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RENTAL PROPERTY KNOWLEDGE

Welcome—July 2009

As we approach the **student letting season** and the start of the major job hunting period, August, September and October are traditionally busy times in the lettings industry.

This year in particular, there are some important issues facing landlords, just over the horizon. **The Foxton's Case** highlights the importance of having terms in contracts that are fair and straightforward, particularly when dealing with consumers, as opposed to business to business.

This goes for landlords as well as agents under the "Unfair Terms in Consumer Contracts Regulations 1999". Though the case could go to appeal, and non-business landlords seeking compensation may have to wait a while yet, the current decision which went against Foxtons, looks unlikely to change substantially.

Agents using hidden clauses tucked away in small print, and hidden additional charges, to both the landlord and tenant, should bear in mind that that sort

of thing will eventually work against them.

Landlords and agents should be aware the OFT produce guidelines on unfair terms in tenancy agreements and that introducing unreasonable or obscure terms cannot over-ride statutory regulations—they will not stand up in court.

The Government's response to the Rugg Review has some quite far-reaching proposals, some good, some not so good for landlords—it would seem. In addition to a landlord's national register, a register of all rental properties, and independent regulation of agents, there's a suggestion of using the data-base to help rent-out landlords properties?

If you want your views heard you can [respond here](#) by 6th August 2009.

Anna Walker, Chief Executive of the Healthcare Commission is leading an **independent review of charging and metering for water and sewerage services**. It seems that a suggestion from government



QUANGO Ofwat is being considered which would involve making landlords responsible for their tenant's unpaid water bills. Comment and evidence requested by 28 August 2009.

[Respond here](#) Finally, on a brighter note, Exhibition organiser and publishers of Landlord Magazine, Accession, will be hosting the first national **Landlord & Buy-to-Let Awards**.

The Awards are free to enter and entries are invited into 16 categories from landlords, letting agents, local government and the landlord services sector. The Landlord & Buy-to-Let Awards aim to celebrate achievements in the sector and reward high standards. See the dedicated web site at:

www.landlordawards.co.uk Winners will be announced at a ceremony held at Birmingham NEC evening of Friday 16th October 2009.

Newsletter Topic—Electrical Safety in Rental Property

Electricity is everywhere, yet we are all guilty of taking it for granted and not treating it with the respect it deserves.

After all, over 30 people die and approximately 4,000 are injured because of accidents or fires caused by electricity every year.

Rented homes can be a higher risk environment when it comes to electricity due to a number of factors, including landlords' confusion about where their responsibilities lie and how the myriad pieces of government legislation apply to them.

The task of the Electrical Safety Council (ESC) is to reduce the number of deaths and injuries caused by electricity and one of the charity's major areas of campaigning in 2009 is to help make

rented homes more electrically safe.

In this newsletter the ESC aims to clear up some of the confusion and offer guidance to landlords, so that people can see what they need to do and how they need to go about doing it.

Most landlords are probably aware that there is no legal requirement to supply an annual electrical safety certificate, as there is with gas. However, a landlord is required by law to ensure that:

- the electrical installation is safe when a tenancy begins
- the electrical installation is maintained in a safe condition throughout the tenancy
- any electrical appliance pro-

vided in the rented property is safe and has the CE marking.

The electrical installation refers to all the fixed electrical equipment in a property – cables, sockets, switches, light fittings, fuse box, and wiring.

This newsletter outlines what landlords need to do and put in place to ensure that the electrics in their rental property are as safe as possible - and that they have the relevant paperwork to prove this.

Content for this Newsletter is provided to LandlordZONE by the Electrical Safety Council.

More Information can be obtained here:

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

Legislation

There is a range of government legislation addressing the responsibilities that landlords have to their tenants, the most relevant being:

- **Landlords and Tenants Act 1985** – requires that the electrical installation in a rented property is safe when a tenancy begins and is maintained in a safe condition throughout.

- **Housing Act 2004 (England and Wales) – the Health and Safety Rating System (HHSRS)** requires that rental properties

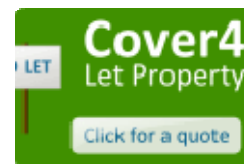
‘provide a safe and healthy environment for any potential occupiers’. The HMO licensing scheme is part of the Housing Act.

- **Management of Houses in Multiple Occupation (England) Regulations 2006** – sets out the duties of a manager of HMOs which include supply, maintenance and testing of the electrical supply and common fixtures, fittings and living accommodation. These regulations also address what a tenant must do to help the HMO manager complete their duties.

