



**Brookland Estates**  
Property Management

## eBOOK – Understanding AST



### AST

In order to negotiate a let or offer appropriate advice to your Landlord, you should be confident in explaining the law contained in any tenancy agreement a Tenant signs or Landlord signs.

Remember that the both the **Equality Act 2010** and **Consumer Protection (from Unfair Trading) Regulations 2008** place obligations on you, to check that your tenant has understood the terms of the tenancy agreement and that you have treated all tenants fairly.

You need to understand the tenancy agreement, so that you can explain it. You shouldn't just expect tenants to read the AST, you need to check that they understand what they are signing. You should take into account their knowledge and experience for example you should take more time with a first-time tenant as they will need more guidance.

To be able to offer advice to tenants you need to understand the key clauses that will exist in your company AST.

**Even if you don't have a written contract with your tenant, a tenancy agreement will still be in place. Did you know that you CAN have an oral AST?** Under s54(2) of the Law of Property Act 1925, a tenancy will exist as soon as a tenant starts paying rent. However, without a written agreement you be unable to prove how much rent the tenant owes you or confirm that you don't allow pets or smokers or use any of the other special terms included in the AST.

### What does an AST contain?

- The names of Landlord and all tenants and any guarantor
- The address of the property including postcode.
- The start dates
- The length of the tenancy
- How often the rent will be paid
- How much the deposit will be
- Reasons you may withhold all or part of the deposit in relation to damage and arrears



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- The tenants' responsibilities, such as paying council tax and maintaining the property
- The Landlord or agents' obligations, such as repairs to the property, licensing, statutory safety obligations
- How and when you will review rent
- Whether the property can be sublet
- Whether the tenancy can be ended early and how this can be done

An AST entitles the Landlord to gain possession immediately after the initial agreed period, which is usually for six or twelve months. The Landlord is able to evict the tenant after the initial fixed term without a legal reason using a Section 21.

They are obliged to give at least two months' notice to end the tenancy and can't serve the notice until the 4-month point.

Once a tenant moves into a property, the Landlord cannot increase the rent in the first 12 months of the tenancy unless agreed prior with the tenant.

A standard AST agreement typically consists of various clauses, describing the obligations of the Landlord and tenant such as:

## Quiet enjoyment

The Landlord agrees not to interfere with the tenant's use and enjoyment of the property. Quiet enjoyment means that the Landlord cannot just pop in and do repairs and can't keep chasing the tenant unreasonably.

## Landlord Repair obligations

Section II of Landlord and Tenant Act. The Landlord has clear repair obligations under the tenancy agreement, which we have covered in detail in separate lessons, but in brief, the Landlord must keep the structure and exterior of the property in good repair.

Keep the installations of the property in good repair and proper working order: for water, gas, electricity, sanitation and heating.

## Statutory obligations

Landlords must ensure that the Property has an up-to-date gas safety certificate (CP12), to comply with the obligations under the Fire and Safety Regulations 1988.

## Rent Payment



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Standard AST agreements include a clause in which the Landlord gives notice of actions that may be taken in the event of a non-payment of rent. **For example:**

“If the Tenant does not pay the rent due to the Landlord under this agreement within 14 days of the due date, the Tenant will be issued with a reminder from the Landlord, in writing, for which there is a charge of £30. Interest will also be charged at the rate of 3% per annum, calculated on a daily basis from the due date until the rent is paid.”

## Repair and decoration

Tenant obligation – this clause confirms decorating is not allowed, unless with written consent.

## Fixings

This clause will generally confirm that tenants cannot glue, nail or screw anything without written consent.

## Assigning or subletting

Tenant cannot sublet – meaning they cannot take in a lodger without consent.

## Pet Clause

The “No pets’ clause exists to confirm that a tenant cannot keep a pet. If the Landlord agrees to accept a pet it is a specific pet and the clause still stands, but excluding the pet agreed. If the tenant wants another pet, they have to get written permission for the specific pet. The clause confirms that consent can be withdrawn if the property is not being looked after.

## Anti-social behaviour clause

Tenant must not do anything that may offend – nuisance, damage, disturb, annoy, injure or inconvenience any adjoining property or neighbours.

## Insurance clause



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The Landlord is to insure the property with buildings cover and tenants have to insure their own belongings. Tenants cannot do anything that may void the Landlord's insurance –for example they cannot change locks etc.

## Entry by Landlord and Landlord's agent

The tenant must allow the Landlord access – they don't have to be present but would generally be given notice – such as at least 72 hour's notice. Check your own contract. This can be to carry out repairs and inspections at an agreed interval eg 12 weekly.

## The Forfeiture clause

This means that the Landlord can use this clause in the AST to gain repossession during the term. This details how a Landlord can regain possession and is there to inform a tenant what may happen, if they breach the terms of the agreement. A Landlord cannot repossess a property if the forfeiture clause is not in place.

End of the Tenancy

At the end of the tenancy, the tenant must leave the property as it was found, or risk losing their deposit. They must also agree to leave a forwarding address, e.g. for the Local Authority, Benefits Agency, Post Office and utility companies and to disclose to the Landlord/Agent:

- all financial and other information relating to the Property
- any housing benefit claim
- the tenant's whereabouts if the Tenant has left the Property with rent or other money owing.

## General Knowledge (regarding ending a tenancy)

Before the Landlord can end this tenancy, he has to serve any notice(s) in accordance with the provisions of the Housing Acts.

The Tenant can terminate the tenancy by vacating the property on the last day of the term, or after that by giving the Landlord one month's notice in writing.

## Deposit clause



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The AST must contain details of the amount of deposit. It contains details of how it will be held and what it covers, for example rent and any damages. The clause also details if interest will be earned and who the interest would go to and details conditions for return and what would happen if there is a dispute.

It confirms that if the deposit doesn't cover any repairs, the tenant will be liable in full for any difference, taken for compensation and related to damages.

The tenant cannot use the deposit to pay the last month's rent and the Landlord can use the deposit to recoup unpaid rent, at the end of the tenancy

## Other Notices

If the rental property was previously the Landlord's home, a notice like this may be included: **For example:**

"Notice is hereby given that possession might be recovered under Ground 1, Section 2 of the Housing Act 1988 if applicable. That is, that the Landlord used to live in the Property as his or her main home; or intends to occupy the Property as his or her only or main home"

So if the property was the Landlord's home – this clause means they can use Ground 1 of the Section 8 notice to regain possession. We have covered notices and grounds for possession in more detail in specific lessons.

## Break Clauses

If there's a break clause in the tenancy agreement, the Landlord can give notice after this. (As long as the first 6 months have passed). If there is a break clause to allow either party to end the AST before the end of fixed term, this needs to be explained to the tenant, however the 6 month minimum applies. Remember your CPR obligations. (Consumer Protection Regulations state you must explain details to tenants and ensure they understand what they are signing)

## Summary

Many of the above clauses are statutory rights, meaning that common and statutory laws apply.

This means that, even if it isn't written in the AST, then the law applies it. The agent or Landlord cannot change clauses such as, notice



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period, repair obligations and deposit, as the tenant is protected by the Housing Act. This is because the law sets these obligations eg 2 months notice from Landlord is required is part of a Law. The Landlord has to do main repairs, unless damaged by the tenant etc. Protection from Eviction is another law which sits outside the Housing Act and the tenancy agreement. However it means tenants are protected by law from unlawful eviction for a minimum of 4 weeks. We cover this in a separate lesson.

### **Action Point**

Read your company AST and understand what it says.