



Regency Lettings & Property Management

LANDLORDS' GUIDE

Residential Lettings Procedures & Legislation



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Section A: The First Stages

1. Presentation
2. Unfurnished or Furnished Lettings
3. EPC & Floorplan

Section B: Permissions

4. Mortgages and Insurance
5. Leasehold Properties

Section C: Safety Legislation and Regulations

6. Fire & Soft Furnishings
7. Gas Appliances & Safety
8. Electrical Fittings & Appliances
9. Plumbing
10. Legionella

Section D: Lease's and Inventories

11. Assured Shorthold Tenancies
12. Company Lets
13. Inventories
14. Tenants Right to Rent

Section E: Tenancy Deposits

15. Legislation
16. The DPS
17. Deposits

Section F: Rental Income Taxation

18. UK Resident Landlords
19. Non Resident Landlords



Section A: The First Stages

1. PRESENTATION

A well presented property will not only achieve a higher rent but will attract better quality tenants.

The property should have neutral décor and preferably be freshly decorated. Carpets and curtains should also be neutral and in good condition. Gardens should be seasonally tidy and well presented. Large gardens or executive type properties we recommend that you employ a gardener throughout the tenancy. Any known repairs or maintenance issues should be remedied prior to the commencement of a tenancy.

Prior to the commencement of the tenancy the property should be cleaned (preferably professionally), and carpets and curtains professionally cleaned. Windows should be cleaned inside and out, and gardens should be seasonally tidy and well presented.

We will give you recommendations on any other work or improvements that we feel are necessary.

2. UNFURNISHED OR FURNISHED LETTINGS

We find that most prospective tenants are looking for unfurnished accommodation; therefore we would strongly recommend that you let your property unfurnished.

An unfurnished property should have carpets, curtains and white goods to the kitchen (oven, hob / cooker, fridge, freezer etc).

If you cannot remove or store furniture and want to let furnished, the furniture must be in good clean condition and must comply with fire and furnishings regulations (See Section C) and be clearly labelled.

3. ENERGY PERFORMANCE CERTIFICATES

New legislation came into effect from 1 October 2008 that all new properties being let should hold Energy Performance Certificates (EPC's). The certificate will be valid for 10 years – it can be renewed at any time the Landlord carries out work to improve the efficiency of the property.

The legislation applies to all residential tenancies regardless of tenure type. The certificate must be provided to the tenant before the start of the tenancy.

3b. FLOORPLANS

We recommend that properties should have a floorplan to assist with marketing. It is not a requirement but we have found that properties without floorplans have fewer enquiries and in many instances take longer to let.

Many Energy Performance Surveyors will offer a floorplan with the EPC at a very small additional cost, as they have to draw a basic plan and measure each room in carrying out their service anyway.



Section B: Permissions

4. MORTGAGES AND INSURANCE

Property owners with non buy-to-let mortgages should contact their mortgage company prior to letting their property. Letting a property without the mortgage companies' permission could result in the mortgage company withdrawing their mortgage, they may even be entitled to repossess the property and evict your tenant. In our experience most lenders will allow a home owner to let their property for at least 12 months on their existing mortgage without insisting on a specialist buy-to-let mortgage.

Buy to Let mortgages are generally slightly higher interest rates but are tailored to your requirements and take into account the rental income on amount of loan offered. Therefore many clients find that they can afford more investments properties than a standard mortgage based on salary would allow.

Landlords are responsible for insuring their buildings and their possessions left with the property. The insurance should also include personal liability insurance. Property owners should also contact their insurers to ensure that the insurer will cover them fully for damages by tenants. There are a number of Landlord specific insurance policies available on the market, Regency Lettings & Property Management cannot recommend or advise upon insurance policies available, but we can provide you with the contact details of a broker if you require it.

5. LEASEHOLD PROPERTIES

We recommend that you contact your freeholder / superior landlord to advise that you are intending to let your property, in most cases permission will be required.

Some freeholders will charge a fee for this approval.



Section C: Safety Legislation & Regulations

6. FIRE AND SOFT FURNISHINGS

Consumer Protection Act 1987
The Fire and Furnishings (Fire)(Safety) Regulations 1998
The Fire and Furnishings (Fire)(Safety)(Amendment)Regulations 1993
The Housing (Fire Safety in Houses in MO) Order 1997

Furniture and Soft Furnishings (e.g. sofa's, chair seats, beds) supplied within a property must comply with current regulations and show labels as being fire retardant. Curtains and other window dressings do not fall under the legislation.

7. GAS APPLIANCES AND SAFETY

Gas Appliances Gas Safety (Installation & Use) Regulations 1998

Landlords must ensure that gas appliances are checked for safety every year by a Capita 'GAS SAFE' (formerly CORGI) registered engineer and certificate (CP12) of it is provided to the tenant and/or prospective tenants, and records are kept for 2 years.

