

## SECTION 21 NOTICES

### Tenancy Deposits

#### Legislation

1. Section 212(9)(b) of the Housing Act 2004 provides that for the purposes of sections 212 to 215C of the Housing Act 2004, “references to a landlord ... include references to a person ... acting on his ... behalf in relation to the tenancy ...”
2. Section 213 of the Housing Act 2004:
  - (1) **Any tenancy deposit** paid to a person in connection with a shorthold tenancy **must**, as from the time when it is received, **be dealt with in accordance with an authorised scheme**.
  - (2) **No person may require** the payment of a tenancy **deposit** in connection with a shorthold tenancy which is **not to be subject to the requirement in subsection (1)**.
  - (3) Where a landlord receives a tenancy deposit in connection with a shorthold tenancy, **the initial requirements of an authorised scheme must be complied with** by the landlord in relation to the deposit **within** the period of **30 days** beginning with the date on which it is received.
  - (5) A **landlord** who has received such a tenancy deposit **must give the tenant and any relevant person** such **information relating to**—
    - (a) the **authorised scheme** applying to the deposit,
    - (b) **compliance by the landlord with the initial requirements** of the scheme in relation to the deposit, and
    - (c) the operation of provisions of this Chapter in relation to the deposit, as may be prescribed.
  - (6) The **information** required by subsection (5) **must be given to the tenant and any relevant person**—
    - (a) **in the prescribed form** or in a form substantially to the same effect, and
    - (b) **within** the period of **30 days** beginning with the date on which the deposit is received by the landlord.
  - (7) **No person may**, in connection with a shorthold tenancy, require a **deposit which consists of property other than money**.
  - (8) In subsection (7) “deposit” means a transfer of property intended to be held (by the landlord or otherwise) as security for—
    - (a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of his, arising under or in connection with the tenancy.

(9) The **provisions of this section apply despite any agreement to the contrary.**

(10) In this section—

... **“relevant person” means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.**

3. Section 215 of the Housing Act 2004:

(1) Subject to subsection (2A), **if (whether before, on or after 6 April 2007) a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when the deposit is not being held in accordance with an authorised scheme.**

(1A) Subject to subsection (2A), **if a tenancy deposit has been paid in connection with a shorthold tenancy on or after 6 April 2007, no section 21 notice may be given in relation to the tenancy at a time when section 213(3) has not been complied with in relation to the deposit.**

(2) Subject to subsection (2A), **if section 213(6) is not complied with in relation to a deposit given in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy until such time as section 213(6)(a) is complied with.**

(2A) **Subsections (1), (1A) and (2) do not apply in a case where—**

(a) **the deposit has been returned** to the tenant in full or with such deductions as are agreed between the landlord and tenant, or

(b) **an application** to the county court has been **made under section 214(1) and has been determined** by the court, **withdrawn or settled** by agreement between the parties.

(3) If any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), no section 21 notice may be given in relation to the tenancy until such time as the property in question is returned to the person by whom it was given as a deposit.

4. Article 2 of the Housing (Tenancy Deposits) (Prescribed Information) Order 2007:

(1) The following is prescribed information for the purposes of section 213(5) of the Housing Act 2004 (“the Act”)—

(a) the name, address, telephone number, e-mail address and any **fax number** of the **scheme administrator** of the authorised tenancy deposit scheme applying to the deposit;

(b) **any information contained in a leaflet supplied by the scheme administrator** to the landlord which explains the operation of the provisions contained in sections 212 to 215 of, and Schedule 10 to, the Act;

(c) the procedures that apply under the scheme by which an amount in respect of a deposit may be paid or repaid to the tenant at the end of the shorthold tenancy (“the tenancy”);

(d) the procedures that apply under the scheme where either the landlord or the tenant is not contactable at the end of the tenancy;

(e) the procedures that apply under the scheme where the landlord and the tenant dispute the amount to be paid or repaid to the tenant in respect of the deposit;

(f) the facilities available under the scheme for enabling a dispute relating to the deposit to be resolved without recourse to litigation; and

(g) the following information in connection with the tenancy in respect of which the deposit has been paid—

(i) the **amount of the deposit** paid;

(ii) the **address of the property** to which the tenancy relates;

(iii) the **name, address, telephone number, and any e-mail address or fax number of the landlord**;

(iv) the **name, address, telephone number, and any e-mail address or fax number of the tenant**, including such details that should be used by the landlord or scheme administrator for the purpose of contacting the tenant at the end of the tenancy;

(v) the name, address, telephone number and any e-mail address or fax number of any relevant person;

(vi) the circumstances when all or part of the deposit may be retained by the landlord, by reference to the terms of the tenancy; and

(vii) **confirmation (in the form of a certificate signed by the landlord)** that—

(aa) the information he provides under this sub-paragraph is accurate to the best of his knowledge and belief; and

(bb) **he has given the tenant the opportunity to sign any document containing the information provided by the landlord under this article** by way of confirmation that the information is accurate to the best of his knowledge and belief.

