

Key Notes

East Lothian Council's Newsletter
for Private Sector Landlords

Issue 2
March
2020



Modification of the Repairing Standard

Scottish Ministers have approved a new order bringing in changes to the existing Repairing Standard. A summary of some of these measures is as follows:

Tolerable Standard

A house must meet the statutory tolerable standard. The tolerable standard is the minimum standard for all housing, and a house which is below this standard is considered to be unfit for human habitation. This amendment will ensure that any work required to comply can also be raised in an application by a private tenant to the First-tier Tribunal. Because this is not a change to the standard of housing that private landlords should provide, it came into force on 1 March 2019.

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Modification of the Repairing Standard (continued)

Safe Kitchens

The Modification Regulations insert a new element in the repairing standard to have safely accessible food storage and food preparation space. This will be supported by Scottish Government guidance. The Scottish Government have previously committed to allow landlords five years to carry out work to bring housing up to new elements in the standard, so this will come into force from **1 March 2024**.

Fixed Heating System

The regulations amend the existing duty to ensure that installations for the supply of heating are in a reasonable state of repair and in proper working order, by specifying that there must be a fixed heating system. This will be supported by Scottish Government guidance. Because it is a new element in the repairing standard it will come into force from **1 March 2024**.

Safe Access to Common Parts

This amend the existing duty to ensure that the structure and exterior of the house is in a reasonable state of repair and in proper working order, by specifying that where the house is a flat in a tenement, the tenant is able to safely access and use any common parts of the tenement, such as common closes. Because it is a new element in the repairing standard it will come into force from **1 March 2024**.

Consent to Work on Common Parts

This amends section 16 of the Housing (Scotland) Act 2006, which deals with exceptions to the landlord's repairing duty, to make it clear that a house which is a flat in a tenement does not fail the repairing standard if work otherwise needed to comply with the standard cannot be carried out because a majority of owners in the tenement have refused consent to carry out the work. This clarifies existing legislation and came into force on **1 March 2019**.

Safe and Secure Common Doors

The new regulations amend the existing duty to ensure fire safety, by specifying that common doors must be secure and fitted with satisfactory

locks. This will be supported by Scottish Government guidance which will specify that locks must allow users to open them from the inside without a key so that they do not inhibit exit in the event of a fire. Because it is a new element in the repairing standard it will come into force from **1 March 2024**.

Residual Current Devices

The existing duty to ensure that installations for the supply of electricity are in a reasonable state of repair and in proper working order, will now specify that these must include a residual current device (a device to reduce the risk of electrocution and fire by breaking the circuit in the event of a fault). The Scottish Government will revise existing guidance on electrical safety to include this measure. Because it is a new element in the repairing standard it will come into force from **1 March 2024**.

Other Fuels

The Modification Regulations amend the existing duty to ensure that installations for the supply of gas and electricity are in a reasonable state of repair and in proper working order, by adding a reference to any other type of fuel. Because it is a new element in the repairing standard it will come into force from **1 March 2024**.

Lead Pipes – Guidance

There is an existing duty to ensure that installations for the supply of water are in a reasonable state of repair and in proper working order. The Modification Regulations will allow the Scottish Government to provide guidance, on the condition of pipes supplying water for human consumption. It is intended that the guidance should specify that the house should be free of lead pipes from the boundary stopcock to the kitchen tap, and that if this cannot be confirmed, a water quality test must be carried out.

The power to make guidance came into force from 1 March 2019, but it is the intention to publish guidance on this point together with other guidance on new elements in the repairing standard so that it applies to private rented housing from **1 March 2024**.

Further changes for Private Landlord Registration regulations

On 16 September 2019 the Private Landlord Registration (Information) (Scotland) Regulations 2019 came into effect. These new provisions require a more comprehensive, rigorous application process for private landlord registration. In short, the regulations have changed the landlord registration process with the aim to improve standards within the private rented sector in order that homes rented to tenants are of good quality and are being managed professionally.

