



Landlord Responsibilities

Legal Obligations as a Landlord

These requirements are derived from statute or common law and this information is taken from the 'Scottish National Core Standards and Good Practice Guidance for Private Landlords' document, published by Communities Scotland in November 2006.

Equality Issues, Complaints and Disputes

In letting and managing accommodation, a landlord must ensure that no person or group of persons is treated less favourably than any other person or group of persons because of their race, colour, ethnic or national origin, sex, disability or sexual orientation.

(Source - Race Relations Act 1976; Disability Discrimination Act 1995; Sex Discrimination Act 1975)

From the 4th December 2006, a landlord must not unreasonably withhold consent to tenants to adapt rented accommodation to meet the needs of disabled occupants (Source - Housing (Scotland) Act 2006)

'Fit and Proper' to Let

Landlords are required to be registered with the local authority's Private Landlord Registration Scheme.

(Source - Part 8 of the Anti-Social Behaviour (Scotland) Act 2004)

Pre-Letting Procedures

No payment must be taken from a prospective tenant to have their name placed on an accommodation list. (Source - Accommodation Agencies Act 1953)

No charge must be made for drawing up or copying the tenancy agreement. (Source - Housing (Scotland) Act 1988)

The Tenancy Agreement

Where the let is on an Assured or Short-Assured Tenancy basis, the tenant must be given a written document (the tenancy agreement) setting out the terms of the let and any relevant Notices (for example AT5).

The name and current address of the landlord and/or agent must be stated in the tenancy agreement
(Source - Housing (Scotland) Act 1988)

The tenancy agreement should set out the rights and responsibilities of both landlord and tenant in clear and lawful terms. (Source - Unfair terms in Consumer Contract Regulations 1999)

The tenancy agreement must be properly executed by the signatures of the landlord (or agent) and tenant, and one witness, who must include their address.
(Source - Requirements of Writing (Scotland) Act 1995 for post 31st July 1995 leases)

Rent and Other Charges

Where rent is paid weekly, a rent book must be issued and receipted for each weekly payment made.
(Source - Housing (Scotland) Act 1988)

Possession

A landlord must use the correct legal procedures for seeking possession of the accommodation.
(Source - Housing (Scotland) Act 1988 and Rent (Scotland) Act 1984)

Action on Anti-Social Behaviour

It is a legal requirement of the landlord to take lawful forms of action to resolve any issues regarding the anti-social behaviour of occupants and visitors to the property in question. (Source - Anti-Social Behaviour etc (Scotland) Act 2004: Section 68)

Deposit

Where a deposit is required, it must be no more than the equivalent of two months rent.
(Source - Rent (Scotland) Act 1984 and Housing (Scotland) Act 1988)

Minimum Property Standard

The tenant's accommodation or the house within which it is located must meet the Tolerable Standard. Therefore it must meet each of the following criteria;

- Be structurally stable
- Be substantially free from rising or penetrating damp

- Have satisfactory provision for natural and artificial lighting, for ventilation and for heating
- Have an adequate piped supply of wholesome water available within the house
- Have a water or waterless closet available for the exclusive use of the occupants of the house and suitable located within the house Have a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water, suitably located within the house Have an effective system for the drainage and disposal of foul and surface water Have satisfactory facilities for the cooking of food within the house
- Have satisfactory access to all external doors and outbuildings
- In the case of a house having a supply of electricity, comply with the relevant requirements in relation to electrical installation (i.e. electrical wiring and associated components and fittings) for the purposes of that supply
- Have satisfactory thermal insulation

(Source - Housing (Scotland) Act 1987 section 6 as amended Housing (Scotland) Act 2006 section 11)

The landlord or letting agent should take all reasonable steps to ensure the maintenance of the common elements of the building, which are a shared responsibility with other co-owners.

(Source - Tenement (Scotland) Act 2004)

Repairing Standard

A landlord has a duty to repair and maintain the property at the start of the tenancy and at all times during the tenancy, including a duty to make good any damage caused by carrying out this work

(Source - Housing (Scotland) Act 2006 S14:1-2)

Upon notification or awareness of a defect, the landlord must complete the work within a reasonable time

(Source - Housing (Scotland) Act 2006 S14:4)

A private rented property must meet the repairing standard as follows:

- The house is wind and water tight and in all other respects reasonably fit for human habitation
- The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order
- This installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order
- Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and are in proper working order

- Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed
- The house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire

(Source - Housing (Scotland) Act 2006 S13 (1))

The landlord must inspect the property before the tenancy starts for the purpose of identifying any work necessary to comply with the Repairing Standard and notify the tenant of any such work

(Source - Housing (Scotland) Act 2006 S19)

The landlord must, on or before the start of the tenancy, provide the tenant with written information about the effect of the Repairing Standard in relation to the tenancy

(Source - Housing (Scotland) Act 2006 S20:1-4)

Tenants should be provided with information on how to approach the Private Rented Housing Panel and in what circumstances

(Source - Housing (Scotland) Act 2006 S22:1-6)

Repairs and Maintenance

The tenant must give the landlord reasonable access to the property but failing mutual agreement, the landlord must give at least 24 hours' advance notice in writing of their intention to enter the property - except where an emergency repair is required.

(Source - Housing (Scotland) Act 1988 and Housing (Scotland) Act 1987, Schedule 10)

Facilities and Fittings

Sinks, baths, showers, wash-hand basins (with hot and cold water) and water closets must meet the requirements of the Tolerable Standard

Gas

The landlord must comply with current Gas Safety (Installation and Use) Regulations (which cover Liquid Propane Gas installations) by:

- Arranging for annual gas safety checks to be completed by a GAS SAFE registered contractor and a gas safety certificate obtained
- Ensuring all servicing, repairs and replacements are completed by a GAS SAFE registered contractor
- Providing tenants with a copy of the servicing certificate
- Retaining records of safety checks for at least two years

(Source - Gas Safety (Installation and Use) Regulations 1998)

Furnishings and Furniture Safety

All furnishings and furniture supplied as part of the let must comply with relevant parts of the Furniture and Furnishings (Fire) (Safety) Regulations
(Source - The Furniture & Furnishings (Fire) (Safety) Regulations 1988)

Energy Performance Certificates

An Energy Performance Certificate must be provided when a property is let for the first time or when a new tenant moves in

Houses in Multiple Occupation (HMO)

All HMO properties must hold a current HMO licence from Perth & Kinross Council

Note - This is not intended to be an exhaustive list of all of the legal requirements faced by private landlords. It does however; cover the main areas of legal responsibility in respect of tenancy and property management/condition.