

Private Landlord Information

North Lanarkshire 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.



For more information please contact:

Landlord Registration
Public Health and Housing
Municipal Buildings
Kildonan Street
Coatbridge ML5 3LF
Telephone: 01236 632 377
Email: PHHSupport@northlan.gov.uk

Landlord Registration

All private landlords in Scotland are legally required to register with the local authority where they are or will be renting out a property. It is a criminal offence to let out a property without having submitted a valid application for registration.

You will be required to pay a registration fee of £55 and all joint owners must register. You should decide who will be the lead applicant. The lead applicant is the person who will pay the fee. Other joint owners are exempt from paying a fee.

North Lanarkshire Council will need to consider if you are a 'fit and proper' person before approving your application. This will protect tenants and their neighbours from the impact of antisocial behaviour and mismanaged property.

If approved, your registration will be valid for three years from the date of approval. You will have to apply to renew your registration at the end of the three years.

You MUST keep your Landlord Registration up to date with any changes, including agents and properties.

Scottish Landlord Register

This is the official register of landlords of private rental properties in Scotland. Please visit: <http://www.landlordregistrationscotland.gov.uk> to:

- Apply to register if you are a landlord or agent of a private rented property
- Renew an existing registration before it expires
- Search the register for a landlord or agent's contact details or information about rental properties on the register

The website also gives you information on how much it costs to register.

Procedures at the start of a tenancy

You will issue your tenant with either a short assured tenancy or an assured tenancy.

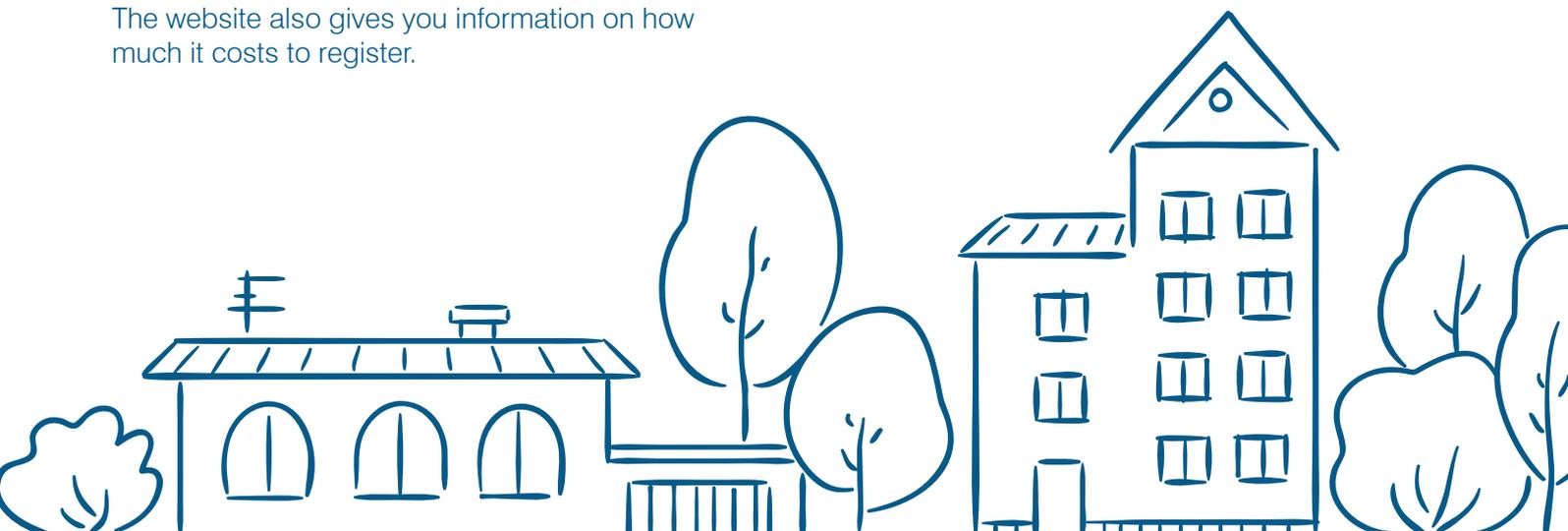
If you issue a short assured tenancy you are required to issue an AT5 form BEFORE the tenancy agreement is signed.