- **Part P of the Building Regulations (England and Wales)** – almost all domestic electrical work must be carried out by an electrician who is registered to one of the government-approved scheme providers.

A registered electrician will ensure that their client receives the relevant certification to prove that the work meets Building Regulations.

You will need this certification when selling the property.



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London Olympia 9/10 September 2009



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Periodic Inspection, Testing and Reporting

Landlords can help ensure the electric installation in their rental property is safe, and identify any problems that need remedying, by carrying out regular periodic inspections and testing.

A periodic inspection is a review of existing electrical installations, to identify any deficiencies.

It should:

- reveal any overloading of electrical circuits or equipment
- find any potential electrical shock risks and fire hazards
- identify any defective DIY work

- highlight any lack of earthing or bonding

- identify departures from the National Standard for electrical safety (BS7671)

The ESC recommends that periodic inspection and testing is done at least every 5 years or on change of tenancy.

The Management of Houses in Multiple Occupation (England) Regulations 2006 require that every fixed installation in a HMO is inspected and tested at least every 5 years by a person qualified to undertake the work.

The electrician carrying out the inspection will provide a periodic inspection report (PIR) which will identify departures from the National Safety Standard (BS7671).

The electrician will assess the overall condition of the electrical installation as satisfactory or unsatisfactory as well as schedules for the next inspection and test results.

Of course, on receiving the PIR report the landlord must then ask a registered electrician to carry out any of the remedial work necessary.



Appliances Supplied with the Property

Faulty plugs, leads and appliances are the major cause of electric shock accidents in the home and so maintenance of portable appliances is vital.

Bear in mind that the safety of portable appliances relies to some extent on the standard of the electrical installation and on the behaviour of the person using the equipment.

Supplying portable appliances

When supplying portable electrical appliances in your rented property the ESC recommends purchasing ones that have not only a CE Mark, but also an additional safety mark such as the **British Standard Kitemark** or the **BEAB Approved mark**.

Also think about where the equipment will be used and whether that location is suitable.

And when handing over the property to your tenants make sure you ask them to read the instruction booklets for each appliance provided - and leave a copy of each set of instructions for easy reference by the tenant.

Testing portable appliances

Regular basic tests should be carried out on all portable appliances to ensure they remain safe to use. You can carry out some simple visual checks on a regu-

lar basis. This should include checking:

- the plug has no bent pins or cracked casing
- there are no loose parts or screws
- there are no signs of burning, especially at the plug
- there are no coloured cables visible outside the plug
- that no part of the appliance is damaged or missing
- that the appliance doesn't make excessive noise or heat when used

The majority of dangerous defects in electrical appliances will be identified by carrying out these checks.

However, the ESC also recommends that all landlords carry out regular portable appliance testing (commonly referred to as PAT Testing) on all appliances, unless they are new.

This should take place at the beginning of each new tenancy and at regular intervals during long tenancies.

PAT testing will include:

- checking the connections within a plug
- that the fuse is of the correct rating
- that no bare wires are visible
- that there is no sign of internal damage, overheating or entry of liquid, dust or dirt.

The frequency of testing varies for different classes of products.

The ESC's recommended testing frequencies for electrical appliances are outlined in the **Landlords' Guide to Electrical Safety** which can be downloaded free of charge from www.esc.org.uk/business-and-community/guidance-for-landlords.html

Visual checks

Landlords should carry out regular visual checks of the visible parts of the electrical installation to ensure that there are none of the following hazards:

- broken sockets and light switches
 - signs of scorching around sockets due to overloading
 - overheating of electrical equipment (can be accompanied by a strong, fishy smell)
 - damaged cables on portable equipment.
- Though completing visual checks is a good discipline, it's not enough on its own and should be accompanied by PIR and portable appliance testing.

If any appliances fail the PAT test, or if visual checks identify a problem, it is vital that you rectify the problem immediately - either by having the product mended, returning it if it's under guarantee or by disposing of



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Use a Registered Electrician

In order to get the relevant safety certification, you must get an electrician registered by one of the government approved schemes to carry out all but the smallest of electrical jobs.

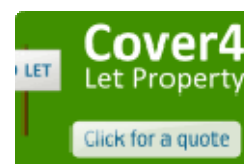
Registered electricians are approved to carry out domestic electrical installation work that comes

under Part P of the Building Regulations. They will deal with the necessary paperwork – saving you time and money (in building control charges) and giving you peace of mind that the electrician you are using is competent to do the job. In the event of injury or fire that is

alleged to have been caused by an electrical installation, certification will provide documentary evidence that, in the opinion of competent persons, the installation is of a satisfactory safety standard.

