

INFORMATION ON THE REGULATIONS PERTAINING TO TENANCY AGREEMENTS



This information has been drawn up as a supplement to the Consumer Council's standard contract for accommodation rentals. More information is available at: www.forbrukerradet.no

Tenancy contracts are regulated by the tenancy agreement itself, and the Act of 26th March no. 17 1999 (Landlord and Tenant Act). The text of the Act is available at: www.lovdato.no. It is also available in printed form from bookshops.

RENTAL CHARGES

The parties are free to agree on the amount of rent to be paid at the start of the tenancy. The exception is a prohibition against unreasonably high rental charges; however, it should be noted that the threshold for what is regarded as “unreasonable” in this context is relatively high.

The Tenant has the right to pay monthly rental charges via a bank. The Lessor cannot demand advance payment of rental charges for more than one month in advance.

Rental charges shall be determined at a fixed amount. This means that all costs that the Lessor may have in connection with the rental must be included in the rental charges.

There are, however, two exceptions to this regulation: In addition to the rental charge, an agreement may be made to pay the Lessor's costs in connection with electricity and heating. It may also be agreed that in addition to the rental charge, costs related to water and sewage shall be paid, if these are paid according to *metered* consumption. If a water meter is not installed, no charges may be levied for water and sewage costs.

Additional charges for electricity/heating and water/sewage must be agreed in advance. The Tenant can demand that the Lessor presents an annual account that indicates the total costs and distribution of these.

Regulations pertaining to rental charges are contained in the [Landlord and Tenant Act, chapter 3](#).

ADJUSTMENTS TO RENTAL CHARGES

In an ongoing tenancy, there are only two lawful ways to increase the rental charges:

1. Index-linked increase in rental charges
([Landlord & Tenant Act § 4-2](#))
2. Bringing into line with prevailing rent levels
([Landlord & Tenant Act § 4-3](#))

Index-linked increase in rental charges

The Lessor may increase the rental charges in line with the consumer price index, maximum once per year. The Lessor must notify the Tenant of the intended increase at least one month in advance. An increase in rental charges can first be implemented out one year after the original contract was signed. In the same manner, the Tenant may also demand a corresponding reduction in rental charges if the consumer price index should fall.

Bringing into line with prevailing rent levels

If the tenancy agreement has been ongoing for at least 2 1/2 years, the Lessor may demand that the rental charges are brought into line with prevailing market rent levels. The adjustment may, at the earliest, be introduced six months after the Lessor has given written notification of his intent to regulate charges. In other words, the Tenant must have rented the accommodation for at least three years before the rental charges can be brought into line with prevailing market rent levels. If the prevailing rental levels are lower than the current rental charge, the Tenant can demand that they are adjusted down to the prevailing level.

Prevailing rent levels are defined as the rental charge for comparable accommodation. Any comparison shall be with accommo-

dation of a similar size, location, standard etc. and similar terms and conditions, e.g. termination terms and conditions, duration of contract etc.

DEPOSIT

A deposit is a sum that the Tenant, on agreement with the Lessor, furnishes as security for any outstanding rental charges and other claims that may arise from the tenancy agreement.

The deposit cannot exceed six times the agreed monthly rental charge. The Lessor may demand an increase in the deposit in line with any (lawful) increase in the monthly rental charges.

The deposit sum shall be deposited in a designated bank account in the name of the Tenant, and neither the Tenant nor the Lessor can make withdrawals on the account independently. If the Lessor demands that the Tenant shall pay the sum into the Lessor's own account or that the Tenant shall pay the deposit in cash, the Tenant has the right to refuse.

Bank charges incurred in setting up the deposit account are payable by the Lessor. Any interest paid on the account shall be paid to the Tenant.

When the rental contract expires, the deposit is repaid to the Tenant.

