

LANDLORD GUIDE

Important facts and regulations for all Landlords.

For further information or to arrange a valuation please call us today on 020 7336 1313

New AST Regulations

Any property bringing in an annual rental income of between £25,000 and £100,000 will be affected. The original threshold was introduced in order to exclude 'luxury lets', however the limit has not been looked at since 1990 (and has not taken into account inflation since this time). The Government has taken the view that the threshold should reflect changes in market rents and to ensure minimum requirements in tenancy agreements are met. Also, the change should improve transparency in the lettings market.

This change has a number of implications for both tenants and landlords. All new tenancies formed with rent of £25,000 to £100,000 per annum will default to Assured Shorthold Tenancy (AST) status. This will apply to existing tenancies with annual rent between £25,000 and £100,000 that are already in place and overnight from the beginning of October 2010 they will have become an AST.

For landlords, any deposits for tenancies brought within the new threshold entered into on or after the 6th April 2007 will need to be protected with one of the three government-approved tenancy deposit schemes. This is a must. If landlords do not have these deposits protected they are in breach of Tenancy Deposit Protection (TDP) legislation.

If you are a tenant, you have the benefit of having your deposit protected in a recognised scheme.

Please note: This new legislation only applies in England & Wales.

Becoming a Landlord

If you have a property which you are thinking of letting, or perhaps you are wondering whether to let or sell, then the single most important thing you need is good advice. To make the decision that's right for you, you need to know the advantages – and pitfalls – of letting your property. Our advice is free – but could save you a great deal of time and money.

Let only or full management?

We are finding that more and more Landlords are asking us to let and manage their properties. There are sound reasons for doing so, including peace of mind and less hassle! 'Let Only' means just that – we will find you an acceptable tenant and finalise the Tenancy documents. After that, it's up to you to collect the rent and deal with any issues such as repairs, tenancy renewals etc. With Full Management, you just leave everything to us – and after letting your property, we will collect the rent (and account to you monthly) and look after any authorised repairs. Our charges for Full Management are competitive (and include compliance with the Tenancy Deposit Scheme requirements) - you might be pleasantly surprised.

Appraising your property

One of our experienced staff will carry out an appraisal of your property, advise you of its likely rental value and how it should be advertised and promoted. Remember, our valuers are experienced in the letting of property and can offer advice on legal requirements such as Safety Certificates etc. There is no charge for the appraisal visit.

What about security deposits?

A tenant will pay a security deposit to us before moving in, and is entitled to have it back at the end of the tenancy, provided the rent has been fully paid and the property is left clean and in good order. Any rent arrears, together with the cost of rectifying any damage or having cleaning carried out may be deducted from the deposit at the end of the tenancy. All money deposited with Anton Page is held in a special Clients Account and we ensure full compliance with the legal requirements of the Tenancy Deposit Scheme – another thing you need not worry about.

Can I get my property back?

Properties are usually let as Assured Shorthold Tenancies, typically for a period of 6 or 12 months, at the landlord's option. At the end of the Term, the landlord may agree to let to the same tenant for an extra term if he wishes, but otherwise is entitled to regain possession of the property.

Provided the relevant Notice document has been served the tenant must move out.

You may still be able to proceed, but we will require a UK based guarantor or for 6 months' rent to be paid in advance.

I live abroad and am worried about income tax

Overseas residents who receive rental income from UK property may well be liable to pay tax on that income. We are used to helping ex-patriot landlords in simplifying their tax arrangements and, of course, with the internet and e-mail, we can communicate with you wherever you are in the world. Overseas Landlords must register with the Centre for Non Residents branch of the Inland Revenue to receive their rental gross of tax.

Landlords and the law

As a Landlord, you are responsible for the safety of your tenant and the suitability of your property. Gas and electricity are covered by legal safety requirements, while The Furniture & Furnishings Regulations of 1988 cover fire safety issues. Your mortgage lender also has to know about your plans to let your property; otherwise you could face financial penalties. And your insurance cover may be affected by letting a tenant into your property.

Energy performance certificates

The Government requires that all residential rented property has an EPC. We have our own recommended list of fully qualified and accredited Domestic Energy Assessors who are authorised to carry out this work. We can supply you with a fully compliant EPC – whether or not we are letting or managing your property.

Why bother using an agent at all?

