

Residential Landlords Association



Statutory regulations affecting the Private Rented Sector

Introduction

The Association is investigating the cost of regulation as it impacts on the private rented sector (PRS). The report into investment in the private rented sector commissioned by the Association from Prof. Michael Ball of Reading University identified the cost of regulation as a key element because, inevitably, it is indirectly paid for by tenants. When fixing their rents landlords (in the same way as any other business) take into account this cost in determining rent levels.

We have now identified over 100 Acts of Parliament or statutory regulations which specifically impact on private rented sector landlords. These contain around 400 individual requirements which could affect the way in which a landlord owns or manages his/her property and conducts tenancies. These are confined to property or tenancy specific matters; or the way in which a business has to be operated in relation to ones tenants. Certain requirements of a kind which generally affect business have been omitted in the list. Your attention is drawn to the notes below, which explain the approach adopted in compiling this list.

By identifying these requirements we are not saying whether we consider them to be good or bad, burdensome or reasonable, or effective or not. Our purpose is simply to identify them.

The second purpose of collecting this list is to give landlords a general indication of the kind of responsibilities they are taking on when they own and rent out properties in the private rented sector. This is what they need to know about. All types of private residential let are included. It is important to stress however that whether or not a particular requirement will apply very much depends on the individual circumstances. Many will not be encountered in practice.

The next stage of the project will be to identify those requirements which place heavier burdens on landlords, taking into account those which are most commonly found to be relevant. We will then be looking to cost out their impact.

As always, with any kind of list of this type decisions have to be made as to the scope of the list. Some requirements may, therefore, have been omitted which

some landlords would consider should be included. If this is the case please let us know so that we can consider adding them to the lists.

The various responsibilities are collected together under the relevant Acts/Regulations in date order. EU Directives are not specifically included but are taken into account indirectly where appropriate because the relevant Act or Regulations which apply them in the UK are included.

This list is believed to be correct as at 1st June 2012 but may change. It applies to England and Wales although it should be noted that in the case of Wales increasingly due to devolution the Welsh Assembly Government are taking over responsibility for the application of housing and landlord and tenant law in Wales, as well as matters such as planning and building control.

KEY AREAS OF REGULATION

- (1) Security of tenure/possession/protection from eviction
- (2) Tenancy Agreements
- (3) Landlord's responsibility for repairs and the condition of the property
- (4) The Housing Health and Rating System
- (5) Tenancy Deposits
- (6) Energy Performance Certificates (EPCs) and energy performance
- (7) Gas Safety and Safety Checks
- (8) Electrical Safety
- (9) Fire Safety
- (10) Council Tax and utilities.

Additionally for the relevant sub-sections of the PRS there are further key areas of regulations -

- (1) HMO Licensing and HMO Regulation
- (2) Selective Licensing
- (3) Housing Benefits and the Local Housing Allowance

Note: The above are listed in no particular order of priority.

List of statutory provisions

Construction (Design and Management) Regulation 2012

- Obligations to ensure minimum safety and health requirements on construction sites
- Duties as to the appointment of appropriate contractors and professionals and their competence.

Control of Asbestos Regulations 2012

- Obligations regarding asbestos in common parts.
- Duty to carry out risk assessment.
- Obligation to prepare management plans and return them.

Energy Performance of Building Regulations 2007 to 2012

- Duty to hold/commission EPC before marketing property for rent.
- Duty to make EPC available to prospective tenant.
- Duty to provide copy EPC to tenant.
- Providing EPC information along with written particulars of the property.

Social Security (Notification of Change of Circumstances) Regulations 2011

- Means of notifying changes in circumstances.

Energy Act 2011

- Green Deal requirements on change of ownership/tenancies including an obligation to notify tenants.
- Obtaining consent of tenants to Green deal.
- Minimum standards for energy performance.

Equalities Act 2011

- A duty not to discriminate directly or indirectly in relation to letting/management/assignment of premises on grounds of any of the protected characteristics (there are 7* in all namely age, disability, gender, re-assignment, pregnancy and maternity, race, religion/belief and sex and sexual orientation).
- A duty to make reasonable adjustments in relation to premises.
- Duties in relation to practices and procedures adopted.
- Disability related discrimination giving rise to restrictions on obtaining possession from disabled persons.

