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LandlordZONE

RENTAL PROPERTY KNOWLEDGE

Welcome—July 2008

With the downturn in both residential and commercial property appearing to be getting worse, there's now a serious risk that the UK economy could enter recession territory.

Amid growing concerns from one report after another, even the Chancellor has had to admit that things are worse than the government predicted, that growth targets will have to be scaled back and that we are in for a tough couple of years at least.

Faced with the non-availability of credit, last week's rise in inflation to 3.8% (everyone knows it's probably more than double this official figure) and rising commodity and fuel prices, the unemployment figures we've already seen are likely to increase substantially.

Pressure on the retail sector will put thousands of vacant shops back in the hands of their landlords, just at a time when the government is imposing 100% vacant business rates on owners.

The general consensus appears to be: things will get worse before they get better. The big question for landlords is—how

much worse can it get?

In truth, although we hear all sorts of predictions, nobody actually knows. There are forces at work here that will test and challenge and maybe even confound governments and central banks.

Bear markets characteristically go through periods of gloom with short sharp reversals—of optimism followed again by more gloom—this time it's been no different.

Four possible outcomes, all of which have been predicted: (1) A small manageable downturn, (2) a mild recession (3) a deep recession, and (4) the doomsday scenario—the worst depression since 1929.

Evidence seems to be appearing which means we can discount the first option. Let us hope and pray we can do the same with options 4.

That means we have to deal with options 2 or 3, whatever it throws at us as homeowners, landlords and businesses.

This will mean both commodity prices and inflation



remaining high, and as a result so perhaps will interest rates, putting a downward pressure on the economy.

Our own government is not in a position to raise more funds by more taxes, and without cash reserves, intends to stimulate the economy by borrowing it's way out of trouble—not a good omen for the longer term.

However, just as the cycle goes down, inevitably it will eventually come back, presenting all sorts of opportunities for the savvy property investor.

In the meantime, it's batten down the hatches and all hands to the pumps, just in case.

Like everyone else in this situation landlords must cut their cloth to suit: they must control their costs, where possible reduce borrowings and try to avoid those unexpected crises which spell disaster for landlords: problem tenants, litigation and void periods. Tom Entwistle, Editor.

Dealing with Problem Tenants—July 2008 Newsletter Topic

Tenants are the key to successful property investment—"think tenant first" should be the landlord's motto. Forget the "armchair investment" - is there really such a thing in property?

You can have the best property in the street or even in the town, but if you can't let it, it's a liability to any landlord.

A property with a bad tenant is an even bigger liability, often far worse than with no tenant at all.

No rent coming in, invariably damage being done to your lovingly prepared interior, and the prospect of expensive and long

drawn-out legal proceedings to get possession of the property again. Eviction specialists LandlordAction give their advice here.

If you are paying a big mortgage the whole scenario could easily spell disaster.

The answer to this is avoid bad tenants in the first place. Developing your tenant selection skills and having a proper selection and verifying process is crucial.

Another safeguard for residential tenants is rent guarantee insurance—a rela-

tively inexpensive way to safeguard your sanity—to meet those mortgage payments.

But, no matter how good you as a landlord, or your professional agent, are at selecting and managing, inevitably, one day, you will have a bad tenant—it's an occupational hazard.

The more properties you have and the more equity you have in your properties, the less risk this poses, but still, you need to be able to deal with problem tenants quickly and efficiently. This is what this issue is about.

What can go wrong with a tenancy?

There's lots of things that can go wrong when letting property.

Generally, if you are letting to working and professional people, then expect around 95% of these tenants to be good to excellent—i.e. they will look after your property and pay your rent on time.

It's the 5% or the one in every 20 tenants that come along and are absolute nightmares—to be avoided at all costs—this includes the serial bad tenants that know the tenancy laws inside out.

Letting to families can be similar to singles and couples but for obvious reasons there is more wear and tear on the property.

Students and DSS (Housing Benefit) present more problems, but the income from these properties is higher so you must expect more problems and much more management time involvement.