<http://rentingscotland.org/articles/at5-notice>

Under the Housing (Scotland) Act 1988 you are required to provide your tenant with a written tenancy agreement which will have the terms of the agreement written in it. It should be clear and fair and should at least include:

- The names of all people involved
- The property address
- The rental price and how it is paid
- The start and end date of the tenancy (minimum of 6 months if short assured). You should include what happens at the end of the period of the tenancy- e.g. if it will continue on a month to month basis
- Any tenant or landlord obligations
- Responsibilities for maintenance and repairs
- Responsibility for bill paying i.e. Council Tax
- Condition the property should be kept in
- A statement telling the tenant that antisocial behaviour is a breach of the agreement

The tenancy agreement needs to be signed by both you and your tenant. The signatures should be witnessed.



The Private Housing (Tenancies) Scotland Act 2016

This new act creates a new private residential tenancy which will replace the assured and short assured tenancies for all future private rented sector lets. It is anticipated that the new tenancy will commence sometime in December 2017.

For more information about these upcoming changes please visit: <https://beta.gov.scot/publications/private-residential-tenancies-landlords-guide/>

Agents

If you use an agent to manage your property this should be recorded on the Landlord Registration database. Your landlord application will not be approved until both you and your agent have been assessed as a fit and proper person.

Letting Agent Regulation

The Scottish Government is introducing a new regulatory framework for letting agents. This includes compulsory registration; a statutory Code of Practice with a means of redress to the new First-tier Tribunal; and powers for monitoring compliance and effective enforcement. Letting agent registration is expected to commence in early 2018. For more information please visit: <https://beta.gov.scot/policies/private-renting/regulation/>

Tenant Information Pack

If you issue an assured or short assured tenancy you have a legal duty to provide all of your new tenants with a Tenant Information Pack. This pack is required for all new tenancies from 1 May 2013, including those where you draw up a new lease. It is not needed for existing leases.

The Tenant Information Pack is a standardised document, available on the Scottish Government website: <https://beta.gov.scot/publications/tenant-information-pack-revised-december-2016/>

It includes information on:

- Tenancy agreements
- Property condition
- The rights and responsibilities of tenants
- The rights and responsibilities of landlords

The Tenant Information Pack aims to make information more readily available to your tenants in privately rented housing. It is recognised that good information may already be available to your tenants. The Tenant Information Pack is not intended to replace this, but to provide a minimum standard of information available across the whole sector.

If you use an agent your agent can provide the Tenant Information Pack on your behalf however the legal duty remains with you as the landlord.

Tenancy Deposit Scheme

When you take a deposit from your tenant you must also comply with the requirements of the Tenancy Deposit Schemes (Scotland) Regulations 2011. If a deposit is taken it must be no more than the equivalent of 2 months' rent.



You have a duty to lodge the deposit with one of the three approved schemes: My Deposit Scotland, Safe Deposits Scotland or Letting Protection Scotland. You must do this within 30 working days of the beginning of the tenancy. You must provide your tenant with key prescribed information on which scheme you have lodged their deposit with. You must also ensure the deposit continues to be held by one of the three approved schemes until it is repaid following the end of the tenancy.

If a deposit is not submitted to a scheme and / or the prescribed information is not provided to your tenant, they can apply to a Sheriff Court for sanctions against you for non-compliance with the Regulations. If the Sheriff is satisfied that you, as a landlord, have failed to comply, they must order you to pay up to three times the amount of the deposit.

If your tenant moves out of your property before you have complied with the Regulations, they will have up to three months after the tenancy has ended to make an application to the court.

