



Guidance Sheet :

Legislative Requirements for Rented Properties



Introduction:

Letting your property and becoming a landlord may seem like the simple solution to filling an empty property and it can be financially rewarding. However, before you welcome your first tenants, you need to ensure that you comply with the many regulations related to the residential lettings industry. As a landlord you are obliged to meet certain legal requirements and your property must also meet specific minimum standards.



The purpose of this guidance sheet is to provide you with an overview of the current requirements and legislation relevant to landlords and residential rental properties.

Summary of Requirements and Terminology:

- **Landlord Registration (Scotland only)**
In Scotland you are legally required to register as a landlord before you let your property. This legislation does not apply to the rest of the UK.
- **Buildings Insurance**
We recommend that all landlords purchase suitable Landlords' Buildings Insurance. If you fail to do this, you may not be fully protected in the event of a claim. Your normal buildings insurance is unlikely to be suitable.
- **HMO (Houses of Multiple Occupancy) Licensing**
If you intend renting out a property to three or more unrelated adults, in a property of more than 2 bedrooms, you are required to apply for an HMO License.
- **Energy Performance Certificate (EPC)**
You cannot advertise a Property To Let without also stating its current Energy Performance Certificate rating.
- **The Repairing Standard (Scotland only)**
Rented property must meet the repairing standard before it is let and at all times during the tenancy. The standard applies to almost all rented properties in Scotland.

Summary of Requirements and Terminology: Continued

■ **Smoke Alarms**

You are required to fit smoke alarms (to the current standard) in your property prior to renting it and maintain them throughout the period that your property remains let.

■ **Gas Safety Certificate**

As a landlord it is your responsibility to make sure that annual gas safety checks are carried out and that all gas appliances in the property are safe to use.

■ **Electrical Installation Condition Report (EICR)**

As a landlord it is your responsibility to ensure that the electrical installation (fixed wiring) in your property is safe to use.

■ **Portable Appliance Test (PAT)**

As a landlord it is your responsibility to ensure that all plug in electrical appliances provided for tenants' use are safe. These should be checked annually.

■ **Legionella Risk Assessment**

It is a requirement under Health & Safety legislation that the water systems of all rented properties have been assessed for the risks of Legionella.

■ **Carbon Monoxide Alarms**

As a landlord it is your responsibility to install carbon monoxide alarms in each room of the property where there is a gas appliance.

■ **Tenancy Deposit Scheme**

All tenants deposits must now be submitted and held by a government approved scheme.



Detailed Information on the Current Regulations: **Landlord Registration** *(Scotland only)*

All landlords in Scotland must register with their local authority (i.e. their local council). The owner of the property is the person who must be registered. In the case of jointly owned property, all joint owners must register as landlords. Owners must also declare any agent that they use to manage their property. An agent may be a professional, such as a letting agent or a solicitor, or a friend or relative, who looks after the property, arranges repairs, collects rents and so on.

For further guidance and to make your application please visit:

www.landlordregistrationscotland.gov.uk

When you apply, you will need the RentLocally Scottish Landlord Registration Number for the council in which the property is located the relevant numbers are as follows:

Aberdeen	181768/100/28461
Aberdeenshire	181768/110/12501
Angus	181768/120/18241
Clackmannanshire	181768/150/22100
East Lothian	181768/210/22100
East Renfrewshire	181768/220/18581
Edinburgh	181768/230/14560
Falkirk	181768/240/18561
Fife	181768/250/22110
Glasgow	181768/260/18591
Highland	181768/270/21531
Midlothian	181768/290/22110
Moray	181768/300/21521
North Lanarkshire	181768/320/18001
Perth and Kinross	181768/340/18531
Scottish Borders	181768/355/25181
Stirling	181768/390/18021
West Lothian	0181768/400/22120



Buildings Insurance

Your investment is valuable and you should ensure that you have sufficient insurance to cover it for all eventualities. Standard buildings insurance will generally not provide adequate cover if you let your property. We strongly recommend that you take out specialised Landlords' Buildings Insurance, which will cover you for risks associated with rented properties. Please also be aware that your standard insurance is likely to become void if you do not advise your insurer that you are letting your property.

Typical benefits of Landlords' Buildings and Contents Insurance policies may include:

- £500,000 Buildings Sum Insured as standard (up to £2million on request)
- Buildings Accidental Damage included as standard
- Nil Excess (£250 & £500 excess policies are also available)
- Legal Liability Cover up to £5million
- Trace and Access Cover (up to £5,000)
- Malicious & Accidental Damage by Tenants Cover
- Loss of Rent up to 20% of the value of the property
- Up to 90 days nonoccupancy cover
- Contents Cover (typically up to £50,000)
- Theft of Keys & Replacement Locks cover
- Nil Excess Home Emergency Cover option (unlimited claims)
- Property Portfolio quotes (including discounts) usually available on request
- Self employed, Employed, Retired, Student, Local Authority and Asylum Seeker tenants, usually all covered
- Pay monthly option

If you need to upgrade your insurance to ensure that your property is fully covered, please ask us and we will refer you to our approved insurance provider.



