

THE TENEMENT HANDBOOK

UPDATE

THE NEW TENEMENT BILL

The Tenement (Scotland) Bill is being drafted by the Scottish Law Commission to deal with problems such as the whole cost of a roof repair falling on one or two top flat owners and some of the inequitable clauses which surround the factors flat', the owners of which may have a right of veto or reduced responsibility to pay for common repairs. It is hoped that this Bill will be one of the early pieces of legislation passed by the new Scottish Parliament.

If this Bill goes through, the common law with all its inequalities and uncertainties will be swept away, replaced by a new statutory deed of conditions'. This statutory deed' will give a definition of the common parts of a tenement and provide for decisions to be made on a one flat one vote' basis. Repair costs for the roof and other common parts will be shared according to the floor area of flats so bigger flats will pay more. Insurance will be compulsory, there will be a right of appeal to a sheriff and the situation of flats changing hands during the repair process clarified by making the existing and future owners jointly liable. If the existing Deed of Conditions is silent, unfair or unworkable on any of those provisions, then the Statutory Deed will come into play.

The Law Commission is also proposing a more powerful Deed for new tenements only. This would allow for the creation of an owners association with its own legal identity similar to that of a company but not subject to all the regulations of The Companies Acts. This is something that all owners associations would welcome. Other provisions such as provision for advance payments and the setting up of sinking funds or savings schemes are also to be welcomed. Some owners might have more difficulty with the provision to allow 'house rules' which could be oppressive if some less tolerant neighbours were to have their way.

The commission has stepped aside from making retrospective changes in ownership provisions because of the question of having to make compensation with all the difficulties of setting a tariff and deciding who would pay. Some would argue though that change to bring ownership to a more sensible regime is necessary to secure the future of the older tenement with all that it means for the living history of our cities.

If you are one of many owners that has had difficulties maintaining your tenement, you should think about lobbying candidates in Scottish Parliamentary elections.

Details of this proposed new law can be found in "Report on the Law of the Tenement: Scottish Law Commission" published by HMSO March 1998.

Page 29 GRANT RATES

Grant rates have not changed - even worse, there is less cash available for grants than before. Glasgow currently has a 2 year waiting list for grants. The situation in your own area may be different - you should still try for a grant. If you need to wait, make sure that you carry out temporary repairs to prevent the problem getting worse.

Page 33 - 35 Other sources of finance

There have been some changes in income support rules and the help you can get to pay for repairs if you are on income support. Your local library and your CAB should have a recent copy of Rights Guide for Homeowners' published by the Child Poverty Action Group and SHELTER. This book is very good at advising how to deal with mortgages, income support etc. Please note however that the explanation of local authority grants refers only to England, not Scotland.

If you need to claim income support, you will be able to claim help for the interest payments on mortgages and loans taken out to pay for common repairs. You will not be able to increase the amount of your loan to cover borrowing for repairs. - you can however change loans so you may be able to renegotiate your mortgage so that you can borrow more money over a longer period with the same monthly repayments. If you are in this position, be sure to take financial advice - see a local welfare rights or money advice centre or your CAB.

Page 37 TAKING LEGAL ACTION

The limits for the Small Claims Court have not changed. In addition, some people have had to pull out of actions and found themselves liable for all the costs of the action, including those of the defendant. We now advise that you still research your case thoroughly, whether you are thinking of instructing legal action or threatened with it. If the sums are relatively small and you aren't the type of person to spend weeks mugging up on legal procedures, give in. If you do decide to pursue court action, get legal advice. The CAB can help you find a solicitor. Some solicitors suggest getting a charge' registered against the house. This means that the owner cannot sell the property without paying off the charge. We have heard of other owners getting a neighbour's bank account arrested. This means that the bank takes the required sum from your neighbour's account and holds it against a court order being agreed. Tenants' rents can also be arrested and this can be particularly useful if you are dealing with private landlords.

Page 51 NOISE AND NUISANCE

Environmental Health Officers are now more likely to use the Environmental Protection Act to deal with noise. Sections 79 -82 deal with noise complaints and abatement notices can be issued. Section 82 allows individual occupiers to complain. Street noise is covered by the Control of Pollution Act section 62. Amongst other things, this prevents loudspeakers being used between 9pm and 8 am.

CDM Construction (Design & Management) Regulations 1994

The construction industry has a poor record for safety, and many fatalities occur when tradesmen fall from a height. Tenement work necessarily involves working at heights and roof work is notoriously dangerous. The CDM regulations were developed to ensure that all parties were aware of their responsibilities when it comes to construction safety. First of all the client has a responsibility to ensure that any tradesmen or professionals employed are competent. Any designer has a responsibility to assess the risks involved in any scheme, and where possible to design out any high risk elements. In this respect, care has to be taken to ensure that proposals can be maintained safely.

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Not all projects fall within the regulations: for example domestic house-holders having worked carried out to their own flats would not need to comply. But if you were one of a group of flats which was instructing a contractor to renew a common roof, then the regulations would apply. Small scale work is usually exempt as it does not apply if less than five people are working at any one time, nor if the work is done within 30 days or less than 500 person days of construction. However, if the work involves any demolition work or dismantling of a structure, then the regulations will apply, regardless of the scale of the project. The regulations have led to the creation of a new professional called a Planning Supervisor. Such a person will be able to co-ordinate the safety plan for the project.