If the Lessor does not give consent to the repayment of the deposit, the Tenant must notify the bank in writing of his claim for repayment of the deposit. The bank must then notify the Lessor in writing of the claim and inform that the sum will be paid to the Tenant if the Lessor, within 5 weeks after the notification is received, does not document that legal proceedings have been instigated. The Lessor can provide such documentation by presenting a copy of the Conciliation Complaint or a copy of the complaint to the [Rent Disputes Tribunal](#). If the bank does not receive documentation within the deadline, the bank may repay the deposit to the Tenant.

If the Lessor has claims in regard to the tenancy agreement that he intends to recover from the deposit, the claim must be notified to the Tenant. If the Tenant does not accept the claim and requests that the deposit is repaid from the bank, the Lessor must instigate proceedings to resolve the dispute.

Proceedings are instigated by presenting the claim to the Conciliation Board or by raising a complaint with the [Rent Disputes Tribunal](#).

If the Lessor's claim is for outstanding rental charges, the Lessor may present the claim directly to the bank. The bank may deduct outstanding rental charges from the deposit sum, in certain circumstances:

- The deposit account and the account to which the Tenant pays the monthly rental charges must be at the same bank.
- The Tenant and the Lessor must have a written agreement that the Tenant shall pay the monthly rental charges into the Lessor's account in this bank.
- The Lessor must provide documentation to the bank of the start and expiry dates of the Tenant's obligation to pay rental charges.

The bank must notify the Tenant if the Lessor demands payment from the deposit account for outstanding rental charges. If the Tenant, for example, believes that he is entitled to demand a reduction on the rental charges, and this is the reason for non-payment, the Tenant must provide documentation to the bank that he has instigated claim proceedings. If the bank does not receive such documentation within 5 weeks after the Tenant has received notification that the Lessor has demanded payment of outstanding rental charges, the bank shall pay any outstanding rental charges to the Lessor.

Regulations pertaining to deposits are contained in the [Landlord & Tenant Act § 3-5](#).

GUARANTEE

As an alternative - or in addition to - a deposit, the Tenant and Lessor may agree that the Tenant shall furnish a guarantee as security for any claims regarding outstanding rental charges, damage to property, cancellation expenses or for any other claims arising from the tenancy agreement. The guarantee can, for example, be furnished by a bank, a private individual (guarantor) or by the Social Services.

The guarantee amount cannot, alone, or including the deposit, exceed the sum of six month's rental charge.

Regulations pertaining to guarantees are contained in the [Landlord & Tenant Act § 3-6](#).

FIXED-TERM OR ONGOING (TERMINABLE) TENANCY AGREEMENTS

On entering into an agreement, the Tenant and Lessor must agree on the type of tenancy agreement.

There are two main types of tenancy agreement:

1. Ongoing tenancy agreements
2. Fixed-term tenancy agreements

An ongoing (open) tenancy agreement runs indefinitely until one party terminates the agreement.

A fixed-term tenancy agreement is an agreement that expires on a certain date, without requiring termination by either the Tenant or the Lessor. The Tenant is obliged to vacate the accommodation at the agreed time.

In the case of a fixed-term agreement, the Lessor is obliged to notify that the agreement cannot be terminated during the fixed agreement period. If this is not notified, the agreement may be terminated within the agreed rental period.

In addition, it is possible to combine the two types of agreement, by entering into a **fixed-term agreement with a right of termination** for one or both parties.

The Landlord and Tenant Act has invariable regulations concerning minimum periods that regulate the use of fixed-term agreements. The main rule is that it is not permitted to enter into fixed-term agreements for a period of less than 3 years. The minimum period is however, one year if the agreement concerns a loft or basement dwelling or a dwelling in a semi-detached house and the Lessor lives in the same house.

Exceptions to the regulation regarding minimum periods of three and one year respectively may apply when the accommodation is to be used as a dwelling by the Lessor himself or a member of his household. Certain conditions apply, firstly: the Tenant, at the latest on signing the agreement must be made aware of the reason for the fixed term. Secondly, the Lessor or the member of his household must in actual fact move into the dwelling when the fixed-term agreement expires. If this condition is not fulfilled, the Tenant is normally entitled to continue to live in the dwelling.