Consumer Protection from Unfair Trading Regulations 2008

- General duty not to use unfair business practices.
- Ban on misleading omissions.
- Prohibition on misleading/aggressive practices and certain specified practices.

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

- Apply 7* similar requirements to Section 257 HMOs as under the 2006 HMO Management Regulations - See above.

Housing (Tenancy Deposits) (Prescribed Information) Order 2007

- Lays down detailed format of prescribed information.

Corporate Manslaughter and Corporate Homicide Act 2007

- Liability for corporate manslaughter.

The Administration Charges (Summary of Rights Obligations) (England) Regulations 2007

- Format of demand for administration charges - to be accompanied by a statutory statement.

Service Charges (Summary of Rights and Obligations and Transitional Provisions) (England) Regulations 2007

- Format for notification of obligation to pay service charges.

Town and Country Planning (Control of Advertisements)(England) Regulations 2007

- Where applicable restrictions on advertising.
- Compliance with deemed consent provisions relating to 'To Let' Boards.

Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007

- Inspection of air conditioning systems.

Health Act 2006

- Prohibition on smoking in common parts.
- Obligation to display no smoking signs.

Management of Houses in Multiple Occupation (England) Regulations 2006 (there are equivalent regulations for section 257 HMOs - converted flats which do not comply with 1991 or later building regulations where more than a third of the flats are rented out).

- Duty of manager to provide information to occupier.
- Duty of manager to take safety precautions.
- Duty of manager to maintain water supply and drainage and gas and electricity.
- Duty of manager to obtain common parts etc.
- Duty to provide waste disposal facilities.
- Duty to maintain living accommodation.

Selective Licensing of Houses (Specific Exemptions) (England) Order 2006

- Exemptions for Selective Licensing.

Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006

- Designates HMOs subject to mandatory licensing.

Licensing and Management of Houses in Multiple Occupation and other houses (Miscellaneous Provisions) (England) Regulations 2006

- Prescribed minimum national standards for licensable houses in multiple occupation.
- Detailed format of licensing application forms.

Housing Health and Safety Rating System Regulations 2005

- Prescribed categories of harm (29 in all*).

Regulatory Reform (Fire Safety) Order 2005

- Obligations as to fire safety in common parts of flats and bedsits.
- Requirements as to general fire precautions.
- Obligation to carry out risk assessment.
- Provision of fire fighting and fire detection equipment.
- Keeping emergency routes and exits clear and maintained.
- Maintenance obligations.
- Obligation to reduce risk assessments to writing if licensed or 5 employees.

General Product Safety Regulations 2005

- General safety requirement.

Consumer Protection (Distance Selling) Regulations 2005

- Restricts agreements entered into at a distance.

Fire and Rescue Services Act 2004

- Powers of entry to obtain information to investigate fires.

Housing Act 2004

- Health and safety rating system - obligation to remove/reduce hazards (29 in all).
- Obligation in relation to the carrying out of risk assessments in fire safety in the light of LACORS Guidance.
- Definition of HMO (5* categories).
- A duty to obtain a Licence for a house in multiple occupations (HMO) on 3 or more stories with 5 or more occupants.
- Duty to obtain HMO Licence where additional HMO Licensing applies. F
- Obligation to comply with Licence conditions in relation to antisocial behaviour.
- Obligation to comply with Licence condition to provide annual gas safety check certificate.
- Obligation to provide declaration of compliance in relation to electrical safety.
- Obligation to provide declaration of compliance in relation to furniture safety.
- Obligation to provide a written tenancy agreement.
- Restriction on number of occupiers.
- Where selective licensing applies there is a duty to apply for selective licence. F
- Obligation where selective licensing applies to take up references.
- Compliance with other conditions relating to selective licensing.
- Obligation as to overcrowding in non licensable HMOs.
- Obligation to provide documents if required.
- In relation to tenancy deposits - obligation to protect a tenancy under an assured tenancy deposit within 30 days. F (insurance backed schemes).
- Obligation to give prescribed information.
- Compliance with requirements to return deposits/alternative dispute resolution in the event of dispute.
- Compliance with scheme rules.
- Effective requirement to provide an inventory.

