

ENGLAND

Renters' Reform Bill: a "New Deal" for residential tenants

On 16th June 2022, the government published its long-awaited white paper setting out details of the Renters Reform Bill. The Bill introduces changes which will fundamentally overhaul the existing basis of the Private Rented Sector.

As things currently stand, there is no indication of when the Bill will become law. Given that it needs to go through a number of stages before receiving Royal Assent this is unlikely to be in the near future. There will be two implementation dates for the transition from Assured Shorthold Tenancies to periodic tenancies: after the first implementation date new tenancies will be periodic and governed by the new rules, and after the second implementation date all existing tenancies will transition to the new system.

SECURITY OF TENURE

The most significant change relates to tenants' rights to remain in the properties they are renting. Assured shorthold tenancies are currently the most common form of tenancy agreement in the Private Rented Sector. Under such agreements, landlords are able to grant a fixed term tenancy. Once the fixed term has expired, they can terminate the tenancy by giving the tenant two months' notice without needing to give a reason.



These notices are known as "section 21 notices" and subsequent possession proceedings are known as "no fault evictions".

If the legislation is passed all tenancies will be rolling with no fixed end date, otherwise known as "periodic" tenancies. It will also only be possible to terminate a tenancy if a landlord can demonstrate a reason. Under the current law there is a short list of grounds which a landlord can rely on in Schedule 2 of the Housing Act 1988, including rent arrears, antisocial behaviour and

the "moving in ground" if a landlord or landlord's partner wishes to move in to the rental property. The Government proposes to address the limited nature of these grounds by expanding the "moving in ground" to include close family members, and by introducing a new ground for landlords who wish to sell their properties. In both cases two months' notice will be required. Purpose-Built Student Accommodation will be exempted from the ban on Section 21 if the provider is registered for a government-approved code.

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In addition, the Government proposes to introduce a new mandatory ground for repeated serious arrears and a lower notice period for criminal or serious antisocial behaviour. The notice period for the existing rent arrears ground will be increased to four weeks, and the Government will prevent tenants from being evicted if they are in arrears due to the timing of welfare payments.

Tenants will be able to terminate their tenancy at any time by giving two months' notice.

RENT REVIEWS

Rent review clauses will be banned. Landlords will only be able to increase rent once a year by serving "Section 13 Notices" on a minimum of two months' notice. Tenants can challenge the increases in the First-Tier Tribunal.

DECENT HOMES STANDARD

The Government proposes to introduce a legally binding Decent Homes Standard. This is already in force in the Social Rented Sector. Landlords must ensure that properties are free from the most serious safety hazards such as fall risks, fire risks and carbon monoxide poisoning, and that properties do not fall into disrepair. Kitchens and bathrooms must be adequate, located correctly and "not too old", and there must be sufficient noise insulation. Landlords must update facilities once they reach the end of their lives.

Local councils will be able to enforce the Decent Homes Standard.



PROPERTY PORTAL

A new digital Property Portal will be launched. Landlords will be required to register their property on the portal, including information on whether the properties comply with the Decent Homes Standards. It will also contain information for landlords on their rights and responsibilities.

Local councils will be able to take enforcement action against private landlords that fail to join the portal.

OMBUDSMAN

It is also proposed that an Ombudsman will be introduced which will be mandatory for all private landlords who rent out property in England.

The Government claims that this will be "quicker, cheaper, less adversarial, and more proportionate than the court system".

Tenants will be able to seek free redress for complaints including dissatisfaction with the landlord's behaviour, property standards, and a delay in carrying out repair works.

The local council will be able to take action against landlords that fail to join the Ombudsman. The Ombudsman's powers will include compelling landlords to issue an apology, provide information, take remedial action and/or pay compensation of up to £25,000. A repeated failure to comply with a decision could result in a Banning Order.

COURT PROCESS

Delays in possession proceedings are widespread and have been worsened by the pandemic. These can be very costly for landlords due to lost rent and legal fees.

The Government proposes to introduce a package of wide-ranging court reforms that will allegedly target the areas that particularly frustrate and hold up possession proceedings. These will include simplifying claim forms, digitising a range of court and tribunal processes, considering prioritisation of cases, and strengthening mediation services. There is little information on how and when these reforms will be implemented.

ENFORCEMENT POWERS FOR LOCAL COUNCILS

The Government will mandate entry for all eligible offences on the Database of Rogue Landlords and Property Agents, even if the offences did not result in a Banning Order. The offence data will be publicly viewable.

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PETS

The Government will legislate to ensure that landlords do not unreasonably withhold consent for tenants' request for pets and give tenants the right to challenge decisions. The Tenant Fees Act will be amended to include pet insurance as a permitted payment, meaning that landlords can require pet insurance to ensure that any damage to their property is covered.

There is no guidance on when consent will be deemed "unreasonable".

BLANKET BANS

The Government will make it illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits (so called "No DSS" bans).

IMPACT ON THE HOUSING MARKET

The Government is explicit that the purpose of the Bill is to "level the playing field between landlord and tenant". There is no doubt that improving tenants' abilities to rent safely and securely is a positive step. However, putting an end to fixed terms removes the certainty of an income stream for landlords, and abolishing section 21 will make it more difficult for landlords to obtain vacant possession of their properties, which in turn will impact on their ability to increase rent levels.

The proposed reforms are likely to have a particularly significant impact on the Build to Rent ("BTR") sector. Landlords will no longer have flexibility to bring tenancies to an end if and when necessary. Section 21 is often used as a tool to remove difficult tenants and where there are rent arrears as obtaining possession is more certain, and contractual rent review mechanisms ensure that rent can be increased in line with demand.

Although the Government states that it will introduce additional grounds for possession, it remains to be seen how these will be defined in the legislation and treated by the courts.

There will almost certainly be litigation on the meaning and extent of the new grounds, as well as tenant challenges to refusals of consent for pets and rent increases.

Removing blanket bans increases fairness for tenants, but it also exposes landlords to risks they may not have been willing to take before. In the midst of a housing and cost of living crisis, the Renters Reform Bill may well decrease the number of private landlords willing to let out their properties.

For further information, please contact the [Property Litigation Team](#)



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