Private landlords must now declare whether or not they comply with their specific landlord legal duties including:

- That properties meet the tolerable standard and the repairing standard
- Tenants have been provided with a copy of the current EPC, Gas Safety Certificate and Electrical Installation Condition Report (EICR)

- Where the property forms part of a tenement building, confirmation that it is appropriately insured and the landlord is aware of their obligations in terms of common repairs
- Legionella risk assessment has been undertaken and details of any necessary steps taken as a result of the assessment
- Tenancy deposits have been protected with an approved scheme

The new regulations do not impose new duties upon landlords, they merely ask landlords to confirm that they are complying with their existing duties. This change, however, will assist local authorities to identify those landlords who fail to meet the necessary standards at the point of registration and may inform decisions as to whether a landlord meets the criteria to be approved or not.

Tenancy Deposit Update

Since 2012, landlords in Scotland have been required to lodge security deposits in one of three approved tenancy deposit schemes. Landlords should by now be well aware of their obligations to lodge deposits within 30 working days and to provide tenants with specific information relating to the tenancy and the deposit.

On 11 November 2019, the Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019 made a number of changes to the 2011 provisions. The most significant of these is the new requirement for the scheme administrator to notify tenants of the potential claim against a landlord for failure to lodge a deposit or provide the specified information. Now, when a landlord pays the deposit late and then seeks to make deductions from the deposit, the administrator must notify the tenant of the sanctions available against a landlord.

In terms of other changes, there is now NO requirement to pay a tenancy deposit into an approved scheme where a private residential tenancy is brought to an end and the full amount of the tenancy deposit received by the landlord is returned to the tenant by the landlord within 30 working days of the beginning of the tenancy.

Where the landlord and the tenant have agreed that the deposit can be paid by instalments, the requirement is that the landlord must pay each instalment of the deposit to the scheme and provide the tenant with confirmation of the cumulative amount of the deposit with 30 working days of receipt.

Legionella assessment

Legionnaires' disease is a potentially fatal form of pneumonia caused by the inhalation of small droplets of contaminated water containing Legionella. All water systems can provide an environment where Legionella may grow.

The landlord has a duty to ensure a legionella risk assessment is carried out on their properties. This is to help guard their tenants against any risk of getting the illness from contaminated water.

For more information, see <https://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm>



Energy Savings Trust – Support for private landlords

energy[®]
saving
trust

New minimum energy efficiency standards are being phased in and will increase over time. Making energy efficient changes to your property could result in:

- Raised property values
- Higher Energy Performance Certificate ratings, to comply with the introduced minimum energy efficiency standard and to help make properties easier to let
- Lower energy bills for tenants leading to them being warmer at home
- Reduce rent arrears and defaults
- Lower turnover of tenancies
- Meeting energy and heating efficiency standards set for the landlord accreditation scheme
- Reduced levels of fuel poverty experienced by tenants
- Reduced incidences of condensation and dampness
- Reduced carbon dioxide emissions from properties

The timeline for confirmed regulations is:

1 April 2020	If you are starting a new tenancy the property will need to have an Energy Performance Certificate (EPC) rating of band E or above
31 March 2022	All rental properties will need to have an EPC rating of band E or above
1 April 2022	If you are starting a new tenancy the property will need to have an EPC rating of at least band D
31 March 2025	All rental properties will need to have an EPC rating of at least a band D
1 April 2025	If you are starting a new tenancy the property may need to have an EPC rating of at least band C. This requirement is currently in consultation
2030	All properties will need to have an EPC rating of at least band C



Fee Increase

From 1 April 2020, the following fee increases will take effect:

Landlord Registration principal fee **£66.00**

House in Multiple Occupation (HMO) licence:

- 3 – 5 residents **£462**
- 6 – 10 residents **£745**
- 11 – 20 residents **£1,139**
- 21 – 30 residents **£1,369**

Please contact the HMO team for fee information on larger properties.

Free advice and property assessments

Get advice on financial support, eligibility, how to apply and what schemes can be combined. Arrange for a specialist to visit your property to assess what can be done and take you through the options. An assessment of which renewables systems may be suitable can also be undertaken at the same time if you are interested in technologies such as solar panel electricity systems (Solar PV), heat pumps, and wind turbines.