The Electrical Safety Quality and Continuity Regulations 2002

- Duties in relation to customers' installations outside the building which would present a danger to the public.

Regulatory Reform (Housing Assistance) England and Wales Order 2002

- Regulation for housing grants and assistance.

Commonhold and Leasehold Reform Act 2002

- Restrictions on forfeiture.
- Control over administration charges.

Private Water Supply Regulations 2001

- Private water system analysis and sampling.

Housing Benefit Regulations 2001

- Occupation of a dwelling as a home.
- Liable person (responsibility for paying the rent)
- Eligible rent and housing costs
- Eligibility for local housing allowance - rent.
- Entitled to payment in respect of tenancy.
- Change of circumstances.
- Time and manner of payment.
- Overpayments.
- Information from landlords.

Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

- Persons affected in respect of housing benefit determinations.
- Suspension of benefits.
- Supersession and review of decisions.

Child Support, Pensions and Social Security Act 2000

- Housing benefit, provisions and appeals.
- Discretionary housing benefit.

Utilities Act 2000

- Rules relating to maximum resale price for gas.

Building Regulations 2000 F

- Obligation to comply when carrying out building work/a material change of use including work on controlled services/fittings.
- Obligation to carry out building work with proper materials/in a workmanlike manner.
- Obligation to deposit plans/give notice
- Notices at various stages of the works.
- Part P - obligations in relation to carrying out electrical works in dwellings.
- Obligation under Parts A B C D E F G H J K L M and N (13 parts*).

Rent Act (Maximum Fair Rent) Order 1999

- Formula for calculating maximum fair rent for Rent Act regulated tenancies.

The Management of Health and Safety at Work Regulations 1999

- Obligation to undertake risk assessments including in relation to tenants, residents and visitors.

Water Supply (Water Fittings) Regulations 1999

- Requirements regarding water fittings used for domestic purposes.
- Obligation to notify the water company on installation of certain water fittings.

Unfair Contract Terms in Consumer Contracts Regulations 1999

- Form of tenancy agreements - requirement for plain English.
- Prohibition on unfair terms in tenancy agreements

Data Protection Act 1998

- Processing data lawfully.
- Providing privacy notices.
- Subject access requirements.

Assured Tenancies and Agricultural Occupancies (Forms) Regulations 1997

- Forms prescribed under Part 1 of the Housing Act 1988.

Party Wall Etc Act 1996

- Requirement to give notices in relation to party wall works (3 different requirements*).

Local Government (Miscellaneous Provisions) Act 1996

- Obligation to give certain information to local authorities when required.

Housing Act 1996

- Restrictions on termination of tenancy for failure to pay service charge.
- Rent Officers functions relating to local housing allowance and housing benefit.
- New provisions for post 1997 assured shorthold tenancies as the default tenancy.

Town and Country Planning (General Permitted Development) Order 1995

- Changes of use affecting dwellings including small HMOs.
- Article 4 Directions restricting changes of use to small shared HMOs.
- Rules relating to circumstances where permitted development is allowed, i.e. without express planning permission. There are 12* categories of permitted development relevant to dwellings.

Gas Appliance (Safety) Regulations 1995

- Gas appliances as supplied must be safe.

Landlord and Tenant (Covenants) Act 1995

- Provisions relating to the transmission of benefit and burden covenants without Release of tenants from tenant covenants.
- Procedure under which landlord can be released from landlord covenants.
- Restrictions on recovery from former tenants/guarantors of unpaid rent.

Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1995

- Obligation to report certain accidents.
- Obligation to report dangers in respect of gas incidents.

Plugs and sockets etc (Safety) Regulations 1994

- Safety of plugs and sockets.

Electrical Equipment (Safety) Regulations 1994

- Safety of electrical appliances.

Law of Property (Miscellaneous Provisions) Act 1994

- In case of intestacy/lack of executors requirement for additional compliance e.g. where tenant dies.

Leasehold Reform etc Act 1993

- Compliance with codes of practice approved by the Secretary of State.

Clean Air Act 1993

- Restrictions on smoke emissions.

Council Tax (Administration and Enforcement) Regulations 1992

- Power to require information.
- Billing provisions.

