



From mountain to sea

# Private Landlord Information

Aberdeenshire Council has produced this leaflet to provide information to landlords in the Private Rented Sector. It is designed to give you key information about renting out your property.

April 2021



## Landlord Registration

All private landlords in Scotland are legally required to register with the local authority where they are or will be renting out a property. You will be required to pay a registration fee of £67 plus an additional fee of £15 per property.

All joint owners must register. You should decide who will be the lead applicant. The lead applicant is the person who will pay the fee. Other joint owners are exempt from paying a fee. If however one of the joint owners own and rent out another property which is not jointly owned, they should register and pay the relevant fees. If you do not renew your application before it expires a Late Application Fee of £133 will be payable. This fee also applies to joint owners.

It is a criminal offence to let out a property without having submitted a valid application for registration.

Aberdeenshire Council will need to consider if you are a 'fit and proper' person before approving your application. Aberdeenshire Council will consider any information that may be a concern as to whether or not you are suitable to become a landlord.

If approved, which the majority of applications are, your registration will be valid for three years from the date of approval. You will have to apply to renew your registration at the end of the three years. Two reminders will be sent from the Landlord Registration Team before it expires. If you do not renew your application before it expires a Late Application Fee of £133 will be payable.

**You MUST keep your Landlord Registration up to date with any changes, including agents and properties.**

For more information on registering as a landlord visit [www.landlordregistrationscotland.gov.uk](http://www.landlordregistrationscotland.gov.uk) or contact the Aberdeenshire Council Private Housing Team 01467 534853.

## Procedures at the Start of a Tenancy

From the 1 December 2017 all new tenancies issued should be Private Residential Tenancies. Further information can be found here:

<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 can be found here:

[https://www.mygov.scot/tenancy-agreement-scotland/?\\_ga=2.152823161.1303190149.1514374255-1863615414.1452264873](https://www.mygov.scot/tenancy-agreement-scotland/?_ga=2.152823161.1303190149.1514374255-1863615414.1452264873)

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 for 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.

<https://www.gov.scot/publications/easy-read-notes-scottish-government-model-private-residential-tenancy-agreement/>



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 First-tier Tribunal for Scotland (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.

## Letting Agents

If you use an agent to manage your property this should be recorded on the landlord registration database using their Letting Agent Registration Number (LARN). From 31 January 2018 all letting agents must comply with the Letting Agent Code of Practice. This sets out the service you and your tenants can expect from a letting agent. If you believe your letting agent has breached the code of practice, in the first instance you should complain to them in writing, following their complaints procedure. If you are unhappy with their response you can apply to The First-tier Tribunal for Scotland (Housing and Property Chamber):

[https://scotland.shelter.org.uk/get\\_advice/advice\\_topics/complaints\\_and\\_court\\_action/making\\_complaints/complaining\\_about\\_a\\_letting\\_agency](https://scotland.shelter.org.uk/get_advice/advice_topics/complaints_and_court_action/making_complaints/complaining_about_a_letting_agency)

## Tenancy Deposit Scheme

When you take a deposit from your tenant you must also comply with the requirements of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

If a deposit is taken it must be no more than the equivalent of 2 months' rent.

You have a duty to lodge the deposit with one of the three approved schemes: My Deposit Scotland, Safe Deposits Scotland or Letting Protection Scotland. You must do this within 30 working days of the beginning of the tenancy. You must provide your tenant with key prescribed information on which scheme you have lodged their deposit with.

You must also ensure the deposit continues to be held by one of the three approved schemes until it is repaid following the end of the tenancy.

If a deposit is not submitted to a scheme and/or the prescribed information is not provided to your tenant, they can apply to The First-tier Tribunal for Scotland (Housing and Property Chamber) for sanctions against you for non-compliance with the Regulations. If the The First-tier Tribunal is satisfied that you, as a landlord, have failed to comply, they must order you to pay you up to three times the amount of the deposit.

If your tenant moves out of your property before you have complied with the Regulations, they will have up to three months after the tenancy has ended to make an application to the The First-tier Tribunal.



## Illegal Premiums

The law covering the fees landlords and letting agents may charge private tenants has been clarified.