Financial support for landlords

Home Energy Scotland Loan

This interest free loan, funded by the Scottish Government is available to eligible registered private sector landlords in Scotland for energy efficiency improvements, home renewables systems or connections to an approved district heating scheme powered by a renewable energy source. The loan is available to landlords who operate as 'natural persons' and it can be possible to apply for support for up to 3 properties.

Resource Efficient Scotland SME Loan

Funded by the Scottish Government, interest free loans of £1,000 to £100,000 to help private sector landlords to install measures that will improve the energy efficiency of their properties.

Renewable Heat Incentive (RHI)

Landlords who install or have already installed an eligible renewable heating technology could receive quarterly payments over 7 years to help cover the costs through the UK Government's Renewable Heat Incentive.

Fee-in Tariffs (FITs)

Landlords who install an electricity-generating technology from a renewable or low carbon source (such as solar PV or wind turbine) could get money from their energy supplier through the UK Government's Feed-in Tariffs scheme.

www.energysavingtrust.org.uk/scotland/businesses-organisations/landlords

www.homeenergyscotland.org | 0808 808 2282

Landlord Accreditation Scotland (LAS)

in partnership with East Lothian Council



Portable Appliance Testing

30 March 2020, 10.00am – 4.00pm

Novotel Edinburgh Park Hotel,
Hermiston Gait, EH12 9DJ

All landlords have to have fixed wiring (Electrical Installation Condition Report or EICR) checks carried out at least every five years, which must include an appliance check report (a Portable Appliance Test (PAT)).

Attending this course will give landlords the required knowledge to carry out their own PAT testing and, depending on the number of properties/appliances they have, for some this could mean an opportunity to make considerable cost savings. This course is designed for landlords and letting agents.

No electrical knowledge or experience is required. The course includes practical and theory sessions. The trainers will be on hand to help and answer any questions. On successful completion of the course each delegate will receive a Certificate

of Competence in PAT Testing. All delegates will keep a comprehensive illustrated training manual.

When costing this for your own business you would still need to either buy or hire a PAT testing machine to carry out the tests on your appliances. All delegates will be offered the **microPAT Package** at a discounted price of £210 plus £10 carriage and VAT (total £264.00) (normally £240 plus carriage and VAT). If pre-ordered for collection at the course no carriage cost will be incurred.

Course Topics

- WHO can PAT test?
- WHY do we PAT test?
- WHAT do we PAT test?
- WHEN do we PAT test?
- HOW do we PAT test?

All courses run by LAS can be found listed on their website and can be booked online at www.landlordaccreditationscotland.com

Regulation of Short-term lets

The Scottish Government have announced that licensing of short-term lets will be introduced from Spring 2021. Local Authorities will also be given the power to introduce short-term let control areas and there will be a review of the tax treatment of these lets, to ensure they make an appropriate contribution to the communities they operate in. The licensing scheme will include a new mandatory safety requirement that will cover every type of short-term let to ensure a safe, quality experience for visitors.

You can view submitted responses to the consultation at

https://consult.gov.scot/housing-services-policy-unit/short-term-lets/consultation/published_select_respondent

and the independent analysis of the consultation responses at

<https://www.gov.scot/publications/short-term-lets-consultation-regulatory-framework-scotland-analysis-consultation-responses/>



Contact Information

Landlord registration / Housing in Multiple Occupation licensing

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Housing Benefit and Council Tax

01620 827730/7729 (Benefits)
01875 824314 (Council Tax)
www.eastlothian.gov.uk/info/210559/council-tax-and-benefits

Useful websites (click text to link to website)

Private Residential Tenancy	First Tier Tribunal
Tenancy Deposit Scheme	Landlord Accreditation Scotland
My Deposits Scotland	Scottish Association of Landlords
Letting Protection Service	Health & Safety Executive
Safe Deposits Scotland	Electrical Safety Council
Landlord Registration	Gas Safe
The Repairing Standard	Energy Saving Trust
Housing and Property Chamber	East Lothian Council

To make a comment, suggestion or complaint about a council service,
visit our website at www.eastlothian.gov.uk



Versions of this leaflet can be supplied in Braille, large print, audiotape or in your own language. Please phone customer services if you require assistance on 01620 827 199