To find a registered electrician in your area go to

www.competentperson.co.uk



Disposing of Waste Electrical Equipment

The EU Waste Electrical and Electronic Equipment (WEEE) Directive aims to minimise the amount of equipment householders throw out with their general rubbish.

By keeping electrical equipment separate from other waste it can be treated, the hazardous substances can be removed and a large amount of waste can be recycled rather than sent to landfill.

Householders are not banned from disposing of WEEE in their bin but the WEEE Regulations have created a network of collection points.

Householders should now find it

easier to recycle their old equipment through a mixture of improved local authority civic amenity sites and new take-back facilities provided by retailers. Note: householders are now covered by the duty of care and must ensure they only pass their waste to a registered waste carrier or other approved person.

When businesses produce waste, they have a range of responsibilities. These include complying with the requirements of the duty of care, and if they're producing hazardous waste, they may need to register as a producer under the

Hazardous Waste Regulations.

The Waste Electrical and Electronic Regulations (WEEE Regulations) introduce new responsibilities for businesses and other non-household users of electrical and electronic equipment (EEE).

This includes businesses, schools, hospitals, and government agencies, when they dispose of their electrical waste.

These organisations need to ensure that all separately collected WEEE is treated and recycled. Whether the business or the producer of the (EEE) pays for this depends on the circumstances.

www.environment-agency.gov.uk

The Landlords' Guide to Electrical Safety

This newsletter should have given you a good idea of what your responsibilities are and an idea of the checks and tests you should be doing on a regular basis.

For further information please refer to the ESC's new

Landlords Guide to Electrical Safety, a comprehensive new guide for landlords. Supported

by LACORS (Local Authorities Coordinators of Regulatory Services), the guide is designed to be a one-stop shop for landlords requiring answers to their electrical safety questions.

The guide covers current legislation, fixed electrical installations, portable appliances, fire alarms and emergency lighting, certification of electrical

work and lots more. The guide is available as a free, downloadable pdf on www.esc.org.uk/business-and-community/guidance-for-landlords.html.

For more information on the issues covered here and other electrical safety topics please go to www.esc.org.uk and download the free Landlord's Guide to Electrical Safety.



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Tenants—What can they do?

Although the main responsibility for electrical safety should be yours as the landlord, it's sensible to make your tenant aware that they do have some responsibilities when it comes to electrical safety. Your tenant should:

- not attempt to extend, repair or replace damaged or worn-out part of the electrical installation
- ensure all electrical appliances are used responsibly and in accordance with the manufacturer's instructions
- report any problems with the electrical installation or appliances to the landlord straight away
- allow access to the property should an electrician need to visit to carry out an inspection of the electrical installation or fix a

problem

- not attempt to adapt foreign appliances for use in the UK themselves, ensure they use plug adaptors that are suitable for the plug type and check the voltage of the appliance in question

The ESC has a free leaflet – Living Together Safely - which landlords can give to their tenants. It contains safety tips, danger signs and tenant and landlord responsibilities. Copies can be downloaded at

http://www.esc.org.uk/pdfs/safety-in-the-home/Living_together_safely.pdf

Tenants – how the ESC is helping?

As well as providing information and advice to landlords, the ESC is keen to give advice and support to tenants.

The ESC is campaigning to raise awareness amongst tenants – of the potential dangers of electricity – especially if the electrical installation or appliances in their rental home have not been well maintained. The ESC is particularly concerned with supporting groups of tenants who are likely to live in HMOs, such as students, migrants and low-income workers. Using a variety of media – from information leaflets, media campaigns - and issuing a new report into the state of privately rented student accommodation, the ESC aims to put the safety of electrics in rented accommodation at the top of the safety agenda for all tenants.



What is an RCD?

For safety, all rental properties should be fitted with an RCD. A **Residual Current Device** (RCD) is incorporated into the consumer unit and switches off its output circuit automatically, when it detects an earth fault current that could pose an electric shock risk. Any

appliance plugged into a socket-outlet can pose an electric shock risk and in most homes, all socket-outlets are now protected with an RCD.

The risk of serious injury and death from electric shock is far greater outdoors compared with indoors, due to wet conditions

and good contact with the ground. Any socket-outlet that may be used for plugging in 230 Volt portable electrical equipment for use outdoors must have RCD protection - this is a requirement of BS 7671, so very important if the property has a garden.