Maintenance and installation of gas appliances must be carried out by a GAS SAFE (formerly CORGI) registered engineer. Fines and prison sentences have been given to Landlord's and Agent's in breach of the legislation.

8. ELECTRICAL FITTINGS AND APPLIANCES

Consumer Protection Act 1987
The Electrical Equipment (Safety) Regulations 1994
Plugs and Sockets (Safety) Regulations 1994
Building Regulations (Part P) 2005
Landlord and Tenant Act 1985, Section 11
Smoke and Carbon Monoxide Alarm (England) Regulations 2015

There is at present no statutory requirement to have the annual safety checks on electrical equipment (as there is with gas – GAS SAFE CP12 certification), but it is advisable for Landlords to have periodic checks carried out by a qualified electrician (recognised by NICEIC). Many tenants, especially corporate tenants request documentation on safety checks. Legislation is expected within the next few years. There are already situations under which a Landlord could be fined or imprisoned.

On 1st October 2015 new regulations came in stipulating that smoke alarms are required to be fitted to each floor of a property, and carbon monoxide alarms in any room with a solid fuel appliance.



Recommendations:

- Immediate inspection of electrical system (wiring and supply) by a qualified electrician in the event of the system being 15 years old or older.
- 5-yearly inspections by a qualified electrician to ensure safety and that the electrical system complies with current electrical regulations (IEE guidance).
- Periodic 'PAT Testing' – testing and recording of all electrical equipment (washing machines, cookers etc) supplied to ensure they are safe and that the correct fuses are fitted (IEE guidance recommends annually) (tenant companies request PAT testing certificates as standard).
- Annual visual inspection of mains consumer supply (fuse board), sockets/ switches and appliances by the Landlord or the Agent (Protecting the Landlord by providing a demonstration of due diligence).
- Smoke alarms should be fitted to each floor of the the property and maintained by the tenant annually.
- Carbon monoxide alarms are installed (portable or fixed) in any room with a solid fuel appliance.
- Building Regulations (Part P) 2005: this is amongst the most extensive legislation to appear in recent years.
- Part P Buildings Regulations – include any electrical work being carried out in a kitchen or bathroom or exterior of a property (together with installation of new circuits) must be carried out by a Part P certified qualified electrician. A certificate (BS7671) must be provided and available to the tenant. It is illegal to use non-certified engineers.
- Work can be carried out by recognised qualified engineers without Part P certification for minor works, or if Buildings Regulations approval has been applied for and approved (prior to any work commencing) by the local council. Failure to comply with Building Regulations can result in a fine and an order to remove work if it does not conform to the required standards.

Knowingly having illegal non-certified work carried out can result in a fine and/or a prison sentence in the event of the death or injury to a tenant or others. The Agent and Landlord (or person acting for him) can be held jointly accountable.

9. PLUMBING

There is currently no legislation regarding the use of qualified engineers (except with regards to gas boiler installation and repairs). Though it is highly recommend by all within the industry that Landlord's use qualified engineers who are registered to GAS SAFE (CORGI) or the Institute of Plumbers. Registered engineers should always be used for installation works. Using such registered engineers will afford the Landlord the highest level of protection. It is our company procedure to only use registered engineers.

10. Legionella

As a landlord you have a duty of care to your tenants to make sure your water supply is working properly to protect them from Legionella.

The information within this guideline is a summary of current legislation. Should you require full detailed legislation documentation you should contact the relevant government department authority or governing body.



Section D: Leases and Inventories

11. ASSURED SHORTHOLD TENANCY AGREEMENT

The majority of UK tenancy agreements (leases) are Assured Shorthold Tenancies (ASTs), which fall under Housing Act 1988 and 1996 amendments. The majority are for an initial term of six or twelve months.

The 1988 Housing Act gave Landlord protections they did not previously have such as important repossession rights. The 1996 Housing Act amendments also enabled Landlords to let their properties for periods of less than six months (though repossession under Housing Act legislation cannot be granted until the tenancy has run for six months).

ASTs are valid for properties with an annual rental up to £100,000 p.a (£8,333.33 per calendar month).

12. CONTRACTUAL TENANCY AGREEMENTS AND COMPANY LETS

Tenancy agreements to individuals over the £100,000 annual rent threshold (£8,333.33 per calendar month) are drawn up as contracts and are outside of the 1998 and 1996 Housing Act.

Contractual Tenancy Agreements contain many of the same clauses as Assured Shorthold Tenancy agreements, but exclude clauses relating to Housing Act legislation. Like all contracts they are recognised in Court, and one party can bring action against the other if they are in breach of contract.