An exception to the regulations regarding a minimum period also applies if the Lessor has another justifiable reason for a fixed-term agreement. An example of this is if the dwelling is to be renovated or sold within a short time.

It is not considered a justifiable reason that the Lessor or the Tenant desires a 10-month contract, running from August to June, adapted to the academic year, because the Lessor rents out the property to students.

If fixed-term agreements have been signed in conflict with the regulations in the Act, the fixed-term is deemed invalid. The agreement is then considered an ongoing agreement and may be terminated in line with the regulations within the Act, pertaining to termination notice periods.

Regulations pertaining to fixed-term and ongoing agreements are contained in the [Landlord & Tenant Act §§ 9-1 to 9-3](#).

DEFECTS

What is a "defect"?

Unless otherwise agreed, the accommodation and fixtures must be tidied, cleaned and in normal good condition.

Unless otherwise agreed, the Tenant may demand that the accommodation shall be of a reasonable, good standard, taking into consideration the age of the property, its location, area etc. If this condition is not fulfilled, the accommodation is said to be "defective" in this context. However, agreement may be reached that the accommodation is of a lower standard than normal and the Tenant cannot later claim as defects issues that he is aware of (or ought to have been aware of).

It is considered a defect if the Lessor provides incorrect information about the accommodation and this is believed to have influenced the agreement.

If the Lessor fails to inform of issues that he was aware of (or ought to have been aware of), that the Tenant had grounds to believe he should have been notified of, and this is believed to have influenced the agreement, this is also regarded as a defect. An example of this may be that the Lessor fails to inform the Tenant that heating costs may be abnormally high due to poor insulation.

After the Tenant has lived in the accommodation for a time, problems may arise that could not have been discovered earlier and that the Lessor could not have been aware of. This type of "hidden defect" may be the object of various claims, depending on how serious these are. If it is revealed, for example, that the accommodation has damp damage or

has fungal growth, this may provide grounds for a claim for repairs or a reduction in charges until the defect is repaired. If the defect is serious, it may provide grounds for revocation of the agreement.

Claims made as a result of defects

If defects are found, the Tenant has the right to demand the following:

- Repair of the defect or
- Reduction in the rental charges or
- Revocation of the agreement if the defect is serious

In addition, compensation may be claimed for documented economic losses.

The Tenant may also withhold monthly rental charges in order to secure any claims he may have against the Lessor, as a result of the defect.

The regulations regarding defects are contained in the [Landlord and Tenant Act Chapter 2](#).

If the parties cannot agree on the rental charge that shall apply, e.g. in connection with a dispute concerning defects, the tenancy agreement cannot be terminated or revoked due to outstanding rental charges, if the Tenant deposits the disputed rental charge sum in a restricted account that the Tenant cannot freely utilise without the consent of the Lessor.

The Lessor must consent to the establishment of such an account. If the Lessor does not give consent, it is in any case regarded as a lawful deposit if the Tenant places the amount in a separate account from his normally available funds.

Regulations pertaining to this type of deposit are contained in the [Landlord and Tenant Act § 3-8](#).

MAINTENANCE

The Lessor is responsible for maintenance of the property unless otherwise agreed. If, for example, doors or windows require replacement, this is the responsibility of the Lessor. If sewage pipes become blocked, the Lessor must ensure that these are repaired.

If the Lessor does not fulfil his obligations in regard to maintenance, the Tenant can demand repairs to be carried out or a reduction in rental charges until the repairs are carried out. If the neglect of maintenance obligations represents serious breach of contract terms, the Tenant may revoke the agreement.

