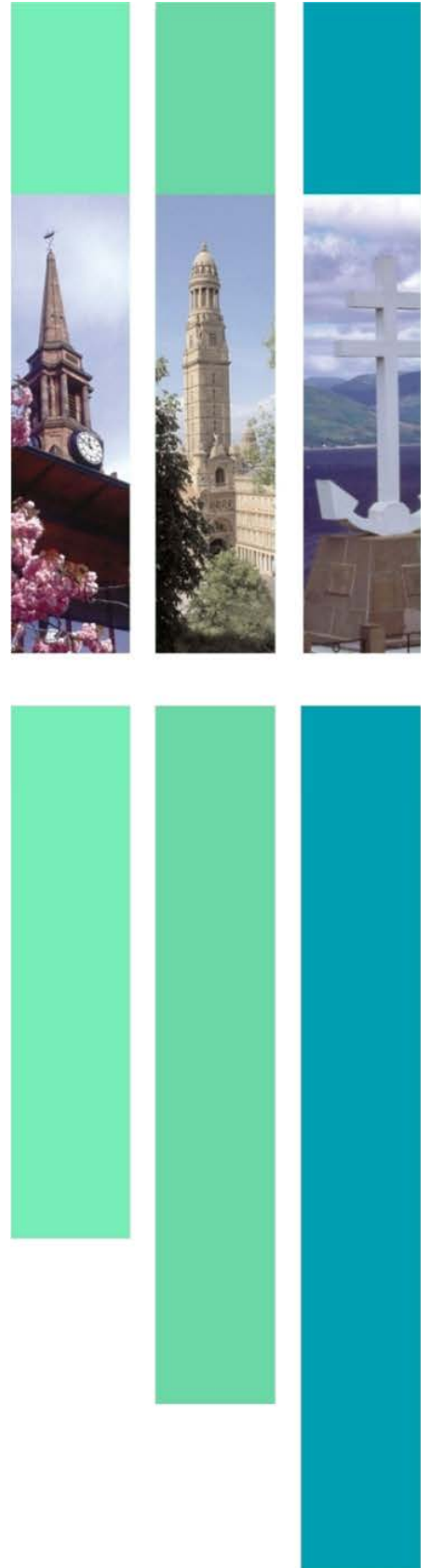


# Private Landlord Information

Inverclyde 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.

Inverclyde  
council



# Landlord Registration

All private landlords letting residential property in Scotland must make an application for landlord registration to the Local Authority where they are or will be renting out property.

The purpose of the registration scheme is to ensure that all private landlords in Scotland are 'fit and proper' to be letting residential property. This will protect tenants and neighbours of privately rented properties from the impact of antisocial behaviour and mismanaged property.

If you are a landlord and you fail to register before you let or advertise for let residential property, or before you have submitted a valid application for registration, you are committing an offence.

Good landlords have nothing to fear from registration. Registration will help local authorities to remove disreputable landlords from the market. This will remove the unfair competition from landlords who provide poor housing or inadequate management.

## Fees

When you apply to be a landlord you are required to pay a fee. This is used to process your application. All private landlords letting residential property in Scotland must register in the register of landlords. The Private Landlord Registration (Fees) (Scotland) Regulations 2019 requires registering landlords to pay the following fees:

- Principal Fee: £65.00 (£32.50 in multi-local authority registrations),
- Property Fee: £15.00 per property,
- Late Application Fee: £130.00.

Discounts are available for:

- Landlords who own properties in more than one local authority area,
- Joint owners,
- Landlords who have a House of Multiple Occupancy (HMO) licence,

- Scottish charities.

## Tolerable Standard

The tolerable standard is the minimum standard that any house has to meet in order for it to be fit to live in.

A house meets the tolerable standard if it:

- is structurally stable,
- is substantially free from rising or penetrating damp,
- has satisfactory provision for natural and artificial lighting, for ventilation and for heating,
- has an adequate piped supply of wholesome water available within the house,
- has a sink with a satisfactory supply of both hot and cold water within the house,
- has a water closet available for the exclusive use of the occupants of the house and suitably located within the house,
- has an effective system for the drainage and disposal of foul and surface water,
- has satisfactory facilities for the cooking of food within the house, and
- has satisfactory access to all external doors and outbuildings.

The tolerable standard also includes provisions of the Housing (Scotland) Act 2006 which means a house must also:

- have satisfactory thermal insulation,
- have an electrical installation that is adequate and safe to use,
- to have a "waterless closet" will also become an acceptable alternative in certain circumstances.

## Enforcing the tolerable standard

Where houses are found to be in a substandard condition, a poor state of repair or fail to meet the requirements of the housing standard relevant to the tenure of the property, Inverclyde Council has the option of intervening in a number of ways including serving a range of

Notices requiring work to be carried out, to deal with the issues.

