

LANDLORDS CHECK LIST - Rentals in England & Wales

Landlord License

Sections 79, 80 and 81 of the Housing Act 2004 introduce a "landlord licensing" scheme. Landlords with properties in "selective areas" are required to get a "landlord license" from their local council before being permitted to let their property. These areas are selected based on low demand for housing and significant or persistent anti-social behaviour problems. Failing to do so can result in punishable fines of up to £20,000.

Gas Safety Regulations

The Gas Safety Regulations 1998 place a statutory duty on all landlords of residential property to ensure that all gas appliances, pipe work and flues are maintained in a safe condition.

A inspection of all gas appliances that is provided with in the property by the landlord must be inspected annually by a Gas Safe Engineer. After inspection a Gas Safety Certificate is issued for proof of inspection. Tenant and landlord should keep a copy.

New tenants should receive a copy of the certificate prior to be given the keys and occupy the premises, while existing tenants of premises should be served a copy within 28 days of the date of the check.

Fire Safety Regulation

This area of law is covered by both the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005.

Landlords are under a duty to ensure that the property they provide is safe for all humans and animals.

Furniture and furnishings Regulation

Furniture provided by the landlord must meet the fire resistance requirements in the Furniture and Furnishings (Fire) (Safety) Regulations 1988.

Furnishings and upholstered furniture supplied by landlords must meet fire resistance requirements, which includes:

- beds, headboards of beds, mattresses
- sofas, sofa-beds, futons and other convertibles
- nursery furniture
- garden furniture which is suitable for use in a dwelling
- scatter cushions, bean bags, window seats and seat pads; pillows
- padded stools and padded chests
- put-u-up beds and garden loungers/seats
- loose and stretch covers for furniture

Furniture manufactured since March 1989 will comply with these regulations and most will be marked with a label showing compliance.

The regulations do not apply to:

- sleeping bags
- sheets, duvets and pillowcases
- curtains and carpets

Fitness for human habitation

Landlords are required to ensure their properties are 'fit for human habitation' at the beginning and throughout the tenancy.

Section 10 of the Housing Act sets out the factors that are taken into consideration when determining if a house is 'unfit for human habitation', which are as follows:

Maintaining the property

- stability (i.e. the building shouldn't be unstable),
- free from damp
- internal arrangement (i.e. the property shouldn't have an unsafe layout),
- natural lighting
- ventilation
- water supply (i.e. there should be a sufficient supply of hot and cold water),
- drainage and sanitary conveniences

Repairs & Maintenance

The landlord is responsible for the structure and exterior of the property; baths, sinks and other sanitary items; heating and hot water installations.

The landlord is not responsible for damages caused by the tenants.

Under section 11 of the Landlord and Tenant Act 1985, the landlord is responsible to:

- keep the structure and exterior of the property in good repair, including drains, gutters and external pipes
- keep installations for the supply of water, gas, electricity and sanitation in good repair and proper working order
- keep installations for space heating and water heating in good repair and proper working order

Electrical Equipment Regulation

Landlords letting property in the UK have a legal obligation to ensure that the property being let is safe to occupy, which includes ensuring the electrics, including appliances supplied with the property, are in a safe condition.

Unlike the Gas Safety Regulations, there is currently no mandatory legal requirement for any inspections or certificates. However, it is best to prove that the electrics are safe is by conducting regular and routine checks (e.g. 'PAT testing' and 'Electrical Installation Condition Reports') by a qualified electrician.

The following guidelines apply to all electrical appliances supplied for the tenancy:

- live parts should not be accessible
- leads should not be worn or frayed and be complete with no joins
- trailing leads and the use of multiple plug adaptors should be avoided
- correct plugs should be fitted and correctly fused
- plug sockets should be firmly fastened to the wall or skirting
- microwave doors should be clean, free from corrosion and effective
- washing machines, cookers, etc, should be serviced and in good working order
- electrical heaters and central heating appliances should be serviced annually

Consent to let

Before letting a property, landlords must obtain permission and/or inform the following:

- Mortgage lender
- In respect of leasehold properties, the head landlord
- Any housing association or other body which has regulations applying to the property, e.g shared ownership
- Any adult who has been living in the property with the landlord as husband, wife or partner who may have occupancy rights.
- The landlord's insurance company who must confirm that cover will be maintained if the property is let.

Tenancy Deposit Protection

Landlords must secure their tenants deposits into one of three government approved Tenancy Deposit Protection (TDP) schemes within 30 days of receiving the deposit, and they must also serve their tenants with *Prescribed Information* related to the deposit, within 30 days.

