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RESIDENTIAL & BUSINESS
PROPERTY SPECIALISTS



Private Landlord Guide

For more information or enquiries please contact our team on:

01343 553955 or email us at info@cclproperty.com

Contents

- 3 What is a private landlord?
Are you a resident landlord?
Registering as a landlord
How do I register?
How much does registration cost?
How long does registration last?
Failure to register
- 4 Your rights and responsibilities
- 5 The repairing standard
Private Rented Housing Panel (PRHP)
- 6 Gas and electrical safety
Energy Performance Certificate (EPC)
Furnished accommodation
- 7 Deposits
Rent levels
Rent allowance and local housing allowance (LHA)
Council Tax

Licensing houses of multiple occupation (HMO)
- 8 Ending the tenancy
Giving Notice
Giving notice if your tenant is at risk of homelessness
- 9 More information
Useful Contacts (Moray)
Useful websites
Scottish Government leaflets

What is a private landlord?

A private landlord is someone (or a company) who rents out residential properties. This leaflet explains your rights and responsibilities as a landlord, but is only a general guide to the law relating to assured tenancies. If you are not sure about your position, you should get advice (see page 13 for contact details). Different laws apply to regulated tenancies and short assured tenancies.

Are you a resident landlord?

You are a resident landlord if you and your tenant both live in the same property and it is your only or main home. There must also be direct access (such as a doorway) between your part of the house and the tenant's.

As a resident landlord, you do not have to register with the landlord registration scheme. If you are a resident landlord and need information or advice, contact the Citizens Advice (see page 13).

Registering as a landlord

By law, private landlords must register with the local authority where the rental property is located.

The local authorities are guided by law to only register landlords who they think are 'fit and proper' to let residential property. They may share relevant information with other local authorities or Council departments such as Housing Benefit or Environmental Health.

Before they enter into a lease agreement with you, your tenants should be satisfied that the property has been registered. They can check online at www.landlordregistrationscotland.gov.uk.

It is better to appoint a professionally qualified letting agent to manage your property, such as us at CCL. We will market your property and identify a tenant. If you need more information, contact a solicitor or Moray Solicitors Property Centre (see page 13).

How do I register?

To apply visit www.landlordregistrationscotland.gov.uk. If you need help registering or if you do not have access to the internet contact the Moray Council on 01343 563327.

How much does registration cost?

It costs £55 to register and an additional £11 for each property you want to rent out. There is a 10% discount for online applications.

How long does registration last?

If the local authority approves your application your registration will last for three years.

Failure to register

If you do not register there are actions that the local council can take against you such as:

- applying a late application fee
- issuing a rent penalty notice which means the tenant will not have to pay rent
- legal action which could lead to a fine of up to £50,000.

Your rights and responsibilities

Part II of the Housing (Scotland) Act 1988 introduced a new type of tenancy, the assured tenancy, which became the usual form of tenancy a private landlord offers. You must give your tenant a legally-binding tenancy agreement setting out the terms of the assured or short assured tenancy, which should include the following:

- Your name and the address of the property you are letting;
- The length of the tenancy;
- The rent, when and how it is to be paid and how you will work out any rent increase;
- Who is responsible for the decoration inside the property and who is responsible for maintenance and repairs inside and outside the property; and
- Any condition or restriction on how the tenant uses the property.

You must make sure that any clauses you add to your tenancy agreement are legal.

Even if you do not give your tenant a formal tenancy agreement, they will still have certain legal rights.

We strongly recommend you seek legal advice before you agree to rent out your property.

The Repairing Standard

As part of the Housing (Scotland) Act 2006, a new repairing standard came into force on 3 September 2007. The Repairing Standard will apply to almost all tenancies with private landlords. **It applies to existing tenancies as well as new ones.** The standard adds to the previous responsibilities private landlords had to repair and maintain a property.