If, despite the intervention by the Council, a house is below tolerable standard and should be demolished the Council may serve a Closing or Demolition Order to prevent it being lived in.

How we help deal with Housing issues is explained in our scheme of assistance (see 'housing advice and assistance' link on this page).

New powers introduced by the Housing (Scotland) Act 2006 known as “missing shares powers” allow the Council to take action to allow the majority of owners in a common property to apply to the Council to request that it pay missing shares of maintenance costs into the co-owners maintenance account where owners will not or cannot afford to pay their share. There are specific requirements that the majority of owners must comply with for a missing share (or shares) to be paid and must be agreed by the Council before maintenance works are instructed. It is intended that these statutory powers will be used where major maintenance works are identified and not for minor works such as gardens, paths or fences in isolation.

Where a missing share is paid owners will be required to put in place a maintenance plan. The plan will specify when and how maintenance is to be carried out and will require to be implemented over a 5 year period.

## Repairing Standard

A landlord in the private rented sector has a duty to ensure that the house they rent out meets the “repairing standard. A house meets the repairing standard if:

- It is wind and watertight and in all other respects reasonably 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 the landlord under the tenancy are in a reasonable state of repair and in proper working order,
- Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,
- The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, and
- The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

## Prescribed Information

The Private Landlord Registration (Information) (Scotland) Regulations 2019 came into force on the 16th September. These regulations 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, and
- Tenancy deposits.

**All obligations/standards which are listed above must be adhered to by all landlords irrespective of whether they are undertaking the prescribed information questions.**

The introduction of prescribed information at the registration stage has introduced no new duties for landlords. This change should have a minimal impact on those who already meet the existing standards required of them.

**Do the new prescribed information questions apply to all applications and updates?**

No - The new prescribed information questions only apply to applications received by a local authority on or after the 16th September 2019.

Prescribed information can only be asked at the point that an application is made. This includes new applications and those that are renewed at the end of the 3 year registration period. If a landlord has an existing registration with one local authority but then applies to a new local authority after the 16th September 2019, the new prescribed information questions will be presented as part of the new application process.

Landlords cannot be asked to answer the new prescribed information questions when they do an update, for example, if they add a property to an existing registration. If a landlord makes an update to a registration where the original application was covered by the new prescribed information questions, they will be presented with a summary of the original prescribed information answers provided, and the opportunity to amend any details that may have changed.

## Exemptions

There are some situations where you don't have to register with the Council to rent out a property. These include:

- holiday lets,
- houses managed by religious orders,
- houses with a resident landlord,
- houses with agricultural and crofting tenancies,
- letting to family members, and

- houses providing care services governed by Care Inspectorate regulation.

## Procedures at the Start of a Tenancy

The Private Housing (Tenancies) (Scotland) Act 2016, introduced a new tenancy arrangement known as the 'Private Residential Tenancy'. This new tenancy arrangement replaces assured and short assured tenancy agreements for any new tenancies from the 1st December 2017.

A landlord is under a legal duty to provide the written terms of a private residential tenancy under section 10 of the Private Housing (Tenancies) (Scotland) Act 2016. A tenancy agreement is a contract between a landlord and tenant; it sets out the conditions for renting a property in the private sector for both parties.

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.

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

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.

<http://www.gov.scot/Publications/2017/10/3671>

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 will not proceed.

## Tenancy Deposit Schemes

When a deposit is paid to a landlord or letting agency, the deposit must be registered with a tenancy deposit scheme and put into a separate bank account set up by the scheme provider until it's returned. The requirement to register deposits applies to all private landlords.

Tenancy deposit schemes are run by independent companies which are approved by the Scottish Government who have approved the following schemes:

- MyDeposits Scotland,
- Safe Deposits Scotland,
- Letting Protection Service Scotland.

However, landlords of the following kinds of properties do not need to register deposits:

- Let's to family members,
- Life rents, i.e. where a property is rented to someone for their whole life,
- Holiday homes,
- Properties used by religious organisations,



- Where care is provided with the accommodation, e.g. nursing homes and supported accommodation,
- Houses subject to management control orders due to antisocial behaviour,
- Agricultural and crofting tenancies,
- Resident landlords.

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

## Rent Increases

For private residential tenancies rent can only be increased once a year. A notice form must be used, giving three months' notice. The form can be accessed at the link below:

<https://beta.gov.scot/publications/private-residential-tenancy-prescribed-notices-forms/>

If your tenant is unhappy with the rent increase being too high they can apply to the First-tier Tribunal for Scotland (Housing and Property Chamber).

## First Tier Tribunal for Scotland

The First-tier Tribunal for Scotland (Housing and Property Chamber) performs the functions which used to be carried out by the Private Rented Housing Panel ("prhp") and the Homeowner Housing Panel ("hohp").