Local Government Finance Act 1992

- Power of local authorities to levy Council tax on owners.
- Power to define dwellings.
- Owners liability for Council tax.
- Exemptions.
- Discounts.

Council Tax (Chargeable Dwellings) Order 1992

- Power to band non self contained units of accommodation (disaggregation rules).
- Aggregation of dwellings.

Council Tax (Exempt Dwellings) Order 1992

- Exemption from Council Tax liability.

Council Tax (Liability of Owners) Regulations 1992

- Define landlord's liability to pay Council Tax.

Social Security Administration Act 1992

- Claims for benefit.
- Housing benefits adjudication.
- Housing benefits overpayments.
- Information for landlords.

Water Industry Act 1991

- Requirements for supply of water by separate service pipes.
- Liability for water charges and sewerage charges.
- Connection and infrastructure charges.

Water Industry Act 1991

- Obligations as to the quality of water supply.
- Prohibition on allowing water systems to be out of order which may result in contamination.

Environmental Protection Act 1990

- Licensing requirements regarding disposal of waste. F
- Duty of care as respects waste.
- Arrangements regarding waste recycling and waste containers.
- Statutory nuisances.

Town and Country Planning Act 1990 (as amended)

- Requirement for planning permission for building operations etc. F
- Requirement to obtain planning permission for the change of use (see further below under Article4).
- Planning contravention notice procedure.
- Tree preservation orders.

Planning (Listed Buildings and Conservation Areas) Act 1990

- Where applicable need for listed building consent.
- Additional requirements for obtaining planning permission in conservation areas.
- Restriction on removal of trees in conservation areas.

Electricity Act 1989

- Rules fixing maximum resale price for electricity.

Law of Property (Miscellaneous Provisions) Act 1989

- Format of deeds where required.
- Formalities required for valid written tenancy agreements.

Electricity Act 1989

- Charges for electricity.
- Metering.

Electricity at Work Regulation 1989

- Duty of employers/self employed persons as to safety on installing electrical equipment
- Duty to ensure installation is maintained (including visual/PAT tests).
- Obligation only to use competent person to do work.

Gas Safety (Installation and Use) Regulations 1988

- Obligation to use qualified engineer for work.
- Duty to provide prospective tenants with a copy of the current gas safety certificate before or at the time they move in.
- Duty to provide new gas safety certificate to existing tenants within 28 days of receipt.
- Duties as responsible person in respect of the safety of gas installations and appliances.
- Duty to ensure installation and appliances are in a safe condition.
- Obligation to carry out annual gas safety checks.
- Restrictions on alterations/use of materials.
- Obligations in relation to instantaneous water heaters.
- Obligations relating to concealed flues.

Furniture and furnishings (Fire) (Safety) Regulations 1988

- Restrictions on the supply for furnishings and furniture.
- Fire safety requirements.

Landlord and Tenant Act 1988

- Duty to consent to assignment and sub-lettings etc in certain circumstances.
- Right to claim damages for non-compliance.

Housing Act 1988

- Security of tenure and grounds for possession (17* grounds for possession)
- Requirement to give notice of proceedings for possession (Section 8 notices).
- Effective minimum of 6 months for assured shorthold tenancies.
- Statutory periodic tenancies.
- Procedure for increasing rents under assured tenancies.
- Access for repairs.
- Determination of excessive rents by rent assessment committee.
- Statutory succession rights for spouses/partners.
- Restrictions on levy of distress for rent.
- Notice provisions relating to pre-1997 assured shorthold tenancies.
- Prohibitions on assignment.
- Sub letting provisions.
- Increase in rents when landlord liable for Council Tax.
- Provisions relating to shared accommodation.
- Section 21 procedures for possession.
- Obligation to provide written tenancy terms when requested.

Town and Country Planning (Use Classes) Order 1987

- Define small HMO for planning purposes.

Landlord and Tenant Act 1987

- Obligation to notify in the case of certain disposals of tenanted flats giving tenants right of first refusal.
- Obligation to provide address for service.
- Obligation to provide an address in service charge demands.
- Obligation to provide an address in rent demands.
- Service charges to be held on trust.

Gas Act 1986

- Charges for Gas
- Metering

Insolvency Act 1996 and Insolvency Rules 1986

- Disclaimer of tenancies.