By far the commonest problem is non-payment of rent, followed closely by damage to your property.

In both cases, unless the tenant/s can be helped out of their difficulties, the best option for you as a landlord is to cut your losses and seek possession.

Sometimes, when tenants find themselves in financial difficulties, perhaps through redundancies, they will accept help from their landlord by rescheduling rent payments and perhaps applying for Housing Benefit assistance.

However, often when tenants are in arrears they will refuse all contact. Communication becomes extremely difficult and the landlord risks being accused of harassment if he pushes too hard.

Next comes neighbour problems (anti-social behaviour) and complaints of noise and or rowdy

behaviour. This is closely followed by drug problems and the worst case scenario of your property being used as a drug den, a cannabis factory or even a brothel.

Serious flooding or fires are the next thing which might keep you awake at nights, followed by major repair issues: leaking roofs, bursts and internal flooding, especially water leaks to rooms and flats below from baths and washing machines, and boilers etc.

[Damp, Mould & Condensation](#) can be serious problems and very difficult to deal with effectively—they are often cause by the life styles of the tenants themselves.

When relations between landlord & tenant become strained, problems can become exaggerated or even invented as excuses to avoid paying rent.

LettingAgent.com

An initiative by Award Winning Landlord Mortgages.

The service is very flexible and provides effective property management at a fraction of the cost of traditional Letting Agents.

Renting out a property can be a lot harder than it looks. Long-term landlords need to treat rentals as a business and run it professionally. You also need to be ready to tackle several challenges in a competitive market – a company such as **LettingAgent.com** can help you overcome each of them.

20,000 Landlords now have access to this highly competitive service.

The Let-Only service is particularly popular (3% of gross rent).

Available throughout the UK. For details call **0800 183 0070** or visit the website

Prevention is better than cure!

Many landlords are now competing with each other in an increasingly aggressive market, especially in some areas where the supply of rentals is more abundant.

This leads to the temptation or even the necessity of being less discerning about who you as landlord are willing to take on in your property.

The inevitable result is a rise in

problems generally and a rise in the number of difficult tenants.

There are currently over 28,000 evictions every year from UK rented residential properties. Here, Landlord Action has some Tips:

- (1) Obtain references.
- (2) Ask tenant for at least three months bank statements.
- (3) Ask their employer how

long they have worked (4)

Use a credit referencing service. (5) Seek ID verification, utility bills (6)

Speak to previous landlords. (7) Does the tenant have any assets? (8) Obtain a copy of the tenant's passport. (9) Obtain the tenant's NI number. (10) Secure a guarantor (11) If you use a Management Agent, find out about the company.

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Rent Arrears

Rent Arrears & Evictions—

Every landlord dreads the day when rent due does not arrive.

If at all possible, have rent paid by standing order. This is usually no problem with working or professionals or with business tenants for commercial landlords.

You know that if the rent stops there's a serious problem, despite the fact your tenant tells you it's the bank that fouled up!

If rent stops, act quickly and

firmly but sympathetically. Try to stay on good terms and help the tenant all you can if he/she responds—reschedule rent payments and/or help apply for Housing Benefit.

If your tenant fails to respond, appears not to care, or you get the feeling you have a problem on your hands, you should consider serving notices—section 8 and section 21 notices - right away.

You can serve these notices

yourself, but if you prefer consider using a solicitor, or perhaps an eviction specialist like Landlord Action who serve notices in person and charge fixed fees for each stage of the process.

A correctly defined and served s8 notice is often enough to prompt a problem tenant to leave. Serve the s21 notice as well to make certain you can seek possession at the end of the fixed term.

Abandonment

A landlord cannot bring a tenancy to an end, according to the Housing Act 1988 (S5(2)) without “(a) an order of the court, or (b) a surrender or other action on the part of the tenant.” Where it is not clear that a tenancy has ended, even though the tenant appears to have left, great care is needed on the part of the

landlord to avoid being accused of illegal eviction. Surrender could be by notice in writing, by implied actions such as handing back keys, or unequivocal [abandonment](#). When furniture is left, there is a risk with taking possession, if you don't have a court order.