It is illegal to charge tenants any fees other than rent and a refundable deposit. No other charges such as reference checks, credit checks and inventory fees are allowed. Tenants may challenge landlords who have asked for any extra fees. If your tenants have already paid a premium, they may write to you or your letting agency to ask for their money back. If you don't return the money then your tenant can take you to the Housing and Property Chamber to claim back the fees.

## Energy Performance Certificate

You are required to provide your tenants with a copy of an Energy Performance Certificate (EPC). An EPC is a document which states the energy efficiency of a building based on the standardised way the building is used and provides the building owner with a number of ways in which the efficiency could be improved. The energy performance rating has to be included in any advertising. Failure to do so may incur a fine of up to £1000. You can find an EPC assessor at:

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

As EPCs are valid for 10 years you can check if there already is one for your property at:

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

## Energy Efficiency

The Scottish Government has confirmed that minimum energy efficiency standards within the Private Rented Sector will be introduced, starting from April 2020.

Private rented properties will need to achieve at least EPC band E at change in tenancy from 1 April 2020, and in all properties by 31 March 2022.

In addition, properties will need to achieve at least EPC band D at change in tenancy from 1 April 2022, and in all properties by 31 March 2025.

Further information on penalties and exceptions are still to be announced.

For more information on support for energy exceptions in the Private Rented Sector please visit

<http://www.energysavingtrust.org.uk/scotland/businesses-organisations/landlords>

The Energy Saving Trust has also developed an animated video setting out the new requirements: <https://www.youtube.com/watch?v=msjAaU4Vu0M>

Energy Efficiency standards are part of the Scottish Government's 'Energy Efficiency Scotland programme

– you can find more information on this at:

<https://www.gov.scot/Publications/2018/05/1462>

These new regulations were due to be introduced in April 2020. However, due to (COVID-19) the Scottish Government have postponed implementation.



## Gas Safety

If you have gas in your property you are required to have a valid gas safety certificate and your tenants should be provided with a copy before moving into the property. Gas safety checks should only be carried out by a Gas Safe Registered installer (this replaced CORGI in 2009). Landlords have a legal duty to have all gas appliances in their properties inspected on an annual basis. Your tenant must allow a Gas Safe Registered gas installer access to your accommodation to carry out safety checks and, if necessary, repair work. You should give your tenant adequate notice of the gas safety inspection.

## Electrical Safety

From 1 December 2016 landlords are required to have an electrical safety inspection carried out for all properties. Where there is an existing, ongoing tenancy the requirement was from 1 December 2016.

After the inspection you will be issued with an Electrical Installation Condition Report (EICR Portable Appliance Testing (PAT) of any electrical items provided by you is also required. A copy of the EICR should be given to your tenant. The legal requirement is that inspections are carried out every five years and more often if recommended by an electrician. It is good practice to carry out PAT testing annually. If you have a new tenant within the five year period you should give them a copy of the last EICR.

Where landlords already hold an Electrical Installation Certificate from 2012 onwards, or where one is issued for a new property or after a complete rewiring, it is not necessary to obtain an EICR until 5 years from the issue date although it will be necessary to have PAT testing carried out on any appliances you have provided.

Electrical Safety checks must be carried out by a competent electrician, usually a member of Select,

NICEIC or NAPIT. PAT testing can be carried out by a competent electrician or someone who has completed training in PAT testing. It is possible for landlords to undertake training and complete their own PAT testing.

<https://www.housingandpropertychamber.scot/repairs/repairs-application-and-guidance>

(Follow link under Statutory Guidance for Electrical Installations).

## Fire Detection

You have a duty to provide smoke alarms in your properties and to maintain them.

Guidance has changed and the following is a minimum standard:

- 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
- From 1 March 2019 alarms can either be mains operated or be tamper proof with long-life lithium batteries. All alarms must also be interlinked either via wires (hard wired) or wirelessly (by radio communication)

<https://www.gov.scot/publications/fire-safety-guidance-private-rented-properties/>

The number and position of the alarms will depend on the size and layout of the house. There should be at least one alarm on each floor. You should either, install smoke and fire detectors that meet the standard set by building regulations or be able to justify why a lesser level of protection is appropriate in a particular house.



## Carbon Monoxide Detection

From 1 December 2015 it is a requirement for private rented properties to have satisfactory provision for giving warning if Carbon Monoxide gas is present in a concentration that is hazardous to health.