Business Names Act 1985

- Obligations to give details of ownership.

Housing Act 1985

- Information to be detailed in a rent book.
- Duty to notify local housing authority of overcrowding.
- Restrictions on overcrowding.

Landlord and Tenant Act 1985

- Disclosure of landlord's identity.
 - Disclosure of directors etc of corporate landlord.
 - Duty to inform the tenant of assignment of landlord's interests.
 - Duty to inform the tenant of possible right to acquire landlord's interest.
 - Provision of rent books (weekly tenants).
 - Fitness for human habitation (low rent tenancies).
 - Information to be supplied by companies where rent book is required.
 - Repairing obligations in short leases. These extend to 7 items*. This includes the structure, exterior, electrical installations, gas installations, water supply, drainage, and facilities for the use of water.
 - Restrictions on contracting out/items for which a service charge can be levied.
 - Specific performance of landlord's repairing obligation.
 - Provision relating to the reasonableness of service charges and consultation requirement.
- Note: A detailed description of provisions regarding service charges is not included but applies where a landlord charges a variable service charge (recovery of items relating to repair under the landlord's statutory repairing obligations are not recoverable). Usually these apply in the case of long Leases of flats in any event but they can apply to short term lets.
- Reserve power to limit rents (applicable to regulated tenancies under the Rent Act 1977).
 - Time limit to recover service charges
 - Service charge information - notice to accompany a demand.
 - Procedures relating to obtaining access to inspect/carry out repairs.

County Courts Act 1984

- Restrictions on forfeiture for non payment of rent.

Building Act 1984

- Compliance with building regulations.
- Duty to deposit plans/building notice.
- Provision of drainage and water supply.
- Provision of closets.
- Provision of food storage.
- Dangerous building provisions.

Rent Books (Form of Notices) Regulations 1982

- Format for rent books.

Housing Act 1980

- Protected shorthold tenancies.
- NB: Only granted prior to 1989.
- Tenants improvements

Limitation Act 1980

- Statutory time limit for possession actions.

Housing Act 1980

- Protected shorthold tenancies.
- NB: Only granted prior to 1989.
- Tenants improvements

Notices to Quit (Prescribed Information) Regulations 1980

- Words to be included in notices to quit at common law.

The Regulated Tenancies (Procedure) Regulations 1980

- Procedure for the Rent Officer on determining Rents.

Rent Regulation (Cancellation of Registration of Rent) Regulations 1980

- Cancellation of registered rents.

Torts (Interference with Goods) Act 1977

- Disposal of uncollected goods, furniture etc.

Rent Act 1977

- NB. Only applicable to tenancies granted prior to the implementation of the Housing Act 1988.
- Restrictions on obtaining possession of properties let on regulated tenancies.
- Grounds of possession (20* different grounds)
- Restrictions applicable in the case of resident landlords.
- A scheme of registration of fair rents and application of rent limits.
- Rents controlled in relation to restricted contracts.
- Restrictions on obtaining possession of property subject to restricted contracts.
- Restrictions on premiums.
- Statutory succession rules.
- Restrictions on levy of distress.
- Access for repairs.
- Provisions related to shared accommodation.
- Increase of rent provisions

Protection from Eviction Act 1977

- Prohibition on unlawful eviction.
- Prohibition of harassment.
- Restriction on the re-entry/eviction without due process.
- Form of notices to quit - containing prescribed information.
- Excluded tenancies and licences (where tenants share living accommodation with their landlords)

Unfair Contract Terms Act 1977

- Restrictions on excluding liability for personal injuries etc.

Criminal Law Act 1977

- Restriction on use of force to secure entry to property.

Control of Pollution Act 1974

- Disposal of controlled waste.

Health and Safety at Work etc Act 1974

- Duty of every employer/self employed person to conduct his/her undertaking to ensure persons not in his/her employment but who may be affected thereby are not exposed to risk to their health or safety.
- Legionella.
- Duty in relation to common parts of flats and bedsits.

Defective Premises Act 1972

- Duty on landlord in respect of defective premises to do work in a workmanlike manner.
- Liability for personal injuries death and damage to property caused by disrepair.

