

Landlord Guide

Your Obligations as a Landlord

The rented housing market is becoming more and more regulated making it difficult for bad landlords to operate. Whilst many feel this places unfair obligations on already good landlords it is necessary to provide clear and unequivocal guidance and legal frameworks. Clan Gordon can provide a full management service to help you stay within the law. The main considerations are detailed below.

If this all sounds daunting – don't worry; just speak to your account manager who can advise on all these obligations.

Although your agent can advise you on these obligations please always remember that they are LANDLORD OBLIGATIONS.

Houses in Multiple Occupation or HMOs

It should be noted that any flat which you let to more than two unrelated people such as students sharing, is classed as a House in Multiple Occupation or HMO. HMO legislation differs by council but means you need to have a licence to let them out. There may even be restrictions on how many HMO the council allows in a particular location. If you are considering a let which may be a HMO then you should call us direct for advice to discuss the options and details as these are very specific depending on the type of property.

Short Assured Tenancy – Housing (Scotland) Act 1988

A short assured tenancy (SAT) is a special type of assured tenancy. It gives special rights to the landlord to repossess a house their property and special rights to the tenant to apply to a rent assessment committee for a rent determination. A SAT must be for at least 6 months. A landlord must give to each tenant, before any tenancy agreement is signed, notice AT5 stating that the tenancy on offer is a SAT. It is strongly advised to ensure that the right legal documents are served and signed at the outset of the tenancy. Clan Gordon works with Edinburgh Council's Letwise service to ensure the landlord and the tenant are advised of their rights and responsibilities. Documents include an approved form of SAT, an AT5 notice, Prior Notice of Grounds 1-5 of the Housing (Scotland) Act 188 where appropriate, the Standard Letter for Tenants regarding the Repairing Standard under the Housing (Scotland) Act 2006 and an agreement for retention of keys by the landlord/agent.

Landlord Registration - Antisocial Behaviour etc. (Scotland) Act 2004

It is now an offence for private landlords in Scotland to let property without having applied to be registered with the relevant local authority. Landlords could face a fine or have their rent withheld if they avoid registering.

Landlords must register with each local authority where they let property at a cost of £55 and then register each property let at an additional cost of £11.

Repairing Standard – Housing (Scotland) Act 2006

Landlords are now legally obliged to offer property for let which meets certain standards as determined by this act or face referral to the Private Rented Housing Panel, which can, amongst other sanctions, order withholding of rent. It is a legal obligation of the landlord to advise the tenant of their rights under this legislation.

A house meets the Repairing Standard if the following conditions are met:

- 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 requirement 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 reasonable 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
- There is satisfactory provision of smoke alarms

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

As a landlord, you have a duty to ensure:

- Gas fittings (appliances, pipe work) and flues are maintained in a safe condition

- All installation, maintenance and safety checks are carried out by a CORGI Registered Installer
- An annual safety check is carried out on each gas appliance/flue by a CORGI Registered Installer
- Checks need to have taken place within one year of the start of the tenancy/lease date, unless the appliances have been installed for less than 12 months, in which case they should be checked within 12 months of their installation date
- A record of each safety check is kept for two years
- A copy of the current safety check record, which can be either a CORGI Landlord's Gas Safety Record or something similar, is issued to each existing tenant within 28 days of the check being completed, or to any new tenant before they move in (in certain cases, such as holiday property, the record can be displayed)

Electrical Safety

Landlords should ensure that the electrical equipment and installations in your home are safe. Any electrical equipment provided must be safe and in proper working order.

It is not a legal requirement but in order to ensure your property is safe it is recommended that landlords should have a Periodic Inspection Report (PIR) carried out every 3 years in their property.

It is also recommended to have Portable Appliance Testing (PAT) carried out annually on all electrical appliances you supply.

It is also recommended that you have a modern fuse box which has switches rather than wire fuses.

Furniture and Furnishings

In general you should let property with the main white goods such as fridge/freezer, washing machine/dryer and dishwasher if applicable. You must supply cooking and cleaning facilities.

There is no right answer to the question of whether you should furnish your property for let. It depends on who is looking at the time. Many young couples starting out will rent and need everything but others will build a collection of furniture and sundry items as they go so may end up needing unfurnished. Many people rent temporarily when they are re-locating or waiting for the right house to buy and may have all their own furniture.

If you have furniture you can't store or move elsewhere then rent furnished but if you have flexibility then offer either. As landlords ourselves we offer our property as either but only supply the main items such as beds, wardrobes, drawers, sofas, coffee table and some other large items depending on property size and type. It is a legal obligation that any and furniture and furnishings supplied meet with the requirements of the Furniture & Furnishings (Fire) (Safety) Regulations 1988.

Smoke Alarms and Carbon Monoxide (CO) Monitors

Although covered by the Repairing Standard above this is worth a specific mention as it marks a significant change to the law. Up to September it was only recommended to have a battery smoke alarm in flats.

Existing smoke alarms may be mains powered or battery powered. However, a smoke alarm installed from 03 September 2007 onwards must be mains powered. This includes replacement alarms. An alarm should be installed in accordance with the recommendations contained in the British Standard on the design of fire detection installations for dwellings.

Mortgage

Unless you have a specific mortgage classed as Buy-to-Let, it is likely that your lender obliges you to tell them if you are going to rent out your property. If it is remaining as your only property in the UK then they will be likely to allow you to rent it out subject to certain conditions and sometimes by payment of a fee or with application of a higher interest rate on the loan.

If you are going to specifically buy a property to let then you will probably need to a Buy-to-Let mortgage.

We can refer you to a recommended mortgage broker who are regulated by the Financial Services Authority (FSA) and can search the market for the best deal.

Insurance

You will also be required by your lender to have insurance on your building and you may consider having cover for contents as well which is often necessary to cover fixtures and fittings such as the kitchen and appliances. If you are renting out your own home then your existing insurance provider may be able to alter the cover to allow you to rent the property out. If they won't do this or you are specifically buying property to let out then you should ensure you choose a suitable insurance provider.

We can refer you to a recommended mortgage broker who are regulated by the Financial Services Authority (FSA) and can search the market for the best deal.

Other

The legislation surrounding the operation of tenancies is complex. When you create a tenancy you are giving up the legal occupation of the property to someone else – the tenant becomes the legal occupier of the property and has extensive rights to use the property as their home. We have only summarised the main issues you need to consider before renting your property here and if you are in any doubt about residential letting legislation then you should contact your solicitor.

 0131 334 3060

 enquiries@clangordon.co.uk

 www.clangordon.co.uk

 07766 467711

 07884 671515

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