Houses of Multiple Occupancy (HMO)

An HMO is a property that is shared by three or more unrelated adults. To let an HMO property, the landlord must obtain a licence from the Local Authority (i.e. the local council).

All HMOs are inspected regularly by the council to ensure that the property is properly managed and meets all current safety standards. The licence will be valid for between one and three years (depending on the administering council) and must then be renewed. What types of properties are classed as HMOs? The following types of accommodation are all likely to be HMOs:

- Shared flats and houses, such as student flats
- Bedsits

As a landlord, what must you do to start letting an HMO property?

If you are operating or intend to operate residential lettings in this category you would be well advised to consult with your own local authority. Local Environmental Health and Fire Officers will advise on the requirements. As a landlord operating an HMO type property you will have to meet all the usual obligations relating to the maintenance of the property, its structure and internal services to ensure the property is in a fit and safe condition for your tenants. In addition to these standard requirements, as a landlord letting an HMO you need to meet the following obligations in relation to your property (note in particular the common areas):

- Layouts and facilities must meet minimum standards (consult your local authority).
- You must maintain the property in a safe and habitable condition.
- You must maintain occupancy at an acceptable level.
- You must register with your local authority and provide details of residents and changes in occupancy.
- You must identify a responsible person to manage the property and display contact details prominently on the premises.
- You must ensure that stairways, passageways and fire escapes are cleaned and free from obstructions.
- You must ensure that fire extinguishers and fire alarms are tested and maintained regularly.
- Tenants of HMOs have a responsibility to cooperate with their landlords to ensure that they comply with the regulations. This may mean allowing access to rooms at reasonable times.

Houses of Multiple Occupancy (HMO) *continued*

- Tenants who don't pay their rent on time, cause damage to the property or are a nuisance to other occupants and neighbours will be in breach of their tenancy agreement and could face eviction proceedings.

The following aspects are important for landlords of HMOs:

- Landlords operating certain types of HMOs will need a license from their local council.
- Landlords converting properties into HMOs need to comply with particular planning, building, environmental health and fire regulations.
- A special insurance policy will probably be required.
- Nuisance claims brought by neighbours are likely due to the increase in noise and rubbish. As a landlord, if you do not manage these situations adequately you could be held partly responsible.
- The landlord or house manager must by law be in control of the occupancy situation at all times. Tenants must not be allowed to come and go as they please without proper documentation. As a landlord it is, in any case, in your own interest to hold full details on your tenants for the matters of rent collection and to manage the eventual end of the tenancy.

As a landlord you should contact your own local authority (i.e. the local council in which the property is located) for confirmation of the specific rules and regulations regarding HMOs.

We strongly recommend the following detailed guidance booklets:

Scotland: www.scotland.gov.uk/Publications/2004/07/19731

England: www.communities.gov.uk/documents/housing/pdf/322460.pdf



Energy Performance Certificate (EPC)

Before a property can be marketed for sale or let, the landlord must obtain a valid Energy Performance Certificate (EPC) for the property. The EPC report gives the property an energy rating to show how energy efficient the property is. This information gives tenants an indication of how much it will cost to heat the property and helps them to decide whether or not to rent the property. This is now compulsory: please see <http://epc.direct.gov.uk> for full details. As agents we are required to advertise the Energy Efficiency Rating along with the general property details.

The Repairing Standard

The Housing (Scotland) Act 2006 sets out a Repairing Standard covering the responsibilities of private landlords to carry out repairs.

A short summary of your duties as a landlord is given below.

The 2007 Repairing Standard applies to most residential letting properties in the private sector. It covers various aspects of the property, including the structure and exterior, certain installations and fixtures, the safety of furniture and fire detection/ fire alarm systems.

Landlords must ensure that the property meets the Repairing Standard at the start of the tenancy. This means that as a landlord you (or someone authorised by you) must inspect the property before the tenancy starts and advise the tenant of any work to be done, as well as arranging to carry out the work. It is best practice to undertake the inspection in time to deal with any necessary repairs before the tenancy begins.

As a landlord you also have to ensure that the house meets the Repairing Standard throughout the tenancy. If a tenant believes that the landlord has not complied with the Repairing Standard, he or she can apply to the Private Rented Housing Panel. The Panel can reject the application, refer it to a Private Rented Housing Committee, or delay a decision if there is a good chance that the landlord and tenant can settle the dispute, possibly by mediation. If a Committee decides that the Repairing Standard has not been met, it can compel the landlord to do the necessary work.



At the start of the tenancy, or earlier, the landlord must tell the tenant about the effect of the Repairing Standard and Private Rented Housing Panel arrangements on the tenancy.

As a landlord you can comply with this duty by providing your tenant with a copy of the mandatory Tenant Information Pack, which can be downloaded at www.scotland.gov.uk/tenant/info

Smoke Alarms *(Important Regulations have changed)*

The Scottish Government has produced revised statutory guidance on the requirements for smoke alarms. A copy of the revised statutory guidance is available on the Private Rented Housing Panel (PRHP) website www.prhpscotland.gov.uk.