Just as some people service their own cars and re-fit their own kitchens, you can certainly let your own property. But in your busy day-to-day life, the reassurance of knowing that your major investment is being let to a reliable tenant, at a guaranteed rent, the deposit is safely held in

compliance with the law and all maintenance and repairs are being dealt with by tried and tested local contractors, is worth the small cost involved. After all, while most lettings proceed to a smooth and trouble-free conclusion, there can be difficulties along the way – and that's when you appreciate having an expert on hand to look after things for you.

Anton Page and rentals

Anton Page have an established rental and management division. We have rented properties ranging from small flats and apartments in peripheries, through to Ambassadorial style houses. We deal with all aspects of residential lettings which would include extensive marketing, evaluating suitable tenants, taking up rental and management references, processing paperwork, including the preparation of a tenancy agreement and statutory notices, with the intention of ensuring that any transaction proceeds smoothly and quickly.

If you wish to let your property, we would be glad to value it and advise you of our proposed marketing strategy. We will provide you with details of current legislation governing the rental of property in the UK. You should also be made aware of the implications of an Assured Shorthold Tenancy Agreement and the differences between these and Contractual Tenancies or Company Lets, the required Statutory Notices, the Fire and Furnishing Safety Regulations Act 1998 and the Gas Safety Regulations 1994, The (Part P) Electrical Regulations 2005 and the Money Laundering Regulations 2003.

Type of agreements

If the Tenancy agreement is to be in your name and the rent is less than £100,000 per annum, you and the Tenants are most likely to enter into an Assured Shorthold Agreement. This form of agreement came into effect in 1989, under the Housing Act of 1988. This is a fixed term agreement that runs for a minimum period of six months.

Our own comprehensive Tenancy Agreements and Assured Shorthold Agreements have been prepared by us and are designed to be both fair to the Landlord and the Tenant. Both parties will be bound by the terms of the agreement. You should read your Agreement carefully and make sure you understand all the clauses. You should always endeavour to seek independent legal advice from your solicitor prior to you signing it. The cost of preparing our agreements is currently £300 plus VAT at the prevailing rate, normally divided equally between Landlord and Tenant.

Option to renew/break/purchase

Depending on the type and terms of your agreement, your Tenant may have an option to renew for a further period of time. If this is the case, they must notify us in writing within the time period specified in your Agreement. If there is no option to renew, but both you and the Tenant wish to extend or renew your Agreement, this can be organised. In both cases, once terms are agreed we will prepare the necessary documentation. In addition, the Tenant may want an option to break (cut short) the Agreement. This must be agreed with the Landlord at the outset.

They may be responsible for the proportionate part of the agents commission and Landlord's costs paid in advance by the Landlord, if they determine the tenancy early. Notice to terminate must be adhered to, as specified in your Agreement. The Landlord can also request an option to break, but in the case of an Assured Shorthold, not before six months. They can also request, in certain cases, an option to purchase the property but this must be agreed at the outset. In that case a separate commission for the purchase will apply and terms needs to be agreed with Anton Page.

Rental payments

Rental payments are payable monthly, quarterly, half yearly or annually in advance, depending on the terms of your Agreement, whether legally demanded or not. The Tenant can pay by cheque, in cash or through their bank by standing order or direct debit. The first payment would normally be made payable to Anton Page and will be paid at the time that they sign the agreement along with the agreed deposit and other charges. If they wish to move in immediately upon signature, then we will need cleared funds by way of either cash or a Bankers Draft. Further payments will normally be paid directly to the Landlords account as detailed above. Anton Page will sometimes collect the rent if a Management service is being provided.

Tax on rental income

From the 6th April 1996 the way in which non-resident Landlords are taxed on rental income changed. These changes present the agent or the Tenant with two alternatives. They can either pay the Inland Revenue 25% of the rent, net of expenses. There is no negotiation on the flat rate of 25% and payments must be made quarterly. If at the end of the tax year there has been excess payments, the Landlord can, on submission of detailed paperwork, apply to the Inland Revenue for a rebate, or the agent or the Tenant can pay to the Landlord rental income without deduction of tax. The latter should only be done if the Landlord (or his agent) apply for and are granted permission by the Revenue to avoid deductions.

The above is only applicable to Landlords who are non-resident (normally someone who resides out of the UK for a period in excess of 6 months). If you are paying rent to a managing agent, then it is the managing agents responsibility to withhold tax as above or to receive an exemption certificate. If however you are paying rent directly to an overseas Landlord and the Landlord cannot provide you with an exemption certificate then you are strongly advised to withhold 25% of the rent and make a return to the Inland Revenue quarterly for this amount.

If you do not, you may well be assessed by the Revenue for payment of the same. Further details of this Scheme are available from The Centre for Non Resident Landlords, Inland Revenue, St John's House, Merton Road, Bootle, Merseyside, L69 9BB. Telephone 0151 472 6208 / 6209.

Security deposit

A deposit is generally equivalent to six weeks rent and is normally held by Anton Page as stakeholders between the parties in accordance with the TDS (Tenants Deposit Scheme). Anton Page will be entitled to interest on this money unless otherwise agreed. In certain circumstances, and where the rental falls outside the Housing Act 1988, and provided you are in agreement and current legislation permits, the Landlord can hold the deposit but this should be placed in a separate interest bearing account. It could be used to offset any costs such as cleaning, gardening, damage or dilapidation's at the end or during the Tenancy, but should not be converted into rental payments. The deposit should be refunded in full by either the Agent or the Landlord at the end of the Tenancy provided that there are no dilapidation's or breaches of the agreement. Any disputes will be arbitrated under the TDS, providing the Agent is holding the deposit.

The inventory and check-in/check-out

Before the Tenants move in, the Landlord or an inventory service prepares an inventory, listing comprehensive details of the contents and conditions of the property. On the day the Tenants move in or at some other agreed time, they may be met on the premises to check through the inventory. They will then be asked to sign a declaration confirming the details of contents and condition are correct. The cost of preparation of the inventory is normally paid by the Landlord and the check-in and check-out costs by the Tenant. If they do not sign and return the inventory to the agent within seven days, it will be deemed that they have accepted it as written. Anton Page use an associated company to provide this service, which is charged for separately.

Initial payments

As stated above, once the Tenants have chosen a property and the terms of the Tenancy have been agreed, Anton Page draw up the relevant documents for signature.

At this time Anton Page ask them to pay the first rental payment, administration costs associated with drawing up the lease, the deposit and the reference charge of approx. £50 plus VAT for each individual and £75 plus VAT for a company. Some of their deposit may be non-refundable if they withdraw from the letting.

Utilities

Most Agreements require the Tenant to be responsible for gas, electricity, telephone, water rates and TV licence as well as Council Tax. Gas, electricity and telephone companies will carry out a credit check on the Tenant. If they have not been a customer before, they may ask for a deposit against the first years bill. You must inform all the relevant services of your start date as must the Tenants. It is your responsibility to notify the relevant utilities of your impending termination date, at the termination of the Tenancy.

Council tax

You must inform the local authority of the start date. The council will then send them a registration form. It is a criminal offence not to pay Council Tax.

Insurance

Under our normal agreement, the Landlord takes out insurance for the building and the contents provided. This does not usually cover the possessions of the Tenants. For their own possessions they should take out an "all risks" insurance policy.

Moving out

Either Anton Page or the Landlord should arrange for an inventory check-out on the day the Tenants are due to leave. At the checkout time, the property should be clean and tidy, as they found it and ready for hand over. After handing over the keys, a report is prepared as to the condition of the property and any defects or damages are listed. They should already have contacted the utility companies for termination accounts.

Once these are paid, they should be submitted to either Anton Page or the Landlord as evidence of payment. This is important. If for any reason a supply is disconnected, the Tenants could be charged a reconnection fee. Their

termination receipts are also needed so that either the Landlord or Anton Page can release the original deposit, less any appropriate charges, (which may include the cost of the check-out), and return the balance to them.

Furniture and furnishing regulations

March 1993 saw the application of the above Regulations to furnished lettings. They require that upholstered furniture supplied in a furnished let must meet all the resistance requirements of the Regulations. The supply of furnishings "in the course of business" which do not meet the Regulation constitutes an offence under the Consumer Protection Act 1987. Conviction for an offence under the Regulations carries a maximum penalty of a fine of £5,000 or six months imprisonment, or both. The phrase "in the course of business" includes the business of letting furnished accommodation by Landlords and can also include the business of a Letting Agent.

However Landlords who privately let their principal residence are not caught by this definition, unless the let is long term or they carry on persistent letting. In brief, the Regulations require that the upholstered furniture, mattresses, pillows and cushions, and head boards and head bases which are upholstered and included in a furnished letting must have a fire resistant filling material, the covering fabric must have passed a match resistance test and the combination of cover fabric and filling must have a passed cigarette resistance test.