The First-tier Tribunal for Scotland (Housing and Property Chamber) was formed to deal with disputes between landlords and tenants including determinations of rent or repair issues in private sector housing; assistance in exercising a landlord's right of entry; and relatively informal and flexible proceedings to help resolve issues that arise between homeowners and property factors.

The Chamber receives applications for rent assessments, drawing up of terms, evictions and other non-criminal matters arising from the new Private Residential Tenancy (Private Housing (Tenancies) (Scotland) Act 2016 refers).  
<https://www.housingandpropertychamber.scot/>

## Right to Adapt

If a tenant wishes to adapt the property which they rent from yourself they will need to ask your permission to make adaptations. However, a landlord cannot refuse consent unreasonably as this can be seen as discrimination. The Equality Act 2010 grants rights to disabled people for landlords to make necessary changes to their homes. This is called the duty to make reasonable adjustments. You can only refuse consent if:

- Giving permission would breach any legal obligation in the title deeds of the property,
- Planning permission or a building warrant for the work cannot be obtained,
- Your mortgage lender won't give you permission to alter the property,
- The adaptations would make the property unsafe, and
- The adaptations would affect common areas and other owners in the building object.

## Letting Agents

Everyone that carries out letting agency work must join the Scottish Letting Agent Register. 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). All letting agents must comply with the Letting Agent Code of Practice. This sets out the service landlords and tenants can expect from a letting agent

If a letting agent has breached the code of practice, in the first instance the landlord should complain to them in writing, following their complaints procedure. If the landlord is unsatisfied unhappy with their response they can apply to The First-tier Tribunal for Scotland (Housing and Property Chamber).

<https://www.mygov.scot/letting-agents/>

## House in Multiple Occupancy (HMO)

You need a house in multiple occupancy (HMO) licence if both of the following apply:

- you want to rent your property out to 3 or more tenants
- none of the tenants are related or part of the same family

If you want to use your home in this way, there are extra criteria you'll need to meet before the council will agree to register you.

- if you are 'fit and proper' (able) to hold an HMO licence
- if the property is managed properly
- if the property meets their required standards

If you rent a property which has three or more unrelated occupants and it is their main residence, the landlord will require a House in Multiple Occupation Licence.

This applies whether or not the landlord lives at the property.

Permission can only be given for a house to be used under multiple occupancy if:-

The application form is available to download from the link below:

<https://www.inverclyde.gov.uk/law-and-licensing/licensing/taxi-and-civic-licensing/civic-licensing/house-in-multiple-occupation>

The completed application form must be lodged with the appropriate fee.

## Rental property insurance

All rental flats or properties in a tenement must have adequate insurance in place

<https://www.legislation.gov.uk/asp/2004/11/contents>

- you are the owner of the house
- you knowingly give permission for it to be occupied
- the house is a house in multiple occupation

The following will be taken into consideration when deciding if the premises are suitable:-

- the location, character and condition of the premises
- the type of proposed activity/occupation
- people who will live in the premises
- the possibility of public nuisance
- public order and safety

There are premises which are exempt from obtaining a licence e.g. women's refuge.

House in Multiple Occupation is regulated by the Housing (Scotland) Act 2006. If in doubt, you should consult a Solicitor for independent legal advice prior to making an application.

# Property Condition

Before renting out your property, you will have to do a number of checks to ensure it's in an appropriate condition for your prospective tenants.

## Fire Detection

Section 13(1) of the Housing (Scotland) Act 2006 sets out the criteria that must be met if a house is to comply with the Repairing Standard. One part of the Repairing Standard is that a house should have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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

## Electrical Safety

A duty to carry out electrical safety inspections was introduced on the 1st December 2015. There are two components to the electrical safety inspection;

1. An inspection of installations, fixtures and fittings, and
2. A record of testing of appliances provided by the landlord.

The minimum standard is that an electrical safety inspection is carried out every five

years – but testing can be carried out more frequently. The tenant must be given a copy of the inspection when it is done and a new tenant must be given a copy of the most recent inspection before the tenancy begins.

Landlords should ensure that inspections are carried out by a competent person – there is guidance on what standard of competency is expected. All rental properties with Portable Appliances, supplied by the landlord, including White Goods, must have a Portable Appliance Test (PAT)

<https://www.electricalsafetyfirst.org.uk/guidance/advice-for-you/landlords/>

## Gas Safety

If your property has any gas appliances an Annual Landlord Gas Safety Record check should be conducted by Gas Safe engineer. This should be arranged every year, even after a tenant moves in. All rental properties that use gas, must have a current Gas Safety Certificate  
<https://www.gassaferegister.co.uk/help-and-advice/renting-a-property/information-for-landlords/>

## 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. All rental properties with a gas supply, or a solid fuel appliance must have a Carbon Monoxide (CO) Detector  
<https://www.gov.scot/publications/carbon-monoxide-alarms-in-private-rented-properties-guidance/>



## Legionella risk assessment

All rental properties must have a risk assessment carried out, and landlords must ensure they advise their tenants of legionella and give advice on how to minimise the risks

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

## Private water supply

Landlords with a private water supply to their property must advise their tenants, risk assess and test the water supply to make sure it's safe to drink.

