

# businesscompanion

## trading standards law explained

## Letting agents and property management

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### This guidance is for Scotland

Accommodation letting agents are regulated by the Scottish Government. They need to be registered and must abide by the code of practice.

### Relevant businesses

Letting agency work is defined in the Housing (Scotland) Act 2016 as "things done by a person in the course of that person's business in response to relevant instructions" that are intended to:

- arrange a lease or occupancy arrangement by which an unconnected person may use the landlord's house as a dwelling
- manage a house - including rent, inspection, improvement, maintenance, repair or insurance - that is or will be a lease or occupancy arrangement by which an unconnected person may use the landlord's house as a dwelling

### Fees

Letting agents cannot charge fees to a tenant but they can charge fees to a landlord. Letting agents can only charge tenants a deposit and rent; anything else is a letting-agent fee, which is illegal.

Fees that cannot be charged to tenants:

- administration costs involved in checking references or setting a lease
- service charges
- non-refundable holding fees
- fees for renewing a tenancy

- assignation fees
- charges to add a new person to the lease

Any other fee is also illegal.

For more information, contact [lettingagentregulation@gov.scot](mailto:lettingagentregulation@gov.scot).

## Tenancy deposit schemes

Letting agents that receive a tenancy deposit must transfer the deposit to one of the three approved deposit schemes. The tenant should be provided with key information, including the name of the scheme and potential retention of the deposit.

The three approved schemes are:

- [Letting Protection Service Scotland](#)
- [Safe Deposits Scotland](#)
- [My Deposits Scotland](#)

## Registration of letting agents

- all letting agents must be registered with the Scottish Government
- a letting agent must be a fit and proper person who is appropriately trained
- the [statutory code of practice](#) must be followed
- a [tribunal](#) is available to resolve complaints between landlords and tenants

More information on [letting agent registration](#), including how to apply, is available on the Scottish Government website.

## Persons who do not need to register as a letting agent

Please seek legal advice if you believe you do not need to register. Some exemptions from the need to register include:

- an estate that lets out its own private properties
- someone who only manages their own private property
- voluntary letting of a property for a family member
- letting and/or managing holiday lets
- preparation of a lease by a solicitor
- a registered social landlord (unless it also manages a property for a private landlord)
- a local council

## Further information on cost of living crisis

The Scottish Government has published information for letting agents on temporary restrictions concerning letting agents:

- [temporary cap on rent increases](#)
- [temporary moratorium \(pause\) on evictions](#)

The legislation applies until 31 March 2024 and affects the following:

- most in-tenancy private rent increases will continue to be capped at 3% for any 12-month period
- enforcement of evictions will continue to be paused for six months for most tenants, except in a number of specified circumstances
- landlords who may be facing particular cost pressures or financial hardship can apply for approval to increase rent by up to 6% to help cover certain increases in costs in a specified time period where these costs can be evidenced

## Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see '[Trading Standards: powers, enforcement and penalties](#)'.

## In this update

Updated information on the Scottish Government's cost of living measures.

Last reviewed / updated: October 2023

## Key legislation

[Housing \(Scotland\) Act 2006](#)

[Private Rented Housing \(Scotland\) Act 2011](#)

[Tenancy Deposit Schemes \(Scotland\) Regulations 2011](#)

[Housing \(Scotland\) Act 2014](#)

[Letting Agent Code of Practice \(Scotland\) Regulations 2016](#)

[Private Housing \(Tenancies\) \(Scotland\) Act 2016](#)

[Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#)

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links often only shows the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on changes to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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