Misuse of Drugs Act 1971

- Liability of owner for use of premises for smoking of cannabis/consumption of certain drugs.

Cost of Leases Act 1958

- Restrictions on recovery of legal costs.

Sexual Offences Act 1956

- Landlord letting premises for use as a brothel.

Rights of Entry (Gas and Electricity Boards) Act 1954

- Warrants securing entry to property.

Prevention of Damage by Pests Act 1949

- Obligations in relation to removal of vermin.
- Duty to notify the local authority of rats and mice.
- Duty to remove rubbish.

Leasehold Property (Repairs) Act 1938

- Restrictions on enforcing repairing covenants in longer leases of small houses.

Public Health Act 1936

- Defective closets.
- Defective drains.
- Building over sewers.
- Overflowing and leaking cess pools.
- Cleansing of verminous premises.
- Sanitary systems.
- Restriction on water supply.

Landlord and Tenant Act 1927

- Restrictions on claims for dilapidations.
- Provisions relating to covenants not to assign, sub-let etc

Law of Property Act 1925

- Requirements as to circumstances in which the tenancy agreement must be in writing or by way of a deed (where it exceeds 3 years).
- Restrictions on the payments for Licences to Assign.
- Restrictions on right to forfeit long Leases.
- Provisions as to service of Notices.

Law of Distress (Amendment) Act 1908

- Notice to be given to sub tenants for rent in arrears to be paid to head landlord.

Common Law Procedure Act 1852

- Restrictions on forfeiting a fixed term tenancy.

Distress for Rent Act 1737

- Provision for landlords where tenants desert premises.
- Tenants remaining in premises after they give notice to quit to pay double rent.

Landlord & Tenant Act 1730

- Persons holding over after expiry of fixed term lease can be required to pay double the yearly value.

COMMON LAW

In addition to Statutory Regulations there are various obligations under common law (1) Negligence

- potential liability under the tort of negligence.
- (2) - imply a condition that furnished premises will be in a state reasonably fit for human habitation as at the outset of the tenancy.
- (3) - landlords obligation in respect of retained property.
- (4) - law of nuisance.

NOTES:

- (i) The above list assumes compliance with duties where required. Provisions relating to enforcement have therefore normally been excluded, as have provisions regarding rights of entry usually. Powers to require information/documents are included.
- (ii) All the regulations are in force or the Government is actively introducing them.
- (iii) This summary only gives an overview of relevant legal duties. Reference must be made to the relevant legislation for full details.
- (iv) Duties have been included which are specifically relevant to the ownership/management of residential property. Generally, obligations relating to all businesses (e.g. in respect of employment laws or company law where the landlord is a corporate body) have been omitted. Likewise no reference is made to court procedure rules or rules/procedures relating to the Rent Assessment Committee/Residential Property Tribunal.
- (v) No specific reference has been made to regulations requiring payment of fees e.g. in respect of HMO licensing. F marks when a fee to public authority is payable.
- (vi) Generally speaking, all of the above create legal obligations or in some instances effectively create legal obligations e.g. in relation to property inventories and compliance with relevant fire safety guidance.
- (vii) With the exception of housing benefit no reference is made to state welfare benefits nor is any reference made to taxation obligation except in relation to Council tax.
- (viii) In addition there is a large amount of good practice but unless this effectively gives rise to a legal obligation this is not referred to. Generally speaking only obligations under Acts of Parliament or

regulations are included but for completeness certain common law responsibilities are identified.

- (ix) From time to time legislation and regulations are amended. Often this has been done by altering the first set of regulations concerned. Where this is done references are included to the original regulations as amended and the amending regulations themselves are not included or counted.
- (x) Where marked with an asterix there is reference to more than one area of regulation and each one has been counted separately in calculating the overall numbers.
- (xi) Welsh Regulations replicating English Regulations are not included.
- (xii) Commencement Orders are ignored.
- (xiii) This list has been compiled by reference to various sources of information including the Government Legislation Website, Hill & Redman Landlord & Tenant, Stones Justices Manual, Planning Law Practice and CPAGs Housing Benefit and Council Tax Legislation. Internal RLA records have also been consulted, especially in relation to Health & Safety Legislation affecting the private rented sector.