Failure to comply can lead to financial penalties, and also impede on your ability to repossess your property, which means you may not be able to repossess your property unless you have grounds for eviction e.g. the tenant falls into rent arrears.

Taxation Regulations

Being a landlord is like any other profiteering business, which means any profit made is subject to taxation.

If you're not operating your properties through a limited company, you'll need to file a Self Assessment tax return form for each tax year. The standard income tax rules and price brackets will apply.

If you are operating through a Limited company (because it can be more tax efficient), then your company will be subject to business taxation rules.

Energy Performance Certificate (EPC)

Landlords must provide an Energy Performance Certificate to all new and prospective tenants during the viewing or before the tenancy agreement is signed.

The certificate will give each building a SAP rating, and this will equate to an energy rating from A to G. A certificate is valid for 10 years, and then the property needs to be reassessed again and issued with a new and valid certificate.

From April 2018, properties rented out in the private rented sector were required to have a minimum energy performance rating of E. All existing tenancies will have to conform on 1st April 2020. It will be against the law to rent a property which has a rating lower than E, unless there is an applicable exemption.

Legionnaires Disease Safety

The person responsible for managing the property, whether it be the Landlord or letting agent, is responsible for combating Legionnaires Disease.

Health and safety legislation requires that risk assessments for the Legionella bacteria which cause Legionnaires' disease are taken.

Anyone can be appointed to assess/monitor Legionella as long as they have the relevant skills to implement the control measures and strategies i.e. they are suitably informed, instructed, trained and assessed. There must be evidence to show that the risk assessment has taken place, and records showing what precautions were taken.

The General Data Protection Regulation (GDPR)

GDPR came into effect on the 25th May 2018, and it applies to ALL landlords.

Essentially, as landlords, we need to process and control our tenant's information in a transparent fashion, which includes explaining:

- What personal information we collect.
- Why we need their personal information.
- How we might use their personal information (including who the information might be shared with), and ensuring we only use it in that way (unless there are overriding legal precedence requiring the information).
- How long their personal information is retained for.
- In practical terms, it means that the documents we use to gather personal information from our tenants (e.g. tenancy agreements, application forms etc) need to have a privacy policy which clearly addresses the points above.

Information Commissioners Office

Under the Data Protection Act individuals and organisations that process personal information need to register with the Information Commissioner's Office (ICO).

Basically, if you store, use or delete personal information of your tenants (e.g. name, email, telephone, address etc.) on any electrical device (i.e. computer, phone or tablet) – which is almost all landlords in the 20th century- then you should be registered with the ICO.

‘Right to Rent’ Immigration Regulation

Under Section 22 of the Immigration Act 2014, Landlords in England should not authorise an adult to occupy property as their only or main home under a residential tenancy agreement unless the adult is a British citizen, or EEA or Swiss national, or has a “right to rent” in the UK. All private landlords, or their agents, in England will have to check new tenants have the right to be in the UK before renting out their property.

Smoke and Carbon Monoxide Alarms Regulation

Landlords in England are required, from 1 October 2015, to:

- have at least one smoke alarm installed on every storey of their rental property, which is used as living accommodation, and have a carbon monoxide alarm in any room used as living accommodation where solid fuel appliances are contained.

‘How to Rent’ Guide

Landlords should provide their tenants with a document titled “How to rent: the checklist for renting in England”, as published by the Department for Communities and Local Government, at the beginning of new tenancies that start **on or after October 2015 in England only**.

It’s important to note that the guide will get updated over time, so you need to provide your tenants with the most up to date version at the time the tenancy begins. If a ‘new’ tenancy agreement is granted with the same tenants and a new version of the guide has been released, you should supply a copy of the latest version.

Tenant Fees Act 2019

On the of 1st June 2019 the “Tenant Fees Act 2019” came into force, which is a legislation that focuses on banning and restricting letting agents and private landlords (in England only) from charging tenants with certain fees.

If your tenancy (in England) started on or after 1st of June 2019, you are only permitted to charge tenants the following as set out by the Act:

- Rent
- Tenancy deposit (capped at five weeks' rent if rent is less than £50k per year, or six weeks' rent where the total annual rent is £50k or above).
- Holding deposit (capped at one week's rent)
- Payments to change the tenancy when requested by the tenant (capped at £50).
- Payments associated with early termination of the tenancy, when requested by the tenant.
- Payments in respect of utilities, communication services, TV licence and council tax.
- A default fee for late payment of rent and replacement of a lost key/security device, where required under a tenancy agreement.