

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 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 (Agent) 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.
- From 1 December 2017 all new tenancies issued should be Private Residential Tenancies. Further information is available at <https://beta.gov.scot/publications/private-residential-tenancies-landlords-guide/>
- The Scottish Government has produced a ‘Model Private Residential Tenancy Agreement’ which includes both mandatory clauses that must be included when using the model tenancy as well as discretionary terms which a landlord may or may not choose to include.
- There is a digital model agreement which you can pre populate with details to create your tenancy, including the adding of terms and details specific to your property-such as whether the tenant is to have access to a garage or is expected to keep the garden tidy. This is available at: www.mygov.scot/tenancy-agreement-scotland
- The new tenancy will be open ended and will last until your tenant wishes to leave the let property or you use one (or more) of 18 grounds of eviction.
- If you issue any other type of tenancy agreement your tenant will still have the protection of the private residential tenancy terms, and parts of your agreement may not be enforceable.
- When you use the ‘Model Private Residential Tenancy Agreement’ you must also provide your tenant(s) with a copy of the ‘Easy Read Notes for the Scottish Government Model Private Residential Tenancy Agreement’ which explain all of the different parts of your tenancy agreement. A link to the Easy Read Notes is provided below: <http://www.gov.scot/Publications/2017/10/3671>

- You may choose not to use the 'Model Private Residential Tenancy Agreement'. You can use a different tenancy agreement as long as it sets out all of the statutory terms. If you decide to do this you must provide your tenant(s) with a copy of the 'Private Residential Tenancy Statutory Terms Supporting Notes' which includes information about the nine tenancy terms which must be provided in the tenancy agreement by law. A link to this document is below: <http://www.gov.scot/Publications/2017/10/8776>
- If you fail to issue a private residential tenancy agreement, provide the accompanying notes or issue a document explaining any updated terms of their tenancy within 28 days of the change, your tenant can make an application to the Housing and Property Chamber. The first step of the process is to issue you with a notice of their intention to do this. If you provide the missing paperwork within 28 days the case does not proceed.

Procedures for Ending a Tenancy – Short Assured & Assured

By law you are required to follow correct procedures if you want to end the tenancy. These procedures will depend on the type of tenancy your tenant has. Most tenancies issued between 1988 and 30 November 2017 were short assured tenancies. These are the procedures that need to be followed for short assured tenancies.

- Issue written notice which includes Notice to Quit/Section 33
- The tenant must be given 2 months written notice
- A Short Assured Tenancy cannot be ended in the first 6 months unless you believe you have grounds for repossessing the property (e.g. due to rent arrears). You would need to go to court to end the tenancy within the first 6 months
- To end a tenancy after the initial six month period the Notice to Quit/Section 33 Notice/AT6 should be issued two months before the end date
- A Notice of Proceedings (AT6 form) is required to inform the tenant that you plan to go to Court to gain possession of the property using grounds

Assured tenancies require a Notice to Quit with at least 4 weeks notice and a Notice of Proceedings (AT6). You need grounds to end an Assured tenancy and will have to take court action to end it.

If court proceedings are raised, you are required to inform the Local Authority under Section 11 of the Homelessness (Scotland) Act 2003. This is needed in case the tenants require help with somewhere to stay.

Procedures for Ending a Tenancy – Private Residential Tenancy

Your tenant can end their tenancy by giving you at least 28 day Notice in writing.

- You can end the tenancy by giving your tenant a written notice called a 'Notice to Leave' including one or more of the 18 grounds on which a private residential tenancy can be ended.
- The notice period ranges from 28 days to 84 days depending on the ground(s) used and how long the tenant has lived in the property.
<https://beta.gov.scot/publications/private-residential-tenancy-statutory-terms-supporting-notes-essential-housing-information/pages/2/>
- Your tenant may choose to leave on the end date given in the notice, or they may remain in the property until you apply to the Housing and Property Chamber and are granted an eviction order. It will be up to you to prove to the tribunal that the grounds for eviction given are valid. Some grounds require the tribunal to grant a mandatory eviction, others are at the tribunal's discretion.
- If you apply to the First tier Tribunal of the Housing & Property Chamber for eviction of a tenant, you are required to inform West Dunbartonshire Council under Section 11 of the Homelessness (Scotland) Act 2003, that your tenant may potentially become homeless

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

<https://www.housingandpropertychamber.scot/repairs>

- You must ensure there is satisfactory provision for detecting and giving warning of fires. This means that you must have at least:
 - **One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes**
 - **One functioning smoke alarm in every circulation space, such as hallways and landings**
 - **One heat alarm in every kitchen**
 - **All alarms should be hardwired and interlinked with battery backups**

The number and position of the alarms will depend on the size and layout of the property.

- 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 December 2015, a hard wired CO Detector is mandatory.** 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.

- **Electrical Safety** - 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). **From 1 December 2015 you are required to have an Electrical Safety Check on your property by a qualified electrician who will issue you with an Electrical Installation Condition Report (EICR). Electrical Safety checks will be required every 5 years. Portable Appliance Tests (PAT) will be required annually on portable appliances, if supplied by the Landlord.** You can find out more about electrical safety at <https://www.electricalsafetyfirst.org.uk/guides-and-advice/scottish-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.

If you require further information please visit: <https://www.west-dunbarton.gov.uk/business/environmental-health/private-landlord-registration/> or <https://rentingscotland.org/>