Before work is taken to tender, the designers develop a risk assessment for the job, and this forms the basis of a safety plan which sets out the risks involved in the project as well as identifying the location of key elements which could affect safety on site. This safety plan is then developed by the contractor into a contractors safety plan which will form the basis of controlling safety on the site.

The Health and Safety Executive must be notified as to when the contract is to start on site. Once the contract is completed, a Safety File is prepared. This is basically a catalogue of the actual work carried out, where all the critical elements are, any addresses for maintenance, any issues regarding future maintenance and all the information that any contractor might need to know if they were to work on the site. It's a useful schedule for all the owners to have access to.

The main publication is:

Managing Construction for Health and Safety: Construction (Design & Management) Regulations 1994 Approved Code of Practice. Health and Safety Commission. Available from HMSO.

The professional body which sets the standards for Planning Supervisors is:

*The Association of Planning Supervisors
16 Rutland Square
Edinburgh EH1 2BE
Tel: 0131 221 9959*

USEFUL ADDRESSES - UPDATE

The following phone numbers have changes - please ring to get the most recent address.:

Page 20 National Inspection Council for Electrical Installation Contracting (NICEIC) tel: 0171 582 7746

*Scottish Master Wrights and Builders Association
tel: 0141 333 1679*

*CORGI
tel: 01256 372200*

*Page 27 Planning Aid for Scotland
tel: 0131 555 1565*

*Page 32 Energy Action Grant Agency
tel: 0191 230 1830*

*Page 36 Age Concern
tel: 0131 220 3345*

*Page 52 Parliamentary Ombudsman
tel: 0131 225 7645*

*The Commissioner for Local Administration in Scotland
tel: 0131 225 5300*

*page110 Insurance Ombudsman Bureau
tel: 0171 623 9043*

*Health and Safety Executive
tel: 0131 247 2000 and
0141 275 3000*

*Planning Exchange
tel :0141 228 8541*

*Scottish Federation of Housing Associations
tel: 0131 556 5777*

*Shelter (Scotland)
tel: 0131 313 1550*

*Scottish Development Department
tel: 0131 556 8400*

*Trading Standards (see under your local council)
tel: 0141 287 6681
tel: 0131 469 5414*

*Building Confederation
tel: 0171 608 5000*

*Institute of Plumbing
tel: 01708 472791*

*Lead Contractors Association
tel: 018912 825400*

*National Federation of Roofing Contractors
tel: 0131 343 3300*

*Scottish Building Employers Federation
tel: 01324 555550*

*Scottish Master Slaters and Roofilers Association
tel: 01324 555550*

*Stone Federation
tel: 0171 608 5000*

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STAIRLIGHTING

In April 1997, Glasgow City Council modified its annual charges for the registration and maintenance of close stair lighting. Where the lighting is not registered by the Council, the owners are responsible for paying any charges and maintaining the fittings themselves.

Once registered with the Council you can expect them to maintain the lights in the common stair and close and a bulkhead light for the backcourt area. They will replace broken light fittings and lamps as well as photocells and solar time switches, although owners are responsible for reporting the defect (in Glasgow the freephone reporting number is 0800-595-595).

The common owners will receive an annual charge for the maintenance of the system including energy costs. They will also inspect and test the system on a 5 yearly cycle.

The charges for the service are broken down into different sections, shown in the table below.

To become registered the existing system has to be inspected by an electrical contractor who will report on whether or not the installation comes up to the standards set by the City Council. If it does not, the common owners will require to upgrade it before registration can take place.

You can only specify the Council's approved light fittings and wiring system if you adopt this approach.

If you have a door entry system or a communal TV aerial, these will require to be powered from a "landlord's supply". This is simply a metered electricity supply which the common owners are responsible for paying.

You may consider maintaining your fittings privately and linking the stairhead lights into the landlords supply meter. To do this you will need to pay a connection charge (£70) and thereafter a standing charge of about 18p a day. But remember, the 18p a day only covers electricity, you will also have to pay for minor repairs and replacing bulbs and fittings, items which are covered in the City Council charges. Also, the landlords supply must be in either the Factor's name or an Association who acts on behalf of the owners.

Information on Landlords supply meters can be obtained from John Provan, Scottish Power, Minor Contracts Division, St Vincent Crescent, Glasgow G3 8LT Tel 0141 567 4231.

Item	Description Of Service Charge 98/99	Cost
Scale burner	A stairhead light which is switched on during the hours of darknes.	£4.10
Day burner	A stairhead light which because of the building configurations required to be kept on for 24 hours a day.	£20.31 each per annum
Private scale burner	A stairhead light which is switched on during the hours of darkness, fitted in addition to basic lighting.	£17.36 each per annum
Private day burner	Stairhead light which is kept on for 24 hours a day, fitted in addition to basic lighting.	£21.89 each per annum
Back Court light fittings	Bulkhead light fitted to the rear wall of the tenement to light the backcourt area.	£8.20
Private back court lighting	Additional bulkhead light fitting which burns during the hours of darkness.	£47.92 each per annum
Systems charge	Covers maintenance of the system and periodic inspection and testing.	£10.25/typical tenement

NOTE: All charges ex VAT and subject to amendment each year