**Dundee Landlord e-Newsletter**

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Date confirmed - 16 September 2019

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**PRESCRIBED INFORMATION**

The Scottish Government are currently developing their approach to Prescribed Information. It will be implemented on 16 September 2019 and will involve all private landlords self-declaring and evidencing (when requested) that their certification ie. Gas Safety, EICR’s, EPC’s etc are current and valid, and that they comply with all other legal requirements relating to the letting of houses.

**There are no new duties for landlords and so this change should have a minimal impact on those who already meet the existing standards.**

Local Authorities will be required to carry out random sampling of registered landlords property portfolios to ensure compliance, therefore it is vital to ensure your documentation is up to date and at hand.

These regulations will require landlords to answer a maximum of 12 new questions as part of the ‘new’ application and ‘renewal’ process. The questions relate to the following obligations:

* the Tolerable and Repairing Standards
* Gas safety
* Electrical safety
* Electrical appliance test
* Fire, smoke and heat detection
* Carbon monoxide detection
* Private water supply (where applicable)
* Energy performance
* Legionella risk assessment
* Rental property insurance and Common repairs
* Tenancy deposits

**LETTING AGENT CODE OF PRACTICE**

Since October 2018 all Letting Agents operating in Scotland **must** be registered with the Letting Agent Register and provide all new and current clients with their Letting Agent Registration Number **(LARN)**. To be approved on the register all agents must adhere to the Code of Practice and complete the specified training.

Landlords should be aware of what Letting Agent’s duties are when seeking their services. Some of these duties are outlined in Section 3 entitled ‘Engaging Landlords’ and include:

**Before taking instructions**

**-** In your dealings with potential landlord clients you must:

**Services provided and fee charges**

a) provide clear and up-to-date written information about the services you

provide and the charges (inclusive of taxes) for them;

**Advice**

b) offer accurate and unbiased advice on the rental valuation and appraisal of

the property. You must not knowingly misrepresent the potential rental valuation;

c) inform the landlord that they need to get consent or delegated authority

from all owners, mortgage lenders or other relevant parties before letting

the property and the need to ensure relevant insurance cover is in place;

d) if you become aware in the course of your business that a property does

not meet appropriate letting standards (e.g. repairing standard, houses in

multiple occupation and health and safety requirements), inform the

landlord of this;

e) if a landlord is not already registered, inform them of the landlord

registration requirements under the Antisocial Behaviour etc. (Scotland) Act

2004(**1**) and, where necessary, the requirements under the Housing

(Scotland) Act 2006(**2**) relating to houses in multiple occupation;

**Conflict of interest**

f) if you intend to act for clients who have competing interests or your

personal interests conflict, or could potentially conflict, inform the clients as

soon as you become aware of it;

**Identity checks**

g) take reasonable steps to check the identity of each landlord to ensure that

they are who they say they are and that they are the legal owners of the

property or have permission from the owner or power of attorney – for

instance, asking for an official form of identification; proof of address; proof

of ownership and, where applicable, landlord registration number or

company registration number.

**For the full Code of Practice see link:** [**https://www.gov.scot/publications/letting-agent-code-practice/**](https://www.gov.scot/publications/letting-agent-code-practice/)

**HOLIDAY LETS / AIRBNB – BE AWARE**

With holiday lets and AirBnB on the rise throughout the country it is important to protect yourself in case you unintentionally create a Private Residential Tenancy Agreement (PRT).

It has come to light that many landlords and agents believe that using holiday lets as opposed to the PRT avoids many of the tenants’ rights for tenure but, in fact, this is untrue. Tenants’ rights become legally binding if the property they occupy is their principal home, regardless of the contract which was signed at the start of the tenancy.

Landlords and agents who see holiday lets as an easier way of letting properties may believe that the recent legislative changes in Scotland on the rights of the tenant don’t apply. However, if it can be shown that the property is being used as a home, rather than for short term holiday purposes, the tenants’ rights still apply. Even if no contract is signed, the tenancy automatically defaults to a Private Residential Tenancy Agreement if both parties have knowingly entered into a long term, residential arrangement.

There is a bit of a grey area around the definition of what is a ‘holiday let’ and whether at the time of letting either the landlord and/or the tenant believes this will be the tenants’ home or simply a temporary place to live for a limited period. If a tenant lives in a property which is advertised as a holiday let, but it is viewed as their permanent residence then they have the same rights as any long-term tenant. Many tenants and some organisations are unaware that this is the case, but the rights of the tenant remain firm regardless of the contract they have signed and agents and landlords who seek to avoid this legislation are mistaken.

**RESIDENT LANDLORDS**

A resident landlord is a landlord who rents a room(s) within their own home (main residence). Although resident landlords are exempt from registering as a private landlord they are legally required to comply with the **all** aspects of the Repairing Standard - <https://www.gov.scot/publications/repairing-standard/>

**TENANCY DEPOSIT UPDATE**

Since 2012, landlords in Scotland that take a deposit from their tenant have been required to lodge the deposit with one of three government-approved schemes within 30 working days of the tenancy commencing.

Landlords also have to give written information to their tenant, such as the deposit amount and date received, the date the deposit was paid into the tenancy deposit scheme and the address of the property.

Failure to do so can result in fines of up to three times the deposit value, which the **First-tier Tribunal for Scotland (Housing and Property Chamber)** presides on.

**SafeDeposits Scotland**, one of the three government-approved schemes, accessed publicly-available documents on the Housing and Property Chamber First-Tier Tribunal for Scotland website.

It studied decisions made by the Tribunal since it began hearing cases of non-compliance with deposit protection at the end of 2017 and found that around £186,657 had been paid out to tenants – the equivalent of more than £900 per case.