You need to make every effort to contact the tenant and only take possession after posting an abandonment notice, if you truly believe the tenant has abandoned—you may have to prove this by showing you took all reasonable steps to satisfy yourself. If in doubt seek a court possession order



[Accountz](#) is the fastest personal and business bookkeeping software you will find. It's also the easiest to use. You know the feeling: pile of receipts to enter, all jumbled up, it's the last thing you feel like doing, right? Well, Personal and Business Accountz will change your outlook.

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Serving Notice—Section 21 and Section 8

The Assured Shorthold Tenancy (AST), the most common tenancy in use by private residential landlords, is governed by the [Housing Act 1988](#) and 1996.

Two crucial parts with regard to notices and possession are sections 8 and 21, and the grounds for possession in schedule 2.

When a tenant is causing problems it is best to take a softly, softly approach initially, gradually ratcheting up the pressure quite quickly if that fails—don't delay too long.

Especially with rent arrears, there's no time to hang around—you need to make sure your tenants know you mean business, so establish contact right away and put this in writing as well.

Serial bad tenants are a real problem—Paul Shampalina at [Landlord Action](#) says they deal with several each month—6 in April 08 alone:

"We do see cases where the same tenant turns up again and again. These are people who don't care about their credit rating, know how to play the court system and are aware of how long it can take for them to be evicted ...Serial bad tenants typically provide the bare minimum of references, pay one month's deposit and the first month's rent just to get into the property.

Then once installed they just stop paying...They know that most landlords will try and reason with them for a while before taking action. They will ignore notices, wasting more time for the case to go to court.

They may even file a defence, ensuring the first hearing is adjourned....Usually, by the time the hearing finally comes to court the tenant has disappeared, but by then they could have enjoyed rent free accommodation for six months or more, so their purpose has been served and they move onto the next unsuspecting landlord."

It's important to establish just where in the time scale your tenant is in the tenancy: if they are nearing the end of their fixed term (usually 6 or 12 months) you are guaranteed a possession order from the court, after the last day of the fixed term, providing all your paperwork is in order and the s21 notice is served correctly.

If your tenant is in the early stages of the tenancy however, you should serve both a s8 and a s21 notice.

A correctly constructed and served section 8 notice gives your tenant notice that you will be seeking possession on specific grounds: usually you will include several of these.

See Section 2 of the Act—your notice must spell out the grounds on which you are seeking possession pretty much as they are laid out in the Act.

Some of these grounds give mandatory possession (the judge must issue a possession order providing all condition are met) whereas others are discretionary (the judge can decide).

If you are lucky, once a tenant receives a s8 notice, they will decide to leave of their own accord—that's the aim.

By having a specialist like Landlord Action prepare and serve these in person, they are accurate, fully legal and tend to have more effect.

Once notices are served the local council has a statutory duty to re-house, but they will always advise tenants to stay put until actually evicted, otherwise they make themselves voluntarily homeless—no duty to re-house. However, breach of the grounds also means a tenant has made himself homeless.

Making a false statement (ground 17) in conjunction with your [Application Form](#) is a very important one here.

We are often asked about tenant [black lists](#). These can be problematic with data protection laws and Human Rights, so it's best to always do through [checks and references](#) and [screen your tenants](#)



Serving Notices and Important Dates

Month means Calendar Month in tenancy agreements (Law of Property Act 1925 s61(a)). Agreements run from a day in one month to the day (date) before it in another month.

For example, a six month tenancy signed on the 3rd of January (3rd day of January) will end on the 2nd of July (2nd day of July), AFTER which day you will seek possession.

The word AFTER is very important in a notice to quit - if

you were to attempt to end the tenancy ON the last day, this would not be legal—the notice would be useless.

Landlords must be given a FULL 2 month's notice, either in the fixed term or in a statutory periodic tenancy.

In the case of the periodic tenancy the notice date should be the last day of a tenancy period, AFTER which date possession is sought.