The Regulations do not apply to soft furnishings such as curtains, carpets, etc. Furniture, manufactured before 1 January 1950 have been deemed not to be made with especially hazardous materials and is exempt. There is also some leeway for properties which have been subject to a continuous let since before 1 March 1993. In this case the Regulations need not be complied with up to 31 December 1996. However, any replacement furniture supplied during this transitional period must comply.

Since 1 March 1990, all new upholstered furniture sold in retail outlets has had to comply with the Regulations. In order to show compliance, such furniture carries a permanent label stating the tests to which the materials have been subjected. This label is of great assistance to a Letting Agent or Landlord in determining what furniture is acceptable in order not to commit an offence.

Further guidance and a free booklet produced by the Department for Trade and Industry is available from your local Council Trading Standards Department, or from this office. Please ensure that the furniture and furnishings of your property conform to the regulations of the above act. Anton Page cannot be held responsible if your furnishings and furniture does not comply with current regulations.

Gas and safety regulations

The Gas Safety (Installation and Use) Regulations 1994 are made under the Health and Safety at Work act 1974, which is the principal legislation relating to the same. The principal obligations of the Landlord are to be found in Regulations 34, 35 and 36 and the offences in Section 33 and 36 (1) Health and Safety at Work Act 1974. Details of which are available from this office and the Health and Safety executive. The act governs the Landlords obligations, unsafe appliances, and maintenance of appliances, escape of gas and criminal liability.

Stamp duty and land tax

As of 1 December 2003, this tax is solely the responsibility of the Tenant to pay. It is payable to the Inland Revenue for any short-term residential tenancies of up to seven years. The core change is the threshold over which the SDLT becomes due and the method of calculating that threshold is based on a computation known as Net Present Value (NPV). If the NPV amount is less than £60,000 then not LDLT is due. If the figure is more than £60,000 then tax is payable by the tenant(s) based upon 1% of the NPV. The sole responsibility for the calculation and submission of the relevant forms (SDLT1 and SDLT4) to the Revenue is the tenant(s). If makes no difference if the tenant is a person(s), Company, Trust or Partnership. All are liable to pay SDLT.

The Tenant has 30 from the 'effective date' in which to submit the forms. There are fines and possible penalties if the forms are submitted later than three months. It does not matter whether the tenancy is assured, shorthold, non-housing act or company let, they are all included. The calculation is on the rent due under each year (or part year) of the initial fixed term - irrespective of any notice period requirements. It is irrelevant if there is a break clause in the tenancy, as the calculation of the NPV is based upon the rent due each year (or part thereof) of the initial fixed term. There is no entitlement to a rebate in the event that a break clause is exercised, or a tenancy terminating early for any reason. Further details are available from the Inland Revenue's website or from ARLA.

In accordance with current legislation, specifically the Money Laundering Regulations 2003 (MLR 2003); the Proceeds of Crime Act (PoCA 2002); the Terrorism Act 2000 (TA 2000) amongst other requirements, we are obliged by law to properly identify clients' of this firm. However in the interests of safe practice, we also require proper identification on those parties who rent a property through us. In this regard, we require you to provide us with formal identification. This can be in the following form: a valid passport, or a valid EU/UK photo driving license.

We also, however, require proof of address. This could be a utility bill, or a mortgage statement, or an Inland Revenue tax notification. The above should be brought to our office in person, where a copy will be made and retained in our records. In the event that you are unable to visit us personally, we would accept copies, but in the case of the passport or driving license, these must be certified by an professional person, i.e.: a solicitor, a GP or a JP. In the case of joint owners, buyers or tenants, both must comply with the above legislation.

Electrical regulations

As of January 2005, there was new legislation introduced to cover electrical installations called the Part P Electrical Regulations Act 2005. Any installation or repair, excluding minor repairs, such as replacement of switches and sockets, now needs to be completed and self-certified by a qualified Electrician, who is a member of either ELECSA, BSI, ECA/BRE, NAPIT or NICEIC. Otherwise Building Control at your Local Authority has to oversee the installation or repair. Even minor repairs must come with a 'Minor Works Certificate' on completion of the job.

Repairs that fall within the Act should be certified in accordance with BS7671. Your Landlord should ensure that all works in the property, whether completed, underway or scheduled are carried out in accordance with the regulations and legislation.

The above information is correct as at November 2006, but due to the continuous changes in legislation in relation to residential lettings and estate agency in general, tenants are recommended to seek professional advice from either their accountant or their solicitor to clarify the up to date tax and legal position, before committing to any rental.