The largest award was made to tenants renting a property in Edinburgh, where one landlord was ordered to pay £3,937.50, whilst the lowest was £50 for a property in Hamilton.

It is believed that these landlords have not acted out of malice, but were either simply unaware of the legislation or forgot, however, that does not reassure tenants or save landlords from hefty fines.

Deposit protection legislation protects all parties involved in the private rented sector and costs landlords nothing to comply with. The three schemes offer free and impartial adjudication services to ensure that any deductions from deposits are fair and can be scrutinised.

If you are unsure of any aspects of the Tenancy Deposit Scheme or have any questions you can call the Private Landlord Support Officer for clarification on 01382 433236 or email [plso@dundeecity.gov.uk](mailto:plso@dundeecity.gov.uk)

**PRIVATE LANDLORD SUPPORT OFFICER**

Our Private Landlord Support Officer Terri, will be hosting a series of small workshops to allow landlords to come together and better their knowledge and understanding of particular areas they are not confident about from landlord registration, preparing property for let, certification, preparation of leases, inventories, serving correct notices, lodging deposits etc. If this is something you would be interested in, please drop an email to: [plso@dundeecity.gov.uk](mailto:plso@dundeecity.gov.uk)

Terri will be available to speak with you at our upcoming seminar on Monday 23 September 2019. In the meantime, you can contact her with any questions or suggestions on: Tel: 01382 433236 or email: [plso@dundeecity.gov.uk](mailto:plso@dundeecity.gov.uk)

**FREE LANDLORD RESOURCES**

Trying to remember, and keep on top of all your duties as a landlord can be daunting. To assist our department have produced a ‘Private Landlord Checklist’, ‘HMO Factsheet’, ‘Checking Out Checklist’ and also a new ‘What to look for in a Letting Agent Factsheet’.

These are free resources available to all landlords and letting agents.

To request your copy either email [plso@dundeecity.gov.uk](mailto:plso@dundeecity.gov.uk) or telephone 01382 433236.

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**\*\*LANDLORDS REMEMBER\*\***

* **Electrical Installation Condition Report (EICR).** Landlords are required to have an EICR of their property carried out. This EICR must include a Portable Appliance Test (PAT) for all electrical appliances supplied by the landlord. Electricians must be NICEIC or SELECT approved.
* **Energy Performance Certificates (EPC)**

From 9th January 2013 an energy performance indicator must be included in all advertisements and a copy of the EPC given to the tenant.Check the Scottish EPC register for an approved assessor:

<https://www.scottishepcregister.org.uk/assessorsearch>

* **Gas Safety.** The landlord must have the gas supply and any gas appliances provided, checked and certified annually by a Gas Safe engineer. A copy of the certificate must be given to the tenant.
* **Carbon Monoxide (CO) Detection.** From 1 December 2015 landlords must ensure there is adequate CO detection in all privately let property, with a gas appliance.
* **Houses of Multiple Occupation (HMO's).** Properties shared by 3 or more individuals (from more than 2 families) must have a current HMO Licence. Telephone 0800 0853 638 for more information.
* **Landlord Registration.** From 1 June 2013, The Private Rented Housing (Scotland) Act 2011 states all adverts for properties to let must include the **landlord’s** registration number, or in the case of landlords whose application is yet to be determined, the phrase **‘landlord registration pending’**. (**NB** - ***It is not acceptable to quote the agent’s registration number***). On 31 August 2011, it became an offence for landlords not to notify the local authority if they appoint an agent. This can incur a maximum fine of £1,000 – ensure your registration application is updated.
* **Letting Agent Register** – All letting agents must be registered with the new national register from 01 October 2018. It is now a criminal offence to carry out letting agency work without having applied to the register. All letting agents should have met the training requirements and completed their registration application. <https://www.mygov.scot/letting-agent-registration/>
* **Legionella/Legionnaires Disease.** Landlords and letting agents are obliged by law to carry out risk assessments for Legionnaire’s Disease, and implement any necessary measures. More information available at:

[www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm](http://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm)

* **Prescribed Information.** From16 September 2019 all private landlords will be required to self-declare and evidence (when requested) that their certification ie. Gas Safety, EICR’s, EPC’s etc are current and valid.
* **Private Residential Tenancy (PRT’s).** Since 01 December 2017 landlords can no longer issue an assured or short assured tenancy. All new tenancies created must be the new Private Residential Tenancy : <https://rentingscotland.org/private-residential-tenancies/>
* **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.

<https://www.gov.scot/publications/repairing-standard/>

* **Smoke Alarms.** All rented properties must have one smoke alarm in the principal room, one in every hallway and landing, and a heat alarm in the kitchen. All alarms must be interlinked and either mains wired with battery back-up or tamper proof long-life lithium battery, via wires (hardwired) or wirelessly (by radio communication), the expiry date must be visible. Revised guidance was issued in February 2019 and is available from the Scottish Government website: <https://www.gov.scot/publications/fire-safety-guidance-private-rented-properties/>
* **Tenancy Deposit Schemes.** Landlords must pay their tenant’s deposits into an approved tenancy deposit scheme within 30 days of the tenancy beginning and provide the tenant with key information about the tenancy and deposit.

<https://www.mygov.scot/tenancy-deposits-landlords/>

**FEEDBACK**

If you have any thoughts or comments on this newsletter, or suggestions for future topics to be included please email them to [landlord.registration@dundeecity.gov.uk](mailto:landlord.registration@dundeecity.gov.uk)

**You can view previous issues of our eNewsletter at** [**www.dundeecity.gov.uk/housing/privatesector/**](http://www.dundeecity.gov.uk/housing/privatesector/)

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If you opt out of receiving these e-mails you will not receive notification of legislation changes. This does not remove your obligation to ensure your let properties meets all current and future legislation.

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