You can serve a notice by hand (have a witness), through the letter box (have a witness) or by first class post (allow at least 3 working days for delivery)

People can refuse to accept and sign for recorded delivery, so proof of postage is sometimes preferable. Some people recommend sending two notices from different post offices, so the chances of "lost in post" and non-delivery are virtually eliminated.

Useful Links:

[Application Form](#)

[Section 21 Notice](#)

[Section 8 Notice](#)

Notes on serving:

[Section 8](#) – Notes

[Section 21](#)– Notes

[Court Service Website](#)

[Housing Act 1988](#)

[Housing Act 1996](#)

[Landlord Action](#)

[TenantVERIFY](#)



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Review: [Master Capital Gains Tax in 2 Hours—Tax Cafe](#)

Master Capital Gains Tax in 2 Hours—Book & CD—

Carl Bayley & Nick Braun, published by [Tax Café](#)

If you've been around the property investment scene any length of time you will have undoubtedly come across Tax Café publications and, if you have read them yourself you will be aware of their quality.

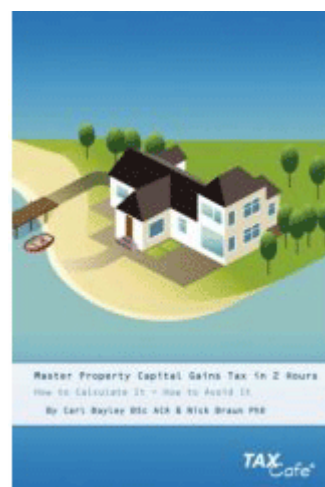
They are well regarded in the industry, regularly appearing on the RICS recommended books lists, among others.

It was therefore no surprise to

find that this one does exactly what it claims: to help you master the new rules of CGT introduced since the 2008 Budget in a clear, concise and understandable manner. It also provides you with lots of information on those annoying "grey" areas that inevitably occur when you need to calculate your own situation. This is done through a series of case studies and examples setting out the most common scenarios and some less common ones as well.

The innovative style: a 90

page book accompanied by a DVD, make learning a synch, when compared to some of the dry, horrendously complex and seemingly ambiguous HMRC guidance. You can just sit back and let the DVD talk you through the whole process to get a clear understanding, whilst dipping into the book as and when you need the back-up reference material. At under £30 it's a lot cheaper than consulting a tax expert, and well worth the knowledge even when you do. Tom Entwistle.



Forthcoming Reviews

August 2008—The Apprentice Property Master—Book—Paul Torrisi—published by [How to Books](#)

September 2008—How to Avoid Tax on Foreign Property—Book—Carl Bayley—published by [Tax Café](#)

October 2008—Property Makeover Price Guide 2nd Ed—Organising and Budgeting for home improvers and developers based on the professional price guides used by chartered surveyors—published by [BCIS / RICS](#)

Money Back Mortgages

In 2006 www.moneybackmortgages.com was set up to give consumers like you an impartial service where you can search for and arrange your next mortgage with the added benefit of receiving 50% of the commission received by us.

The website has proved particularly helpful for **Buy to Let landlords** who generally remortgage on a regular basis to lower their monthly mortgage costs. With interest rates increasing, here is a way of lowering your remortgage costs.

If you arrange your next Buy To Let mortgage through us you can expect to receive on average £337.09 per property**.

** This represents the commission payable to clients who have arranged a Buy to Let mortgage through us. Correct as of October 2007.

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nances but also help you with your day to day management tasks giving you a total solution for managing your portfolio.

[Landlord Manager](#)



Property Investor Show—London 19-21 Sept

The **Property Investor Show (ExCeL London, 19-21 September 2008)** is the largest and longest established property exhibition in the UK.

As the 'benchmark' event for investors, thus will, as usual, attract over 10,000 landlords over the 3 days.

The seminar programme will feature sessions presented by a number of respected industry commentators including ...

- Richard Bowser (editor of Property Investor News)
- David Lawrenson (author and founder of Lettingfocus.com)
- David Sandeman (Director of auction specialist, E I Group)
- Kate Faulkner (editor of 4 of the Which? property guides)

The RLA will have a stand at the show, as will a number of companies offering specialist Landlord services.