<https://www.mygov.scot/private-water-rights-responsibilities/if-youre-a-landlord-tenant-or-run-a-business-or-public-activity/>

## Common repairs

All landlords must be aware of their obligations surrounding communal repairs

<https://www.mygov.scot/common-area-repairs/your-responsibilities/>

## Care and repair

Care and Repair services in Inverclyde are delivered by Bridgewater Housing Association who provide free advice and information and also facilitate repairs, improvement, and adaptations to meet the needs of disabled people, to homes in the private sector. This service is for those over 60, disabled homeowners, and private tenants.

<http://www.carerepairenfrewshire.org.uk/>

## Energy Performance Certificate

Energy Performance Certificates (EPCs) provide information on how energy efficient your building is, and how it could be improved. Buildings are rated on a scale from A to G, with A being the most efficient.

As a landlord you are required to provide your tenants with a copy of the EPC report to your tenant. This document will outline to your tenant the current energy efficiency of your property based on its condition and current facilities. You have to include your EPC in any advertising and

show the certificate if anyone interested in renting wants to see it. EPC ratings are valid for a 10 year period. For more information and to check your property's existing rating visit:

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

## The Energy Efficiency (Private Rented Property) (Scotland) Regulations 2019

These regulations set out the minimum level of energy efficiency for properties in the PRS and use EPC ratings as the method to measure this standard. They are designed to tackle the least energy efficient properties in Scotland, those with a rating of F or G on their EPC, and form part of a framework of standards which will be phased in gradually over time to tackle the energy efficiency of all buildings in Scotland.

From 1 April 2020 landlords of PRS properties may not grant a new tenancy for a property rated EPC F or G (unless an exemption applies). The landlord must improve the rating to minimum of EPC E (or register an exemption if one applies) before letting.

By 31 March 2022, the minimum level of energy efficiency will apply to all domestic private rented properties, even if there has been no change in tenancy. From that date, landlords may not continue to let properties with an EPC rating of F or G, even to an existing tenant (unless an exemption applies). Landlords are encouraged to take action as soon as possible, bearing in mind that there is an additional target of EPC D, which will apply in a similar way, and may wish to ensure their properties meet or exceed EPC D by 31 March 2025.

From 1 April 2022 landlords must not let the property unless the EPC is a minimum of D. By 31 March 2025 all PRS properties will need to have an EPC of D. A summary is presented below

Date	EPC Standard	Properties in Scope
From 1st April 2020	EPC E	Change in tenancy
By 31st March 2022	EPC E	All tenancies
From 1st April 2022	EPC D	Change in tenancy
By 31st March 2025	EPC D	All tenancies

For further information on the new regulations please visit the Scottish Government's website at:

<https://www.gov.scot/publications/energy-efficiency-private-rented-property-scotland-regulations-2019-guidance/>

# Procedures for Ending a Tenancy

By law you are required to follow correct procedures if you want to end a tenancy. The procedures will depend on the type of tenancy your tenant has. Most tenancies issued between 1988 and 30 November 2017 were short assured tenancies.

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

## Short Assured & Assured Tenancy

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.

If court proceedings are raised, the landlord is 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.

## Private Residential Tenancy

A tenant can end their tenancy by giving at least 28 days' notice in writing. A landlord can end the tenancy by giving the 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.mygov.scot/ending-a-tenancy-as-a-landlord/private-residential-tenancies/>

A tenant may choose to leave on the end date given in the notice, or they may remain in the property. An application to The First-tier Tribunal for Scotland (Housing and Property Chamber) would need to be made by the landlord to grant an eviction order. It will be up to the landlord 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 a landlord applies to the First-tier Tribunal for Scotland (Housing and Property Chamber) to evict a tenant, they are required to inform Inverclyde Council under Section 11 of the Homelessness (Scotland) Act 2003, that the tenant may potentially become homeless.

<https://www.inverclyde.gov.uk/health-and-social-care/mental-health-addictions-homelessness/homelessness>

## 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.

[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)

## Useful Websites

Inverclyde Council <https://www.inverclyde.gov.uk/housing>

Landlord Registration Scotland <https://www.landlordregistrationscotland.gov.uk/>

Renting Scotland: <https://rentingscotland.org/landlords/>

Scottish Government: <https://www.gov.scot/policies/private-renting/>

Mygov.scot: Renting out your property: <https://www.mygov.scot/renting-your-property-out/overview/>

Legionella and Landlord's responsibilities: <https://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm>