



A clear, impartial guide to

Letting a property

For use in Scotland



[rics.org/consumerguides](https://www.rics.org/consumerguides)

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How an RICS member can help you let your property

Not all letting agents are regulated. It is important to consider carefully who you engage to manage your property. Remember it is a significant financial investment requiring professional management to ensure its value is protected.

Using a letting agent Regulated by RICS ensures that the firm you deal with is knowledgeable in housing law. They are bound to act professionally and follow the standards set out in the RICS UK Residential Property Standards.

Most importantly, an RICS regulated firm is audited against those standards.

Here are the advantages of using a firm which is Regulated by RICS:

- they are qualified and trained to manage property and have excellent knowledge of housing law
- they give you clear, impartial and expert advice
- they must act professionally
- they are tightly regulated and have to follow strict rules of conduct – including having client money protection in place and appropriate insurance
- RICS members must update their skills and knowledge throughout their careers, so you can rely on their expertise
- clients are protected by a complaints procedure and access to independent redress through an Ombudsman scheme.

Before you start

Many landlords are capable of managing their property professionally

However, this requires specialist knowledge and can be a stressful process, especially if you also have a job.

Employing an RICS agent will help ensure you obtain a suitable tenant on an appropriate tenancy, and will help you to avoid falling foul of legislation.

An RICS agent will provide written confirmation of terms and conditions as well as a clear statement of fees and charges.

There are many things to consider before you advertise the property to let or instruct an agent. For example:

- if you have a mortgage you may need to get permission to let and this may incur a charge
- buildings insurance should be checked to ensure it is suitable for letting – you may need specialist landlord cover and you must let them know it is tenanted
- your tax liability may change and you may wish to consult a tax professional
- you must register as a landlord with your local council before you advertise the property for let –
www.landlordregistrationscotland.gov.uk

Houses in Multiple Occupation (HMO)

An HMO is a property occupied by three or more tenants who are not members of the same family – a co-habiting couple count as a family.

HMO landlords must have a licence from the local council. This ensures that the property is managed properly and meets certain basic safety standards.

The legislation is complex and each local authority has its own licencing conditions. Landlords should contact their local authority or consult their RICS letting agent for further details.



Preparing the property for let

Energy Performance Certificates

All domestic properties being let require an Energy Performance Certificate (EPC), the rating must be included in any advertisement and the certificate made available to potential tenants.

The EPC provides a rating of the energy efficiency and carbon emissions of a building from A to G, where A is very efficient and G is very inefficient.

EPCs are produced using standard methods with assumptions about energy usage so that the energy efficiency of one building can easily be compared with another.

This allows prospective tenants to consider the effect of energy efficiency and fuel costs on their budget.

An EPC is always accompanied by a recommendation report that lists measures to improve the energy rating of the home. The certificate is accompanied by information about the rating that could be achieved if all the recommendations were implemented.

If you, or a previous tenant, have set up Green Deal Finance then your agent and tenants will need to be told about this.

The Repairing Standard

It is a good idea to ensure the property is in the best possible condition as this will help ensure the best possible tenant chooses to rent your property.

There are strict standards you must follow and these are summarised below:

- the property must be wind and water tight and in all other respects reasonably fit for people to live in
- the structure and exterior (including drains, gutters and external pipes) must be in a reasonable state of repair and in proper working order
- installations for supplying water, gas and electricity and for sanitation, space heating and water heating must be in a reasonable state of repair and in proper working order
- any fixtures, fittings and appliances that the landlord provides under the tenancy must be in a reasonable state of repair and in proper working order
- any furnishings that the landlord provides under the tenancy must be capable of being used safely for the purpose for which they are designed
- the property must have a satisfactory way of detecting fires and for giving warning in the event of a fire or suspected fire.

Tenants have a right to apply to the Private Rented Housing Panel (PRHP) if they believe your property does not meet The Repairing Standard or that you have failed to fix any reported issues in a reasonable time frame.

Marketing and choosing your tenants

Think carefully about the type of tenant you are looking for and discuss this with your agent.

Your agent will discuss the rent to expect from the let, taking into consideration the type of property, its age and location and the fixtures and fittings to be included in the let.

Once you have confirmed your instruction to the agent he will commence the marketing and will advertise the property on your behalf in order to find suitable tenants.

You cannot discriminate on the grounds of sex, race, sexual orientation, age, religion, marital status or disability.

Advertising

Choose your rent level carefully to ensure you attract the best possible tenants to view.

Ensure your property is advertised as widely as possible. Most tenants now look at internet portals but you should also consider whether a To Let board will help.

Reference checking

It is important to ensure you or your agent check a potential tenant's details carefully. Ask for proof of their ID such as their passport or driving licence, and proof of their current and previous addresses. Ask for details of any landlords they have let from before and confirmation of their employment and proof of income. It is a good idea to check directly with their previous landlords and their employer and consider using a credit reference agency.

Under recently clarified laws on premiums, it is illegal to charge tenants for the preparation of a tenancy or the normal operation of the tenancy. This precludes the charging of any fees for reference checking.

Short Assured Tenancies

Once you have chosen a tenant it is essential to set up the tenancy agreement correctly. The process of signing a lease is complex and mistakes can be costly. Using a professional agent can provide re-assurance that your obligations will be met.

What is a Short Assured Tenancy (SAT)

Since the Housing (Scotland) Act 1988, most tenancies created by private landlords are Short Assured Tenancies (SATs). You must be careful to set this up properly to avoid an Assured Tenancy which confers more rights than you might expect on the tenant.

An AT5 document must be served individually to each tenant and it's a good idea to have them all sign to confirm they received an AT5 before they sign the tenancy agreement.

Certain grounds for eviction are referred to as Prior Grounds and must be notified separately to any tenant if you wish to rely on them. The most important of these grounds is essential to fulfil most mortgage lenders requirements in case of repossession.

A Tenant Information Pack (TIP) must be issued to each tenant and they must confirm receipt.

A SAT must have an initial period of at least six months. There is dubiety over how long six months is so it's best to add a couple of days to make sure - 1st January to 30th June is NOT six months according to most solicitors.

Although entering into a tenancy allows the tenant to enforce their rights, it is a legal requirement for landlords or their agent to supply a written lease.

Landlords usually must give two months' notice to end a tenancy or it will continue by tacit relocation. This just means it continues again for the same period. If the initial period is less than 12 months you can insert a clause to allow it to continue on a month by month basis instead.

Tenancy Deposit Protection

Any money collected as a deposit by a landlord or agent must be transferred to an authorised Tenancy Deposit Scheme (TDS) within 30 working days of the tenancy commencement.

It is also a requirement of legislation that you provide key information (Prescribed Information) to the tenant in the same time frame.

Failure to transfer the deposit to a scheme or provide information correctly to tenants within the required timescale can result in a fine of up to three times the deposit being held.

Inventories

It is now more important than ever to have a clear, detailed inventory of contents and condition of the property, including time stamped pictures where possible, agreed with and signed by the tenants.

Failure to have this may make it difficult to win a TDS dispute should the tenant not agree with your proposed deposit deductions at the end of the tenancy.



Obligations - safety first

Landlord responsibilities

Gas safety

Although an agent can arrange this for you, it is important to remember that the obligation to have any gas appliances checked annually for safety remains with the landlord. Certificates must be copied to tenants and kept for two years.

Fire safety

It is a legal requirement to have suitable smoke alarms. New or replacement smoke alarms must be mains powered and any property on more than one level should have interconnected mains smoke alarms. It is also a sensible precaution to provide fire blankets in kitchens.

Electrical safety

This is less clear as there is no legal requirement to provide a physical certificate. There is a clear legal duty under legislation to provide safe electrical installations and appliances as part of a tenancy.