The main points relative to smoke detection are as follows:

- One functioning smoke alarm must be installed in the room that is frequently used by the occupants for general daytime living purposes.
- One functioning smoke alarm must be installed in every circulation space, such as hallways and landings.
- One heat alarm must be installed in every kitchen.
- All alarms must be mains wired and interlinked.

The number and position of the alarms will depend on the size and layout of the house. There should be at least one alarm on each floor. The landlord should either install smoke and fire detectors that meet the standard set by the building regulations or be able to justify why a lesser level of protection is appropriate in a particular property. The landlord must also be aware that there may be a requirement for a particular property to meet more stringent standards.



Gas Safety Certificate (GSC)

As a landlord, you should have a 'Gas Safe' registered (www.gassaferegister.co.uk) engineer carry out a safety check on all gas installations and appliances annually. This includes the gas meter, gas boiler, gas heated water tanks, gas fires and gas cookers. You must supply the tenant with a copy of the Gas Safety Certificate (GSC), which is issued by the engineer every year.

In addition to this statutory safety check, landlords should ensure that all boilers and appliances are serviced annually.

Electrical Installation Condition Report (EICR)

As a landlord, you should have a qualified electrician carry out an Electrical Installation Condition Report (EICR) of the fixed wiring and circuit board prior to letting out the property. When issuing the certificate, the engineer will advise when the next inspection should be carried out (this should be done at least every 5 years).

Any defects noted or action required should be acted upon promptly. You can download the Electrical Safety Council's "Landlord's Guide to Electrical Safety in Scotland" at www.esc.org.uk/businessandcommunity/guidancefor/landlords.html

Portable Appliance Test (PAT)

Portable Appliance Testing (PAT) is the term used to describe the examination of electrical appliances and equipment to ensure they are safe to use.

As a landlord, if you supply any portable electrical appliances within your inventory, it is your responsibility to ensure that they are safe to be used by the tenant.

Although PAT testing is not a legal requirement, as a landlord you could ultimately be liable for injury caused to a tenant through the malfunction of an appliance due to an electrical fault. As the letting agent, we therefore require that all appliances are tested on an annual basis.



Legionella Risk Assessment

Landlords of residential accommodation have certain responsibilities relating to reducing the risk of Legionnaires' Disease. Health & Safety legislation requires that landlords carry out risk assessments for the Legionella bacteria (which causes Legionnaires' Disease) and maintain control measures to minimise the risk. Most rented premises will be low risk but it is important that risk assessments are carried out and control measures introduced.

This note is intended to give a brief guide for landlords. Further advice is available from the Health & Safety Executive.

What is Legionnaires' Disease?

Legionnaires' Disease is a pneumonia like illness caused by the Legionella bacteria, which can be fatal. The disease cannot be passed from one person to another the infection is caused by breathing in small droplets of water contaminated by the bacteria. Legionella bacteria are found in the natural environment and may contaminate and grow in water systems, including domestic hot and cold water systems. They survive low temperatures and thrive at temperatures between 20 45° C if the conditions are right. They are killed by high temperatures of 60°C or above.

Risk assessments

Landlords have a duty to ensure that the risk of exposure to Legionella by tenants, residents and visitors is properly assessed and controlled.

For most residential settings the risk assessment may well show that the risks are low, provided that the simple control measures are followed. This will apply to houses or flats with small domestic type water systems where the water turnover is high.

Provided the risk assessment shows that the risks are insignificant and the control measures are being properly managed, no further action will be necessary.



HSE has published detailed guidance and the relevant extract relating to residential accommodation is available at <http://www.hse.gov.uk/pubns/priced/hsg274part2.pdf>.

Reviewing the assessment

As a landlord you will need to review the assessment periodically, especially if there are any changes to the system.

What happens if the landlord does not carry out his/her obligations?

The consequences can be serious. Landlords are legally required to manage properties so as not to expose tenants, residents and visitors to risk. Heavy fines or even imprisonment can be imposed, especially in the case of death. Landlords can be prosecuted even in cases where there is an exposure to risk without anyone actually becoming ill.

Carbon Monoxide Alarms

Carbon monoxide poisoning, which claims around 50 lives per year in the UK, is always a risk where there are any gas, oil or solid fuel installations and appliances. Ensure that carbon monoxide (CO) detectors are fitted. These should preferably be mains operated, although battery operated models are acceptable.

This change does not make CO alarms mandatory in all rental properties, but nonetheless, this further backs up SAL best practice advice. The relevant section from the Review of the Building (Scotland) Regulations 2004: Technical Handbooks Section 3 (Environment) and Section 4 (Safety) is below and can be seen on the Scottish Government website here.

Tenancy Deposit Scheme

The Tenancy Deposit Schemes (Scotland) Regulations 2011 have changed the way landlords and letting agents must handle tenancy deposits in Scotland. Since 2nd July 2012, landlords and agents in receipt of a tenancy deposit are obligated to transfer the deposit to a government approved scheme, who will hold the deposit until the end of the tenancy. The landlord or agent must also provide the tenant with particular key information, including confirmation of which scheme holds the deposit and when all or part of the deposit may be retained at the end of the tenancy. The deposit must be transferred and the Prescribed Information provided within 30 working days of the tenancy start date.

