tool against which the landlord can properly assess any damage for which they would be entitled to retain any of the deposit paid by the tenant. The landlord cannot make any deduction from the deposit for anything not listed on the inventory. A comprehensive inventory should detail the condition of everything in the property, including the décor and fixtures and fittings and make sure the condition of carpets, flooring, curtains and blinds is also noted. A good tip is to take photographs and attach these to the inventory so that it is easier to compare the condition of an item at the end of the tenancy. Both the landlord and the tenant should agree and sign the inventory and they should both retain a signed copy.

GUARANTORS

Landlords may be happy with their choice of tenant but would like added security to ensure that the rent will be paid. In such circumstances they can ask the tenant to provide a guarantor. The responsibilities of the guarantor should be clearly explained within the tenancy agreement.

COMMUNICATING WITH YOUR TENANT

Both parties have a responsibility to ensure good communication throughout the tenancy, but the landlord has the major responsibility as good communication by them minimises misunderstandings and mistrust and creates the basis for a healthy landlord-tenant relationship.

Should a landlord be experiencing problems with a tenant the Council can offer some information and advice on tenancy agreements, repair issues, gaining access to the property and handling anti social behaviour. The Council website www.scotborders.gov.uk has further information and the landlord's solicitor will be able to advise on these areas and more.

YOUR TENANT IS CLAIMING LOCAL HOUSING ALLOWANCE (LHA)

If a tenant is having problems paying the rent the landlord should advise the Council. If the tenant is claiming Local Housing Allowance (LHA) and the landlord has not been receiving the payments for more than eight weeks the Council can make payments directly to the landlord (proof of rent arrears will be required).

FURTHER FINANCIAL ASSISTANCE FOR YOUR TENANT

If a tenant has advised that they are struggling financially, the Council can assist the tenant by helping them access benefits they are entitled to. By maximising their income this will ensure they are able to remain in their home. The Council's Welfare Benefits department will be able to offer further advice. They can be contacted on 01896 661394.

SECTION 11

Section 11 of the Homelessness (Scotland) Act 2001 came into force on 1 April 2009. The aim of this legislation is to ensure that the Council knows in advance when a household is at risk of being evicted. Providing this notification is a helpful trigger, allowing the Council to intervene at an early stage and hopefully prevent homelessness occurring.

This legislation applies to all landlords (either a private landlord or a registered social landlord) who are raising court proceedings to lawfully evict a tenant. If this court action could result in making someone homeless landlords are obliged to send the Council specific information detailing the action that will be taken. To notify the Council please contact Homelessness Services on 01835 865180. **Please note that this does not apply in cases where a tenancy ends routinely without taking legal action.**

FURTHER INFORMATION

For further information, advice and assistance on any of the areas in this leaflet please contact 01896 661392.

HOUSING STRATEGY TEAM AND HOME ENERGY ADVISOR

email: housingenquires@scotborders.gov.uk

PRIVATE LANDLORD REGISTRATION

email: privatelandlordregistration@scotborders.gov.uk

HMO LICENSING

email: Legal@scotborders.gov.uk

WELFARE BENEFITS

email: WBS@scotborders.gov.uk

HOMELESSNESS SERVICES

email: homelessnessservices@scotborders.gov.uk

Alternatively you can access further information at www.scotborders.gov.uk

FURTHER INFORMATION cont...

PRIVATE RENTED HOUSING PANEL

tel: 0141 242 0142

email: admin@prhpscotland.gov.uk

GAS SAFE REGISTER

tel: 0800 408 5500

www.gassaferegister.co.uk

ELECTRICAL SAFETY COUNCIL

tel: 0870 040 0561

www.esc.org.uk

ALTERNATIVE FORMAT/LANGUAGE

其他格式 / 外文譯本

這份資料冊另備有錄音帶、大字體版本以及多種其他格式。你可以透過以下地址與我們聯絡，索取不同版本。此外，你也可以聯絡以下地址索取本資料的中文和其他外文譯本或索取更多拷貝。亦可要求我們做出安排，由我們的工作人員當面為你解釋你對這份出版物中的不明確之處。

[Alternatywny format/język]

Aby uzyskać kopię niniejszego dokumentu w formacie audio, dużą czcionką, oraz innych formatach prosimy o kontakt na poniższy adres. Użyć tam można również informacje o tłumaczeniach na języki obce, otrzymaniu dodatkowych kopii oraz zaaranżowaniu spotkania z urzędnikiem, który wyjaśni wątpliwości i zapytania związane z treścią niniejszej publikacji.

Parágrafo de formato/língua alternativos

Pode obter este documento em cassete áudio, impressão aumentada e vários outros formatos contactando a morada indicada em baixo. Pode ainda contactar a morada indicada em baixo para obter informações sobre traduções noutras línguas, cópias adicionais ou para solicitar uma reunião com um funcionário para lhe explicar quaisquer áreas desta publicação que deseje ver esclarecidas.

Параграф об альтернативном формате/языковой версии

Чтобы получить данный документ в записи на пленке, в крупношрифтовой распечатке и в других различных форматах, вы можете обратиться к нам по приведенному ниже адресу. Кроме того, по данному адресу можно обращаться за информацией о переводе на различные языки, получении дополнительных копий а также с тем, чтобы организовать встречу с сотрудником, который сможет редставить объяснения по тем разделам публикации, которые вам хотелось бы прояснить.

HOUSING STRATEGY TEAM

Galashiels Area Office | Paton Street | GALASHIELS | TD1 3AS
tel: 01896 661 392 | email: housingenquiries@scotborders.gov.uk
www.scotborders.gov.uk

You can get this document on audio CD, in large print, and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an officer to meet with you to explain any areas of the publication that you would like clarified.

HOUSING STRATEGY TEAM

Galashiels Area Office | Paton Street | GALASHIELS | TD1 3AS
tel: 01896 661 392 | email: housingenquiries@scotborders.gov.uk
www.scotborders.gov.uk