Rent Deposit Guarantee Scheme

North Lanarkshire Council currently have a deposit scheme which is designed to help prospective tenants who cannot afford a deposit.

If you would like further information on this please visit: <http://www.northlanarkshire.gov.uk/index.aspx?articleid=26499>

Illegal Premiums

The law covering the fees landlords and letting agents may charge private tenants has been clarified.

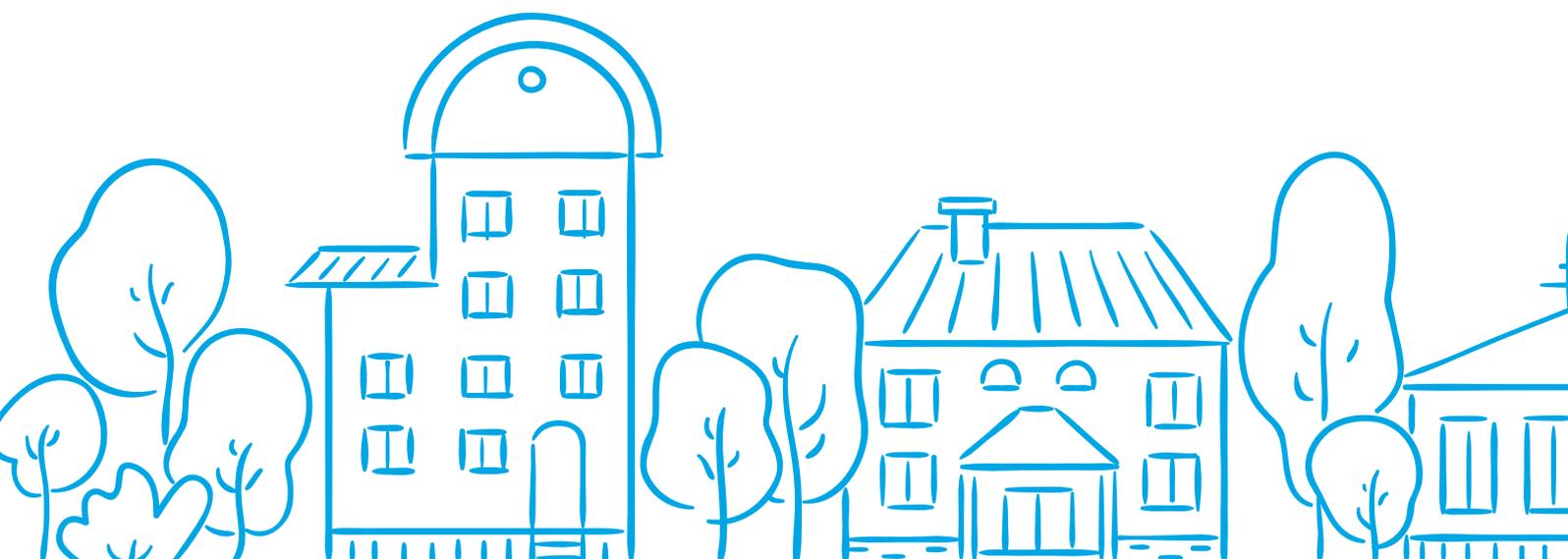
It is illegal to charge tenants any fees other than rent and a refundable deposit. No other charges such as reference checks, credit checks and inventory fees are allowed. Tenants may challenge landlords who have asked for any extra fees. If your tenants have already paid a premium, they may write to you or your letting agency to ask for their money back. If you don't return the money then your tenant can take you to the small claims court to claim back the fees.

Energy Performance Certificate

You are required to provide your tenants with a copy of an Energy Performance Certificate (EPC).