Unless otherwise agreed, the Tenant is obliged to maintain the following items in the accommodation: Door locks, water faucets, WCs, electrical sockets and switches, water heaters and inventory and equipment in the accommodation that is not a fixed part of the property. The Tenant is also responsible for function controls, cleaning, battery replacement and periodic testing of smoke alarms and fire extinguishing equipment.

If objects that belong to the Lessor require replacement, the Lessor is responsible for these.

If the Tenant does not fulfil his obligations in regard to maintenance, the Tenant may be liable to pay compensation. If the neglect represents a serious breach of the contract terms the Lessor may revoke the agreement.

Regulations pertaining to maintenance are contained in the [Landlord and Tenant Act Chapter 5](#).

LESSOR'S ACCESS TO THE DWELLING

Letting involves the transfer of usage rights to the Tenant. In other words, the Lessor has handed over the accommodation to the Tenant and cannot enter as he wishes.

The Tenant is obliged, however, to grant the Lessor access to the property in order to control and maintain the accommodation. The Tenant shall be given reasonable advance notice that the Lessor intends to access the accommodation for maintenance or inspection purposes. In other words, the Lessor cannot enter the accommodation without informing the Tenant. In an emergency situation, the Lessor may enter the accommodation without prior notice in order to prevent damage to the property. An example of such a situation is a main water pipe that has burst while the Tenant is away, e.g. on holiday.

The Lessor's right to access the accommodation is regulated in the [Landlord and Tenant Act § 5](#).

ADDITIONAL PERSONS IN THE ACCOMMODATION, SUB-LETTING

The Tenant has the right to allow a spouse, partner, his own or his spouse's/partner's children, grandchildren, parents etc. to move into the accommodation. The Lessor cannot refuse to allow such persons to move into the accommodation.

Additional persons in the accommodation requires approval from the Lessor; however, approval cannot be refused without justifiable grounds.

The Tenant does not have the right to sub-let the accommodation to others without the consent of the Lessor. If the Tenant wishes to let out part of the accommodation whilst living there himself, the Lessor can only refuse approval if there are justifiable grounds. The same applies to temporary absence due to work, study, military service etc.

"Justifiable grounds" in this context may be: fear that the person(s) added to the household or sub-lessees may be disorderly, refuse to adhere to house rules etc. Ethnic background, skin colour, political affiliations etc. are not justifiable grounds.

Regulations pertaining to additional members of the household and sub-letting are contained in the [Landlord and Tenant Act Chapter 7](#).

TERMINATION OF AGREEMENT

Notice of termination

The length of notice of termination in an ongoing (open) tenancy agreement can be any period agreed on by the two parties.

Unless otherwise agreed, a three month notice period applies. The deadline is calculated from the end of the month in which the notice is given. This means that if the Lessor or Tenant gives

notice of termination on the 1st May, the deadline is calculated three months from the 31st May, i.e. 31st August. If the notice of termination is given on 30th April, the deadline will run from the end of April and expire on 31st July.

For agreements applying to single accommodation rooms in which the Tenant, according to the agreement, has access to another's dwelling, the notice of termination period is one month from the termination date, unless otherwise agreed.

Type of notice

The Tenant may give notice of termination either verbally or in writing.

A notice of termination from the Lessor must be in writing and must contain the following information:

1. Justifiable grounds, see [Act § 9-5 section](#)
2. Information concerning the Tenant's right of appeal against the notice of termination to the Lessor, within one month of the receipt of the notice.
3. Information that if the Tenant does not appeal within the deadline, the Tenant loses the right to claim that the notice of termination is in conflict with the Landlord and Tenant Act, and that the Lessor in such case may instigate proceedings for compulsory termination according to the Enforcement Act.

A notice of termination (from a Lessor) that does not meet the above requirements, is invalid.

Protection against unlawful termination

The Tenant's protection against unlawful termination means any termination that is not properly justified or unreasonable has no legal effect.

A notice of termination must be made on justifiable (lawful) grounds.