Carbon Monoxide detectors should be installed in all dwellings where there is

- A fixed combustion appliance (excluding an appliance used solely for cooking) in the dwelling This includes boilers, fires (including open fires), heaters and stoves fueled by solid fuel, oil or gas
- A fixed combustion appliance in an inter-connected space, for example, an integral garage.

A Carbon Monoxide detection system is not required in an attached out building or garage where there is no inter-connection with the house e.g. a door. If there is no way Carbon Monoxide could reasonably be expected to find a path into the house there is no need for a detector.

<https://www.housingandpropertychamber.scot/repairs/repairs-application-and-guidance>

## Legionella

Landlords have a duty to carry out risk assessments on their water systems in all their properties to source potential risks of legionella. The Health and Safety Executive states that most landlords can assess the risk themselves, but if you wish there are companies that can carry out this assessment for you, and online options which take you through the process for a small charge.

<https://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm>

## Water Supply

Your private rented property should have an adequate piped supply of wholesome water available within the house for it to meet the Tolerable Standard. If your property has a private water supply you should inform your tenant of this. It is now a requirement for landlords to have a private water supply tested annually. This is carried out by Aberdeenshire Council's Environmental Health department. You can contact them on 03456 08 12 07.

## Repairs

You have a legal responsibility to make sure the property you rent out meets a minimum standard of repair for private rented properties - known as the Repairing Standard.

A house meets the Repairing Standard if:

- It is wind and watertight and 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
- The 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 you under the tenancy are in a reasonable state of repair and in proper working order  
Any furnishings provided by you under the tenancy can be used safely for the purpose they are designed for
- The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire
- The property must have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.



You must tell your tenants about the Repairing Standard before the tenancy starts. If you fail to carry out repairs, your tenant can request that The First-tier Tribunal for Scotland (Housing and Property Chamber) consider their case.

Your tenant should provide access to allow repairs to be carried out. Unless it's an emergency, you should give your tenant at least 24 hours' notice.

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

## Housing and Property Chamber - Repairs

If your property does not meet the Repairing Standard, your tenant will be able to apply to The First-tier Tribunal for Scotland (Housing and Property Chamber) for a decision on whether you as a landlord have breached the Repairing Standard. The First-tier Tribunal for Scotland (Housing and Property Chamber) is the new name for the Private Rented Housing Panel (PRHP) from 1 December 2016.

Your tenant has to notify you that the work needs to be done and give you a reasonable time to complete the work, before making an application. Any repair requests from your tenant must be made in writing as this may later be used as evidence if they proceed to making an application. Should you fail to carry out the repairs in a reasonable timescale your tenant can then make an application to The First-tier Tribunal who will begin investigations into their complaint.

From 1 April 2016 it is possible for Aberdeenshire Council to make reports directly to The First-tier Tribunal if it appears you are failing to meet the Repairing Standard.

If The First-tier Tribunal finds that you have failed to meet the Repairing Standard they will issue a Repairing Standard Enforcement Order (RSEO) requiring you to carry out the work. It is a criminal

offence not to comply with a RSEO without a reasonable excuse, and to re-let a property subject to a RSEO. If you still fail to comply with the RSEO The First-tier Tribunal will formally notify Aberdeenshire Council and may issue a Rent Relief Order, which can reduce the rent your tenant has to pay by up to 90%, and inform the Procurator Fiscal.

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

## Housing and Property Chamber - Right of Entry

As a landlord you have a right of entry to your property for the purpose of:

- a) Viewing its state and condition for the purpose of determining whether the house meets the Repairing Standard and/or
- b) Carrying out any work necessary to comply with the repairing standard duty or a Repairing Standard duty or a Repairing Standard Enforcement Order.

You should first have notified your tenant in writing of the need for access and why it is required. If you are having difficulty accessing the property you can apply to The First-tier Tribunal for Scotland (Housing and Property Chamber) for assistance. They can assist in arranging a suitable date for access and where required fix a date and time for access if a tenant and landlord cannot agree a date.