A good landlord or agent will arrange Electrical Inspection Condition Reports (EICR) every five years and arrange Portable Appliance Testing (PAT) annually.

Agent responsibilities

Subject to contracts and terms and conditions, your letting agent may arrange to meet some or all of your obligations.

It is therefore essential to have a written contract. RICS agents are obliged to have clear detailed contracts outlining their charges and what this covers.

Landlords are usually responsible for:

- arranging and paying for any required repairs
- arranging and paying insurance for buildings and their own contents
- storage of any furniture not included
- paying any tax liable on rental income
- paying any factoring charges.

Tenant responsibilities

This depends heavily on the tenancy agreement but usually includes:

- paying a deposit and rent
- paying gas, electric and council tax bills, water charges and TV licence
- arranging their own TV, phone and broadband service
- acting responsibly and promptly reporting any issues such as maintenance required
- using the property responsibly and taking care to minimise wear and tear to a reasonable level
- returning the property in the same condition as that detailed in the inventory subject only to fair wear and tear.

Useful links

Here are some useful website addresses for advice when you're letting a property:

RICS

www.rics.org

HMRC

www.hmrc.gov.uk

Scottish Government

www.scotland.gov.uk

Private Rented Housing Panel (PRHP)

www.prhpscotland.gov.uk

Gas Safe Register

www.gassaferegister.co.uk

Electrical Safety Council (ESC)

www.esc.org.uk

Health and Safety Executive (HSE)

www.hse.gov.uk

Approved Tenancy Deposit Schemes (TDS)

www.safedepositsscotland.com

www.mydepositsscotland.co.uk

www.lettingprotectionscotland.com



Free RICS guides

RICS has a range of free guides available for the property issues listed here.

Development issues

Compulsory purchase
Home extensions

Home hazards

Dilapidations
Flooding
Japanese knotweed
Subsidence

Neighbour issues

Boundary disputes
Party walls
Right to light

Residential

Buying a home
Buying and selling art and antiques at auction
Home surveys
Letting a property
Property auctions
Renting a property
Selling a home

Further information

We hope this guide is useful to you. If you'd like to know more about letting a property, or how RICS can help, please contact us.

Visit our website

rics.org/consumerguides

alternatively email

contactrics@rics.org or call the RICS Contact Centre **02476 868 555**

Consumer helplines

RICS offers telephone helplines giving you 30 minutes of free advice on:

- Boundary disputes
- Party walls
- Compulsory purchase.

Just call **02476 868 555** and you will be put in touch with an RICS member local to you, willing to provide a free 30 minute initial consultation.

Lines are open

0830 -1730 (GMT), Monday to Friday.

Find a Surveyor

Contact us if you want to find independent, impartial advice from a qualified professional with good local knowledge.

Look out for firms that are 'Regulated by RICS'. Estate agents and surveying firms that are regulated by RICS are easy to spot as they use 'Regulated by RICS' on their stationery and promotional material.

To find an RICS firm in your area visit

www.ricsfirms.com

alternatively email

contactrics@rics.org or call the RICS Contact Centre **02476 868 555**



Advancing standards in land, property and construction.

RICS is the **world's leading qualification** when it comes to professional standards in land, property and construction.

In a world where more and more people, governments, banks and commercial organisations demand greater certainty of **professional standards and ethics**, attaining RICS status is the recognised **mark of property professionalism**.

Over **100 000 property professionals** working in the major established and emerging economies of the world have already recognised the importance of securing RICS status by becoming members.

RICS is an **independent** professional body originally established in the UK by Royal Charter. Since 1868, RICS has been committed to setting and upholding the **highest standards of excellence and integrity** – providing **impartial, authoritative advice** on key issues affecting businesses and society.

RICS is a **regulator** of both its individual members and firms enabling it to **maintain the highest standards** and providing the basis for **unparalleled client confidence** in the sector.

RICS has a worldwide network. For further information simply contact the relevant RICS office or our Contact Centre.

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