



# Northfields Guide on Licence to Let

*Compiled in association with*



**Northfields**  
**020 8566 5500**  
**[www.northfields.co.uk](http://www.northfields.co.uk)**

# Understanding the Housing Act 2004

## Information for Landlords

The Housing Act 2004 represents one of the largest changes in the law relating to the letting of residential premises for over 15 years. It is important that all landlords understand their responsibilities under the Act. This leaflet is designed to assist you in doing so. You should read it carefully and speak to your agent or a solicitor if there is anything you do not understand.

The Act imposes several new obligations on landlords. The most important of these relate to licensing and deposits.

### **Licensing of Landlords**

From 6 April 2006 local authorities will have the power to license landlords within their jurisdiction. You may have heard or seen adverts regarding this. While authorities have the power to license all landlords they are unlikely to do so in practice because they simply don't have the resources to do so. This may change over time depending on each authority's policy decisions and their perception of housing needs and priorities. The best source of further information on this topic is the Housing department of your Local Authority. Applicants for a license will have to declare convictions relevant to their fitness to be a landlord and in particular convictions for involving fraud or other dishonesty, violence, drugs or sexual offences. Landlords with agents will need to do the same for the nominated manager of the property. Failure to do so is a criminal offence punishable by a fine. Licenses may impose conditions regarding the management, use, number of occupants, and the condition of the premises. Breach of the license conditions is punishable by a fine of up to £5,000 while failing to possess a license for a property where one is required is punishable by a fine not exceeding £20,000. Landlords in this position may be liable to return rent already paid to their tenants or to the Local Authority if they have paid Housing Benefit, they will also be unable to regain possession of the property through a Section 21 notice and will therefore only be able to gain possession if the tenant is in breach of the tenancy agreement. Decisions not to grant a license can be appealed through the Residential Property Tribunal Service ([www.rpts.gov.uk](http://www.rpts.gov.uk)). Further information on landlord licensing can be found at [www.propertylicense.gov.uk](http://www.propertylicense.gov.uk).

## **Houses in Multiple Occupation (HMOs)**

The Act defines exactly what is meant by an HMO for the first time. An HMO is any property that is occupied by individuals living in more than one household. A household is anyone living as a cohabiting couple or individuals of the same family. Nannies, Au Pairs and other household staff living with their employers are considered part of the same household. Licensing is compulsory for an HMO with:

- three or more stories; and
- five or more occupiers living in two or more households

Basements and attics that are primarily in use as living accommodation must be counted as a story for the purposes of this calculation as must stories that are in use as commercial premises (such as shops) that are below residential accommodation. This means that a two floor maisonette with a shop underneath comprises three stories for the purposes of deciding whether or not it needs to be licensed. Local Authorities may also choose to license other types of premises however they are unlikely to do so in the short-term. There are minimum standards that will have to be met with regard to kitchen and sanitary facilities in order for a landlord to gain a license.

## **Deposits**

From 1 October 2006 the rules relating to the holding of deposits will also change. All deposits will have to be held in a stakeholder capacity. This means no deductions can be made from the deposit without the agreement of both parties or through an order made by the Court or by a recognised dispute resolution service. Anyone holding a deposit will have to be a member of a recognised deposit guarantee scheme. Your agent will be a member and can hold your deposit for you as such. If you are not a member of a scheme your agent will not be able to give you the deposit to hold. A tenant of a landlord who is holding a deposit without being a member of a scheme will be able to take that landlord to Court and the Court will order them to return the deposit to the tenant plus a further sum of three times the deposit by way of compensation. As with licenses landlords who are holding a deposit without being a member of a scheme will not be able to recover possession of their properties using a Section 21 notice. All schemes will have to provide an Alternative Dispute Resolution service but they cannot undermine the right of either party to apply to the Courts. Further information on tenancy deposit protection is available at [www.odpm.gov.uk/index.asp?id=1152035](http://www.odpm.gov.uk/index.asp?id=1152035).

## **Fire Safety**

From 1 October 2006 the common parts of HMOs and blocks of flats will have to comply with the provisions of the Regulatory Reform (Fire Safety) Order 2005. This will be monitored and enforced by Fire and Rescue Authorities. Further information is available in guides which will shortly be published on the internet at [www.odpm.gov.uk/index.asp?id=1162115](http://www.odpm.gov.uk/index.asp?id=1162115).

## **The Housing Health and Safety Rating System (HHSRS)**

From 6 April 2006 all rental properties will be liable to inspection under the HHSRS. Any property in respect of which a license application is made must be inspected within five years. Other properties must be inspected if an official complaint is made or if the Local Authority has reason to believe that a hazard exists. The inspection concentrates on identifying hazards; these are then assessed by the use of statistical tables to produce a rating score. If the score is sufficiently high then the Local Authority is required to order that improvements are made. Failure to make ordered improvements is an offence punishable by a fine not exceeding £5,000. More information about the HHSRS including a full explanation of the statistical methods used in calculating hazard scores can be found at [www.odpm.gov.uk/index.asp?id=1152820](http://www.odpm.gov.uk/index.asp?id=1152820).

This leaflet is provided for general information only and is not legal advice. If you are uncertain as to your responsibilities under the Housing Act 2004 you should talk to your letting agent or a specialist solicitor.