<https://www.housingandpropertychamber.scot/apply-tribunal/right-entry>



## Right to Adapt

Your tenant has a right to ask for the property to be adapted which you cannot unreasonably refuse. You cannot include a clause in the tenancy agreement to opt out of this duty. Contact Aberdeenshire Council Care and Repair on 01467 534753 for more information.

[www.aberdeenshire.gov.uk/housing/private-housing/aberdeenshire-care-and-repair/](http://www.aberdeenshire.gov.uk/housing/private-housing/aberdeenshire-care-and-repair/)

## Houses in Multiple Occupation (HMO)

If you rent out a property which will be occupied by three or more persons, who are not all related and they share the use of a kitchen or bathroom, you will need to apply for an HMO Licence. Accommodation occupied by 3 or more students, during term time, will be regarded as their main residence and an HMO Licence will be required. Other types of HMO can include certain types of bed & breakfast, guest houses and staff accommodation.

It is the responsibility of the landlord to ensure that a property is not being used as an unlicensed HMO. The new model Private Residential Tenancy will assist as there are now additional clauses which can be included in the Agreement:

- The Agreement should say whether the property is an HMO
- The tenant must notify the landlord who else is living in the property or starts to live there during the tenancy
- If the property is not an HMO at the start of the Agreement, the tenant has to ensure that by allowing other people (who are not part of his/ her family) to move in, the property does not become an unlicensed HMO

It is an offence to operate an unlicensed HMO. As a Landlord, if you are unsure whether or not a licence is required, please contact the HMO Officer on 01467 534409 for advice.

## Rent Increases

For private residential tenancies rent can be increased once a year. The correct notice form must be used, giving three months' notice:

<https://www.gov.scot/publications/private-residential-tenancy-prescribed-notice-forms/>

If your tenant feels the rent increase is too high they can apply to the rent officer to ask them to set the rent. If either you or your tenant are unhappy with the rent officer's decision, you can appeal to The First-tier Tribunal for Scotland (Housing and Property Chamber). The rent set by the rent officer and The First-tier Tribunal may be higher or lower than you set it at.

Details of the process for other tenancy types can be found here:

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



## Procedures for Ending a Tenancy – Short Assured and 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 given 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.

For further information see:

<https://www.mygov.scot/ending-a-tenancy-as-a-landlord/>

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 may require help with somewhere else to stay.

<https://www.aberdeenshire.gov.uk/housing/homelessness/homelessness-section-11-notice/>

## Procedures for Ending a Tenancy – Private Residential Tenancy

Your tenant can end their tenancy by giving you at least 28 days' 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://www.gov.scot/publications/private-residential-tenancies-landlords-guide/pages/ending-the-tenancy-notice-to-leave/>

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 First-tier Tribunal for Scotland (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 for Scotland (Housing and Property Chamber) for eviction of a tenant, you are required to inform Aberdeenshire Council under Section 11 of the Homelessness (Scotland) Act 2003, that your tenant may potentially become homeless.

<https://www.aberdeenshire.gov.uk/housing/homelessness/homelessness-section-11-notice/>



## Illegal Eviction

It is against the law to illegally evict or harass your tenants. It is a criminal offence which could result in you being fined and could incur a possible prison sentence in extreme cases.

[https://scotland.shelter.org.uk/get\\_advice/advice\\_topics/eviction/illegal\\_eviction\\_and\\_harassment](https://scotland.shelter.org.uk/get_advice/advice_topics/eviction/illegal_eviction_and_harassment)

## Rent Deposit Guarantee Scheme

Aberdeenshire Council currently have a deposit scheme which is designed to help prospective tenants who cannot afford a deposit.

If you would like further information on this you can contact the Housing Options Team.

Aberdeenshire Council - Housing Options:  
03456 08 12 03



# Contacts

Aberdeenshire Council Private Housing Team

Tel: 01467 534853 or

[landlordregistration@aberdeenshire.gov.uk](mailto:landlordregistration@aberdeenshire.gov.uk)

Aberdeenshire Council Housing Options Team:

Tel: 03456 08 12 03

Aberdeenshire Council HMO Officer

Tel : 01467 534409

[hmo@aberdeenshire.gov.uk](mailto:hmo@aberdeenshire.gov.uk)

Landlord Registration Scotland

[www.landlordregistrationscotland.gov.uk](http://www.landlordregistrationscotland.gov.uk)