Under the standard, you will have to make sure that:

- the property is watertight and protected from the wind, and reasonably fit for people to live in;
 - the structure and outside of the property (including drains, gutters and outside pipes) are in reasonable repair and proper working order;
 - the systems in the property for supplying water, gas and electricity, for heating and for getting rid of waste water are in reasonable repair and proper working order (including systems outside the house but serving it, and which the owner is responsible for maintaining, either individually or jointly);
 - 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 they were designed for; and
- here are legal requirements of smoke alarms and heat detectors inside the property, which must all be hardwired and interlinked.

You must inspect the property before the tenancy starts to identify any work needed to meet the Repairing Standard.

You must notify your tenant of any work and carry out the work in a reasonable time.

You must give your tenant information on the Repairing Standard and the Private Rented Housing Panel.

You can find a standard letter template on their website at www.prhpscotland.gov.uk.

You must make sure that your property meets the Repairing Standard throughout the tenancy.

If you need information and advice on repairs or maintenance contact your local councils Home Improvement Services Section.

Private Rented Housing Panel (PRHP)

The PRHP can help Scottish landlords and tenants to sort out their differences. It is a quick and easy way to make sure that you meet your responsibilities, and should lead to more privately rented houses being provided in better condition. Your tenant can apply to the panel if they have tried to settle the matter with you and they feel that you have failed to meet your duties.

You can find out more information on the PRHP at www.prhpscotland.gov.uk.

Gas and electrical safety

You must carry out a gas and electrical installation check before a tenant moves into your property, carbon monoxide detector should be installed if required. You should give your tenant a copy of the gas safety certificate issued by the Gas Saferegistered engineer. This certificate needs to be renewed annually and the electrical installation check is recommended, at minimum every 5 years.

Appliances that burn any fossil fuel such as gas, coal or oil can produce carbon monoxide if they have not been fitted properly or serviced regularly. As the landlord, you have a legal duty to make sure that your rental property is safe.

Energy Performance Certificate (EPC)

By law, all housing providers have to get an Energy Performance Certificate (EPC) for every property that is built, sold or rented out. This is a document which explains how energy efficient a property is. EPCs allow potential tenants to compare the property's energy performance with other homes. EPCs are valid for 10 years.

You should make sure that the EPC is kept in the property (for example in a meter cupboard or beside a boiler).

Information from the EPC has to be recorded and sent to the Home Energy Efficiency Database (HEED).

Furnished accommodation

If your property is furnished you must make sure that any furniture and furnishings supplied are safe.

For example, you must:

- comply with fire resistance requirements (Fire and Furnishings (Fire Safety) (Amendment) regulations 1988).
- make sure furniture with glass (for example, a mirror or table) meets quality standards BS 7376;1990 or BS 7376;1990.
- make sure electrical goods meet general safety requirements. (Electrical Equipment (Safety) Regulations 1994).
- all free standing electrical appliances must have the relevant Portable Appliance Testing Certificate.

Deposits

You must get a deposit from your tenant as security against things like unpaid utility bills or rent arrears. It could also cover loss or damage to the property and its contents (but not fair wear and tear). A deposit is usually the same as one month's rent but it must not exceed two months rent.

To avoid a dispute with your tenant, you should give them a copy of an inventory. An inventory records the contents and their condition before the tenant moved in.

Under the Tenancy Deposit Schemes (Scotland) Regulations 2011, private landlords have to pay tenant's deposits into a scheme. The scheme will protect tenants from landlords who unfairly withhold deposits and make sure that disputes are handled fairly.

Rent levels

There is no restriction on the rent you can negotiate with your tenant at the beginning of the tenancy. However, it should be fair and reasonable. As the landlord, you should consider the market and what the rent should cover. You may also have to take account of restrictions on rent levels in relation to Rent Allowance, and Local Housing Allowance for new tenancies.

Rent Allowance and Local Housing Allowance (LHA)

A tenant on low income or benefits may be entitled to Rent Allowance or LHA to help cover the cost of the rent. You can find out the maximum amount of Rent Allowance or LHA a tenant is entitled to before the tenancy starts by contacting the Revenues Section. If the rent is too high, the local council may restrict the amount of Rent Allowance or LHA we will pay. For more information, contact the Revenues Section (see page 9).