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If you are still using a paper based system or messy spreadsheets you need to take advantage of a software package that won't only **keep track of your finances** but also help you with your day to day management tasks giving you a total solution for managing your portfolio.

[Landlord Manager](#)



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Review: Give Me Your Money! a straightforward Guide to Debt Collection

“GIVE ME YOUR MONEY!”, by Anthony Reeves, now in its 3rd Edition, published June 2009 by [Straightforward Publishing](#).

Anthony Reeves, BA (hons), F.Inst.L.Ex, is a specialist in debt collection, with many years experience in all types of debt collection. At Pinniger Finch & Co Solicitors, he heads their debt collection department.
tonyreeves@pinnigerfinch.co.uk
www.pinnigerfinch.co.uk

With many landlords faced with bad debts and rent arrears, in these times of recession, a new edition of this tried and tested text is nothing if not timely.

Experienced landlords know that the best solution to bad debts is trying to avoid them in the first place; with very good selection, credit checking and referencing procedures.

But however careful you are, if you let property, it is inevitable that at some point you will be faced with rent arrears.

If you are able to deal with these cases yourself, and it is quite feasible for the lay person to do so, using the Small Claims court, then you can save yourself a whole lot of money in fees. Preparing your own collection case is quite straightforward, providing you are prepared to put in the time needed to understand fully what is required.

A book like this one will help through the whole process, from the initial screening procedures to help prevent bad debts, right through to enforcing County Court Judgements (CCJs) and collecting the money.

The Small Claims Court process

is a relatively informal affair, designed for the layman to take action, but the procedures and paperwork must be adhered to meticulously and the jargon used can be confusing.

This book will help you through this process, making things clear and simple, aided by working examples, in a very concise and straightforward way.

I have used this book several times when I have needed to pursue debts through the Small Claims Court—in fact it is sometimes makes it worthwhile to pursue smaller marginal debts through the courts, if you can do it yourself, whereas using a solicitor would not be viable.

Tom Entwistle

Editor



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News for Landlords:

The **Landlord & Buy-to-Let Awards**—celebrate your success—The best of the Private Rented Sector will be celebrated at a glamorous Awards ceremony in October hosted by TV presenter and landlord campaigner Konnie Huq. The Awards are free to enter and entries are invited into 16 categories from landlords, letting agents, local government and the landlord services sector. The Landlord & Buy-to-Let Awards aim to celebrate achievements in the sector and reward high standards. Entrants will be judged by an independent panel of industry experts, including LandlordZONE's Tom Entwistle. If you know of a person or organisation whose achievements should be recognised or wish to enter an award, visit the website: www.landlordawards.co.uk—winners will be announced at a ceremony held at Birmingham NEC evening of Friday 16th October 2009.



Landlords to be Responsible for Tenant's Debts This is a very important issue which could face landlords soon. A government commission is currently looking at the possibility of making landlords responsible for paying water charges when tenants don't pay them. This is as a result of a spate of bad debts faced by water companies as increasing numbers of properties are tenanted, the recession, and because landlords don't always inform the utilities suppliers who is responsible for paying. Landlords or agents should always notify utilities suppliers in writing each time there is a tenancy change, so there is no doubt as to who is responsible for paying the bills. It's then the suppliers responsibility to chase the debts. However, if this proposal was to be implemented it could be the thin end of the wedge - electricity and gas suppliers would no doubt want the same powers. This would then mean landlords having no option but to add a premium to rents to cover these charges. The problem then would be, there would be no incentive to save - tenants would run up bills willy nilly. This is always the case when tenants cannot be metered separately or when they share bills. The landlord associations will no doubt be fighting this on behalf of their landlord members, but you should be prepared to lobby your MP if necessary. See: www.landlordzone.co.uk/blog/p...inking-feeling



The Foxton's Case highlights the importance of having terms in contracts that are fair and straightforward, particularly when dealing with consumers. The clauses in question were the provision allowing Foxtons to charge landlords commission on renewals of a tenancy to a tenant originally introduced by Foxtons, even when they had no involvement with the renewal, and a provision entitling Foxtons to charge commission if a landlord subsequently sold the let property to the tenant originally introduced by them. However, the judgement against Foxtons is not to say that renewal commissions or commissions chargeable on a subsequent sale are automatically or generally unfair in relation to consumer contracts. These provisions are quite common. It was the manner in which Foxtons treated them. The relevant terms were not obvious in the small print or indeed intelligible to the average consumer.

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More Information can be obtained here:

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

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