An EPC is a document which states the energy efficiency of a building based on the standardised way the building is used and provides the building owner with a number of ways in which the efficiency could be improved. The energy performance rating has to be included in any advertising. Failure to do so may incur a fine of up to £1000. You can find an EPC assessor through the Energy Saving Trust at: <https://www.scottishepcregister.org.uk/assessorsearch>

As EPCs are valid for 10 years you can check if there already is one for your property at: <https://www.scottishepcregister.org.uk/>



Regulation of Energy Efficiency in the Private Sector (REEPS)

Scottish Government are currently consulting on the regulation of private rented sector housing to increase efficiency standards.

For more information please visit: <http://www.gov.scot/Publications/2017/04/2510>

Gas Safety

If you have gas in your property you are required to have a valid gas safety certificate and your tenants should be provided with a copy before moving into the property. Gas safety checks should only be carried out by a Gas Safe Registered installer (this replaced CORGI in 2009). Landlords have a legal duty to get all gas appliances in their properties inspected on an annual basis. Your tenant must allow a Gas Safe Registered gas installer access to your accommodation to carry out safety checks and, if necessary, repair work. You should give your tenant adequate notice of the gas safety inspection.

Electrical Safety

From 1 December 2015 all landlords are required to have an electrical safety inspection carried out on properties with new tenancies. Where there is an existing, ongoing tenancy the requirement was from 1 December 2016.

After the inspection you should be issued with an Electrical Installation Condition Report (EICR).

A Portable Appliance Testing (PAT) of any electrical items provided by you is also required. You should give a copy of the EICR to your tenant. The legal requirement is that inspections are carried out every five years and more often if recommended by an electrician. It is good practice to carry out PAT testing annually. If you have a new tenant within the five year period you should give them a copy of the last EICR.

Where landlords already hold an Electrical Installation Certificate from 2012 onwards, or where one is issued for a new property or after a complete rewiring, it is not necessary to obtain an EICR until 5 years from the issue date although it will be necessary to have PAT testing carried out on any appliances you have provided.

Electrical Safety checks must be carried out by a competent electrician, usually a member of Select, NICEIC or NAPIT. PAT testing can be carried out by a competent electrician or someone who has completed training in PAT testing. It is possible for landlords to undertake training and complete their own PAT testing.

For more information please visit: <http://www.electricalsafetyfirst.org.uk/guides-and-advice-for-landlords/>



Fire Detection

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

Guidance has changed and 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
- All alarms should be hardwired and interlinked

The number and position of the alarms will depend on the size and layout of the house. There should be at least one alarm on each floor. You should either install smoke and fire detectors that meet the standard set by building regulations or be able to justify why a lesser level of protection is appropriate in a particular house.

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.

Carbon Monoxide detectors should be installed in all dwellings where there is:

- A fixed combustion appliance (excluding an appliance used solely for cooking) in the dwelling. This includes boilers, fires (including open fires), heaters and stoves fueled by solid fuel, oil or gas
- A fixed combustion appliance in an inter-connected space, for example, an integral garage

A Carbon Monoxide detection system is not required in an attached out building or garage where there is no inter-connection with the house e.g. a door. If there is no way Carbon Monoxide could reasonably be expected to find a path into the house there is no need for a detector.

Legionella

Landlords have a duty to carry out risk assessments on their water systems in all their properties to source potential risks of legionella. The Health and Safety Executive states that most landlords can assess the risk themselves, but if you wish there are companies that can carry out this assessment for you, and online options which take you through the process for a small charge.