Council Tax

If the property is not classed as a 'house of multiple occupation', your tenant will more than likely be legally responsible for paying Council Tax. In certain circumstances, you can include the Council Tax rate with your charge for rent.

Licensing houses of multiple occupation (HMO)

Houses of multiple occupation are basically shared accommodation including flats, bedsits, lodgings, bed and breakfast accommodation and other shared accommodation such as student residences and hostels. Accommodation within a building, which (although otherwise separate) shares toilets, personal washing facilities or cooking facilities, is taken to form part of a single house. For a property to be classed as an HMO that can be licensed:

- at least three people must live in the property as their only or main home;
- the people who live in the property must belong to three or more families; and
- they must share a kitchen, bathroom or toilet.

If you provide accommodation just for holidaymakers, you will not be covered by this law.

If you are considering renting shared housing with more than one other household, you must get a licence for an HMO. Contact Environmental Health if you need more information or an application form (see page 9).

Ending the tenancy

If you want to end the tenancy, you must first give the tenant a Notice to Quit. The Notice to Quit must be in writing, and will bring the contract between you and the tenant to an end on a particular date. It cannot come into force before this date (known as the 'expiry date'). The period of notice will depend on what basis you let your property. If you let the property by the week, fortnight or month, you should give at least four weeks' notice. If you let the tenancy by the quarter (for three-month periods), you must give at least 31 days' notice. If the tenancy is a yearly tenancy, you must give at least 40 days' notice. You should speak to a solicitor before you serve a Notice to Quit as the notice must contain certain information for it to be valid. Your tenant does not have to leave the property just because you have served a Notice to Quit.

You must also give the tenant a Notice of Proceedings and you must do this at the same time as a Notice to Quit. (A Notice of Proceedings is to let the tenant know that you have begun legal action to take possession of the property.) Again, you should speak to a solicitor before you serve a Notice of Proceedings. If the tenant does not leave the property, you must then apply to the Sheriff Court to get a court order to take possession of the property. This can be enforced if you need to evict the tenant.

Giving Notice

You can end the tenancy by giving the required notice stated in the lease agreement, alternatively by using any of the prior notification grounds that may apply where a notice to quit is not necessary.

Giving notice if your tenant is at risk of homelessness

(Section 11 notice)

Under the Homelessness etc. (Scotland) Act 2003, you must tell us if any of your tenants face becoming homeless because they are due to be evicted. This is known as a Section 11 notice. The purpose is to give councils early notice of households who are at risk due to eviction. We will use this early notice to tackle any debt or antisocial behaviour problems to help tenants stay in their homes.

More information

This leaflet is only a general guide for private landlords. If you need more detailed information and advice contact a solicitor or the Citizens Advice.

Useful Contacts (Moray)

Landlord Registration

Housing and Property

The Moray Council

PO Box 6760

Elgin

IV30 9BX

Phone: 01343 563327

Email: housing@moray.gov.uk

Citizens Advice 01343 550088

Environmental Health 01343 563347
(for HMO Licensing)

Home Improvement Services Section 0300 1234566

Moray Solicitors Property Centre 01343 548755

Revenues Section 01343 563456

Useful websites

Better Renting Scotland www.betterrentingscotland.gov.uk

CAB Advice Guide www.adviceguide.org.uk/scotland

Gas Safe Register www.gassaferegister.co.uk

Landlord Registration Scotland
www.landlordregistrationscotland.gov.uk

Private Housing Rented Panel (PRHP) www.prhpscotland.gov.uk

Shelter Scotland scotland.shelter.org.uk

The Moray Council
www.moray.gov.uk (follow links for housing and private rented sector)

Scottish Government leaflets

- Assured Tenancies in Scotland - Your Rights and Responsibilities
 - Regulated Tenancies in Scotland - Your Rents, Right and Responsibilities
- New Rights for Private Sector Tenants