If you are planning to visit the show ... [register online now for free admission](#)



Forthcoming Issues...

The **August 2008** issue will be devoted to **Student Lettings and HMOs**.

At this time of year student landlords are busy signing up a new batch of tenants into their student accommodation. Content for this issue will be provided by [AccommodationInfoStudents.com](#)

In **September** we will be looking at the implications of **Investing in Commercial**

Property, investment syndicates and SIPPs. Content for this issue to be provided by investment consultants, [attivo.com](#)

October 2008—Fire Risk Assessments. Since October 2006 all commercial premises and some residential premises are covered by legislation requiring the **responsible person**, which can be landlord or tenants or both, to

produce risk assessments. Heavy fines can result for failure to comply.

Darren Baird consultant of Total Fire Sire Services will provide this content.

Kate Faulkner of [Designs on Property on Using Letting Agents](#) for Belvior. Landlords can benefit considerably from the professional expertise of agents, but there are many trips and traps to look out for.



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What's in the News for Landlords?

Empty Business Rates. The tough trading conditions on the high street mean that commercial landlords could have more than 3,000 shops handed back to them this year. Estates Gazette's Samantha McClary found that with around 11m sq ft of retail space currently vacant and a further 33m sq ft in development the implication for yields, rental growth and loan commitments is dire.

All of this pressure on landlords is further compounded by the government's recent introduction (April 2008) of full cost empty business rates on commercial buildings and major retailers demands to pay rent monthly, instead of the traditional quarterly, in advance. Introduced as a measure to encourage landlords not to leave units empty, as if they want to?, the £1 billion or so extra revenue raised from empty rates for government will fall squarely on hard pressed landlords.

One think of light is that, according to EG, ministers have agreed to consider evidence compiled by the British Property Federation that this recent legislation is indeed harming business.

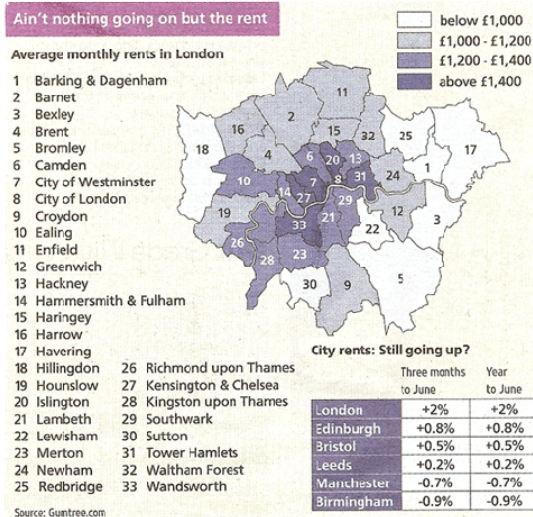
The current legislation theoretically allows for up to 50% discretionary relief, But this will not be easily obtained, despite evidence of severe hardship and of some property companies resorting to demolishing empty buildings and even being forced into bankruptcy.



Rental Demand is up 41% according to Kasia Maciejowska, writing this week in The Times. So the credit crunch and a sliding economy is, up to now, having a positive effect on the rental market.

However, this effect seems to be regional, and although rents have increased in most areas, other areas have seen a decline, most notably cities such as Manchester, and Birmingham. This it seems is explained by an abundance of new-build urban flats.

A survey by Gumtree found that 71% of tenants don't intend to take out a mortgage and that 60% of mortgage holders would sell and rent if costs get too high.



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4th September 2008
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Contributions to this issue by
Paul Sampalina of
Landlord Action



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Property Tax Portal was founded in September 2003 by Amer Siddiq who is the managing director of the parent company Tax Portal Ltd. Amer, a former IT professional and property investor himself, is supported by a team of highly qualified tax professionals. They produce the highly successful Landlords Property Tax Manager Software and now run regular Tax Seminars for Landlords and Property Investors. The website is packed full of useful information and products to help minimise your tax payments.



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