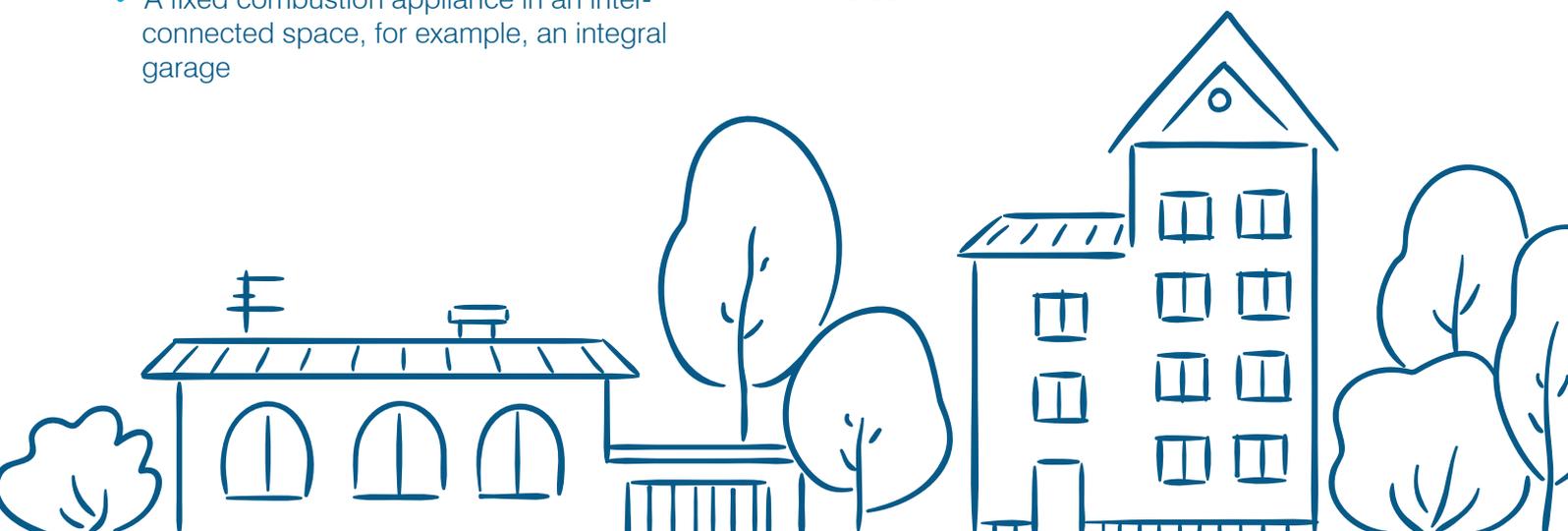
<http://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm>

Repairs

You have a legal responsibility to make sure the property you rent out meets a minimum standard of repair for private rented properties - known as the Repairing Standard.

A house meets the Repairing Standard if:

- It is wind and watertight and 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 you under the tenancy are in a reasonable state of repair and in proper working order
- Any furnishings provided by you under the tenancy can be used safely for the purpose they are designed for
- The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire
- The property must have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

You must tell your tenants about the Repairing Standard before the tenancy starts. If you fail to carry out repairs, your tenant can request that the Housing and Property Chamber consider their case.

Your tenant should provide access to allow repairs to be carried out. Unless it's an emergency, you should give your tenant at least 24 hours' notice.

<http://www.housingandpropertychamber.scot/repairs>

Housing and Property Chamber Repairs

If your property does not meet the Repairing Standard, your tenant will be able to apply to the Housing and Property Chamber for a decision on whether you as a landlord have breached the Repairing Standard. The Housing and Property Chamber is the new name for the Private Rented Housing Panel (prhp) from 1 December 2016.

Your tenant has to notify you that the work needs to be done and give you a reasonable time to complete the work, before making an application to the Housing and Property Chamber. Any repair requests from your tenant must be made in writing as this may later be used as evidence if they proceed to making an application to the Housing and Property Chamber. Should you fail to carry out the repairs in a reasonable timescale your tenant can then make an application to the Housing and Property Chamber who will begin investigations into their complaint.

It is possible for North Lanarkshire Council to make reports directly to the Housing and Property Chamber if it appears you are failing to meet the Repairing Standard.