The threshold is for 'pure rent' only. Therefore if the rental includes garden maintenance the cost of the gardener is deducted from the annual rent.

Leases of residential property to Companies, Trust and Registered Charities are not covered by the 1988 and 1996 Housing Act.

Company Lets are only possible to PLCs, Ltd Companies and LLPs (limited liability partnerships). A sole trader or business partners wishing to let a residential property the lease would have to rent as an individual under an AST or Contractual Tenancy Agreement (if the annual rent was over £100,000). Initial terms for Company Lets are normally a minimum of twelve months. The contracts will contain clauses relating to rent reviews, options to renew amongst others.



13. INVENTORY & SCHEDULE OF CONDITION

We use independent Inventory Clerks to prepare the Inventory & Schedule of Condition for each property. We recommend that the Inventory Clerk carries out the check-in at the commencement of the tenancy and the check-out at the end of the tenancy.

The check-out report will detail any damages or deterioration to the property (excluding fair and reasonable wear and tear), and together with the inventory is essential for making a dilapidations claim against a tenants security deposit.

14. TENANTS RIGHT TO RESIDE IN THE UK

As of 1st February 2016 all landlords in England will be responsible for checking that potential tenants have the right to reside in the UK.

Under the Immigration Act 2014 all landlords (or the agents acting on their behalf) will be required to check the immigration status of all potential tenants, to ensure they have the right to live in the UK, prior to them taking up residence in a privately rented property.

As part of these checks landlords, or their managing agent, will be required to ensure the documentation provided by prospective tenants (i.e. passports, visas etc.) is genuine and that the person renting the property matches the person listed on the document. They'll also be required to take a copy of the documents and store them (in a secure manner) for at least 12-months after the tenancy ends.

Regency Lettings & Property Management will be using HomeLet Verify service alongside the Homelet referencing and credit checking we use for all tenants.



Section E: Tenancy Deposits

13. TENANCY DEPOSIT SCHEME LEGISLATION

Legislation came into effect in 2007 when deposits taken on or after 5 April 2007 on Assured Shorthold Tenancies (ASTs) must be held under one of three available tenancy deposit schemes – two insured and one lodged.

Further legislation came into effect under the Deregulation Act 2015 whereby deposits taken prior to 5 April 2007 must now be held under one of these schemes.

On 1st October 2010 legislation increased the AST threshold to £100,000 annually (previously £25,000). Tenancies between £25,000 and £100,000 annual rental would have previously been Assured Tenancies. These tenancies will now become Assured Shorthold Tenancies (ASTs) and new deposits taken or renewals to existing tenants after 1st October 2010 must be protected under the tenancy deposit schemes.

The legislation does not apply to tenancies outside of the Housing Act (i.e. Company Lets and Assured Tenancies being over £100,000 annual rental or more).

14. THE DPS

At Regency Lettings & Property Management we lodge all deposits in a custodial scheme with the Deposit Protection Scheme (the DPS).

Full details of this scheme are available on request or by visiting the DPS website:

<http://www.depositprotection.com/landlord-info>

<http://www.depositprotection.com/documents/terms-and-conditions-custodial.pdf>

15. DEPOSITS

- The deposit is normally calculated as the equivalent of six weeks' rent. A higher deposit may be requested if the property is furnished or if the tenants have pets.
- At the end of the tenancy the property is checked against the Inventory & Schedule of Condition at the check-in, fair wear and tear is excluded.
- Any damages and dilapidations must be agreed by both the tenant and the landlord.
- If the property has been professionally cleaned at the commencement of the tenancy then the tenant is liable to have the property professionally cleaned at the end of the tenancy.
- If the property has had curtains dry cleaned at the commencement of the tenancy then the tenant is liable to have the curtains dry cleaned at the end of the tenancy.
- In the event of parties not agreeing a free arbitration service is available via the Deposit Scheme.
- Any element of deposit in dispute will not be released until either agreement is reached or the arbitrator rules.



Section F: Rental Income Taxation

16. TAX FOR UK RESIDENT LANDLORDS

You are required to declare any rental profits in your Self-Assessment tax returns. Expenditure such as mortgage interest payments, insurances, letting fee's and associated expenditures and repairs are generally tax deductible.

17. TAX FOR NON UK RESIDENT LANDLORDS

Overseas Landlords - tax must be retained by either the agent (for rent collection and full management services) or the tenant (for tenant find) and paid to HMRC quarterly. Exemption certificates can be applied for which enable the rental to be paid across tax free, in these cases the income is declared within the annual Self-Assessment tax return for payment the following year.

We can supply you with the links to HMRC documents upon request.

You should contact an accountant or tax advisor for full and professional advice.

The information above is of general advice and assistance only. Professional advice should always be taken.

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