The [Landlord and Tenant Act § 9-5](#) states three justifiable grounds for giving notice of termination:

- i. The dwelling is to be used by the Lessor himself or a member of his household
- ii. The dwelling is to be demolished or renovated
- iii. The Tenant has not paid the rental charge on time or has otherwise defaulted on the tenancy agreement.

Finally, the Act states that the tenancy agreement can be terminated if there are other justifiable reasons.

There are no strict definitions regarding the reasons for revocation of a contract as long as these are justifiable.

Even if a termination of an agreement is justifiable it may still appear unreasonable.

A termination of a tenancy agreement can seem unreasonable if the Tenant cannot acquire another dwelling. A revocation may also be unreasonable if the Tenant is seriously ill and relocation would be especially stressful for the Tenant.

A justifiable termination can be annulled if it appears unreasonable.

Regulations pertaining to termination of agreements are contained in the [Landlord and Tenant Act Chapter 9](#).

EVICTION

If the Tenant remains in the dwelling despite a termination or revocation of the tenancy agreement, the Lessor must apply to the courts in order to receive a legal judgement that the termination/revocation is lawful. If the Lessor's claim is upheld in the court, that the termination/revocation is valid, the judgement will be grounds for enforcement of the eviction order.

It is important for the Lessor and the Tenant to be aware that the Lessor can never, on his own initiative, evict the Tenant, by for example, physically removing the Tenant's furniture and property, by changing the locks or by physically preventing the Tenant's access to the dwelling by any other means. This applies even if the Lessor has been granted a court order that the termination/revocation is legally valid. Taking the law into one's own hands is unlawful and as a rule, a punishable offence. Only a court-appointed bailiff/police can evict a Tenant.

In certain cases, the Lessor does not need to apply to the courts in order to be granted a lawful order to evict a Tenant:

1. If there is a tenancy agreement that contains a clause that enforced termination can be invoked if the rental charges are not paid.
2. If there is a tenancy agreement for a pre-determined period that contains a clause that enforced termination can be invoked when the rental period has expired.
3. Termination of the tenancy agreement according to the Landlord and Tenant Act, when the termination fulfils the terms and conditions of the Act § 9-7 and the Tenant has not appealed against the termination in writing to the Lessor according to § 9-8 within the deadline of one month, or when the Lessor has instigated proceedings against the Tenant and the court has not reserved judgement in the case.
4. Revocation of the tenancy agreement according to the Landlord and Tenant Act, when there are circumstances that make it plainly evident that the Lessor has the right to revoke the tenancy agreement.

The first circumstance is a so-called 'eviction clause'. This must be agreed in writing between the Tenant and the Lessor in connection with the establishment of the tenancy agreement. If this type of eviction clause is included in the contract, the Lessor can go directly to the bailiff authorities if the rental charges are not paid.

The second circumstance is an eviction clause that the Tenant and the Lessor agree upon on entering into a fixed-term rental contract. When the tenancy agreement expires after, for example, three years, the Lessor may apply to the bailiff authorities if the Tenant does not vacate the dwelling as agreed.

The third circumstance encompasses cases in which the Lessor has terminated the tenancy agreement in accordance with the Landlord and Tenant Act and the Tenant does not appeal against the termination, but still does not vacate the dwelling. Also in this case the Lessor can go directly to the bailiff authorities.

The fourth circumstance is when the Lessor has revoked the tenancy agreement due to a serious breach of the terms and conditions of the contract from the Tenant's side and that is plainly evident that the Lessor can revoke the agreement. An example of this is in cases where the Tenant has caused wanton damage to the dwelling and caused serious economic losses to the Lessor.

The regulations pertaining to this issue are contained in [Enforcement Act § 13-2](#).

USEFUL LINKS

<http://forbrukerradet.no/tips-og-rad/bolig>

<http://www.lovdata.no/>

<http://www.ssb.no/lmu/>

<http://www.ssb.no/kpi>

<http://htu.no/>

<http://namsfogden.no/>

<http://utkastelse.no/>

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