If the Housing and Property Chamber finds that you have failed to meet the Repairing Standard they will issue a Repairing Standard Enforcement Order (RSEO) requiring you to carry out the work. It is a criminal offence not to comply with a RSEO without a reasonable excuse, and to re-let a property subject to a RSEO. If you still fail to comply with the RSEO the Housing and Property Chamber will formally notify North Lanarkshire Council and the Housing and Property Chamber committee may issue a Rent Relief Order, which can reduce the rent your tenant has to pay by up to 90%, and inform the Procurator Fiscal.

Further information can be found on the Housing and Property Chamber website: <https://www.housingandpropertychamber.scot/repairs>



Rents

If your tenant feels the rent being charged is unreasonable they may be able to apply to the Housing and Property Chamber to have a fair rent set. The Housing and Property Chamber can only consider applications where there are sufficient rented properties of a similar nature nearby to give an idea of the market rent, and where the rent being charged is significantly more than the market rent.

Further information can be found on the Housing and Property Chamber website: <https://www.housingandpropertychamber.scot/rent>

Right of Entry

As a landlord you have a right of entry to your property for the purpose of:

- a) Viewing its state and condition for the purpose of determining whether the house meets the Repairing Standard and/or
- b) Carrying out any work necessary to comply with the repairing standard duty or a Repairing Standard duty or a Repairing Standard Enforcement Order

You should first have notified your tenant in writing of the need for access and why it is required. If you are having difficulty accessing the property you can apply to the Housing and Property Chamber for assistance. The Housing and Property Chamber can assist in arranging a suitable date for access and where required fix a date and time for access if a tenant and landlord cannot agree a date.

Further information can be found on the Housing and Property Chamber website: <http://www.housingandpropertychamber.scot/right-entry>

Right to Adapt

Your tenant has a right to ask for the property to be adapted which you cannot unreasonably refuse. You cannot include a clause in the tenancy agreement to opt out of this duty.

Houses in Multiple Occupation (HMO)

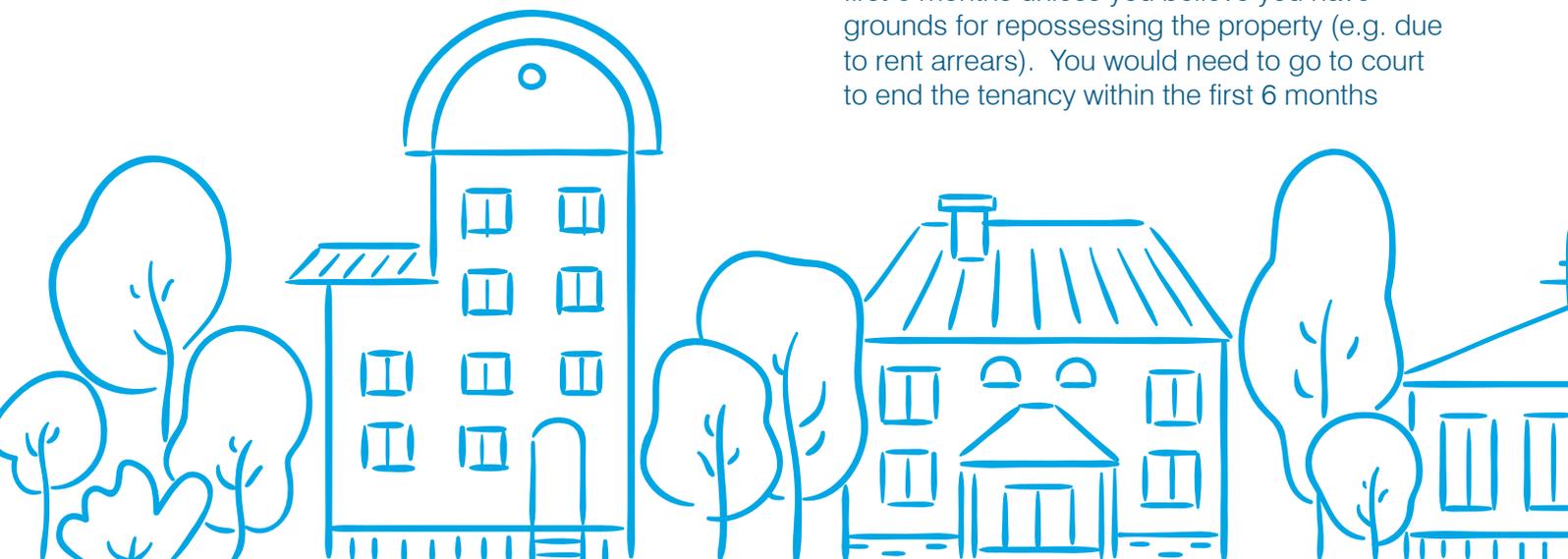
If you rent out a property which is occupied by three or more unrelated people as their main or only residence and they share the use of kitchen or bathroom facilities, you will need an HMO license. Accommodation occupied by students during term-time is always regarded as their main residence. For more information please visit:

<http://www.scotland.gov.uk/Publications/2004/07/19731/40886>

Procedures for Ending a Tenancy - Short Assured and Assured

By law you are required to follow correct procedures if you want to end the tenancy. These procedures will depend on the type of tenancy your tenant has. Most landlords issue short assured tenancies. 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.

For further information please visit: <http://www.gov.uk/tenancy-agreements-a-guide-for-landlords-scotland/ending-a-tenancy>

If court proceedings are raised, you are 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.

For more information on Section 11 notices see: <http://www.northlanarkshire.gov.uk/index.aspx?articleid=20363>

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 in extreme cases.

http://scotland.shelter.org.uk/get_advice/advice_topics/eviction/illegal_eviction_and_harassment

Housing Options

Within North Lanarkshire we are committed to homeless prevention, sustainability and promoting Housing Options. Our Housing Options Guide has been developed to give people information about the options available to them for Housing within North Lanarkshire. The Guide is available at our First Stop Shops, Local Housing Offices or online at:

<http://www.northlanarkshire.gov.uk/index.aspx?articleid=7949>

Anti-Social Behaviour Service

North Lanarkshire Council have a central reporting service that can be accessed 24-hours-a-day by calling 0300 123 1382. For more information on what constitutes anti-social behaviour please visit:

<http://www.northlanarkshire.gov.uk/index.aspx?articleid=7845>

Keeping Up-to-date

Landlord Accreditation

North Lanarkshire Council recommend that landlords become accredited. Becoming accredited, along with regular attendance at courses and information events, provides landlords with knowledge on key issues and how to implement change when required, ensuring they have the confidence to conduct their business in a professional manner.



Becoming an accredited landlord or letting agent is also a way of demonstrating to tenants that your management practices are above the minimum legal requirements.

The standards that have to be met prior to being awarded accredited status are reasonable and realistic; landlords who already carry out good management practices are well on their way to achieving them.

For more information please visit: <http://www.landlordaccreditationscotland.com/> or <http://www.landlords.org.uk>

Private Landlord Forums

North Lanarkshire Council in partnership with the Scottish Association of Landlords (SAL) run twice yearly Private Landlord Forums which provide an excellent opportunity to hear about national and local issues that affect you as a private landlord and give you an opportunity to share your experiences and network with other landlords.

For more information on these forums please visit: <http://www.northlanarkshire.gov.uk/index.aspx?articleid=31082>

Useful Contacts

Landlord Registration Scotland

<http://www.landlordregistrationscotland.gov.uk>

Renting Scotland

<https://rentingscotland.org/>

Landlord Accreditation Scotland (LAS)

<http://www.landlordaccreditationscotland.com/>

National Landlords Association Scotland (NLA)

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

Scottish Association of Landlords (SAL)

<https://www.scottishlandlords.com/>

North Lanarkshire Council Landlord Registration

<http://www.northlanarkshire.gov.uk/index.aspx?articleid=4267>

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