(3) In a case where the **initial requirements** of an authorised scheme have been **complied with** in relation to the deposit **by a person (“the initial agent”) acting on the landlord's behalf** in relation to the tenancy—

(a) **references in paragraph (1)(b), (g)(iii) and (vii)** to the landlord are to be **read as references to either the landlord or the initial agent**;

(b) references in paragraphs (1)(d), (e), (g)(iv) and (vi) and (2) to the landlord are to be read as references to either the landlord or a person who acts on the landlord's behalf in relation to the tenancy.

(4) In any other case, references in paragraphs (1)(d), (e), (g)(iv) and (vi) and (2) to the landlord are to be read as references to either the landlord or a person who acts on the landlord's behalf in relation to the tenancy.

(5) Section **212(9)(a)** of the Act (references to landlord include persons acting on landlord's behalf) **does not apply** for the purposes of this article.

### Commentary

5. In relation to an AST, if a deposit (which can only be in the form of money<sup>1</sup>) is sought by the landlord, the deposit must be dealt with in accordance with an authorised scheme<sup>2</sup>. This requirement cannot be excluded from any contract<sup>3</sup>.
6. The deposit requirements apply to both landlords and managing agents<sup>4</sup>. A landlord is required to comply with the initial requirements of the scheme within 30 days of receiving the deposit<sup>5</sup>, and within that time frame must also provide certain prescribed information to the tenant and any relevant person<sup>6</sup> (being a person who has paid the deposit on behalf of the tenant<sup>7</sup>).
7. Accordingly, where the deposit has been paid by another party (including a friend, relative, charity, or local authority), that other party must also be provided with the prescribed information. It is likely that this requirement also applies to part-payments of deposits. By two or more parties.
8. In the case of joint tenants, it could be argued that each tenant must be provided with the prescribed information even in circumstances where only one of the tenants paid the deposit. This argument is supported by section 6(c) of the Interpretation Act 1978 which states that “...unless the contrary intention appears ... words in the singular include the plural ...”. Applying this to section 213(6), the landlord must provide the prescribed information to the tenant(s).

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<sup>1</sup> Section 213(7) of the Housing Act 2004.

<sup>2</sup> Sections 213(1) and 213(2) of the Housing Act 2004.

<sup>3</sup> Section 213(9) of the Housing Act 2004.

<sup>4</sup> Sections 212(9)(a), 213(3) and 213(5) of the Housing Act 2004.

<sup>5</sup> Section 213(3) of the Housing Act 2004.

<sup>6</sup> Section 213(6) of the Housing Act 2004.

<sup>7</sup> Section 213(10) of the Housing Act 2004.

9. The prescribed information requires detailed information to be provided by the landlord, including either his email address or fax number, and that of the tenant. By not providing such information, the landlord is in breach of the requirement to provide prescribed information.
10. It could be argued that where the landlord has always used an agent, but there has been a change of agents:
  - a. the contact details provided as part of the prescribed information must be those of either the agent who complied with the initial requirements or the landlord<sup>8</sup>; and
  - b. only the agent who complied with the initial requirements, or the landlord, may sign the prescribed information certificate<sup>9</sup>;
    - i. if the agent who complied with the initial requirements was an individual, that same individual (or the landlord) must sign the certificate;
    - ii. if the agent who complied with the initial requirements was a corporation, the company itself (or the landlord) must sign the certificate; and
    - iii. for a company to sign the certificate, it must do so in accordance with section 44 of the Companies Act 2006 (*Bali v Manaquel Company Limited*<sup>10</sup>).
11. It could also be argued that where the landlord complied with the initial requirements, but then appointed agents:
  - a. the contact details provided as part of the prescribed information must be those of the landlord<sup>11</sup>; and
  - b. only the landlord can sign the prescribed information certificate<sup>12</sup>.
12. If the full deposit has been returned, less agreed deductions if any, then there is no restriction as to the service of the section 21 notice<sup>13</sup>.
13. Similarly, if an application has already been made to the County Court in relation to breaches of the tenancy deposit provisions, and the matter has been determined / withdrawn / settled by agreement, then a section 21 notice can subsequently be served<sup>14</sup>.
14. Provided the deposit hasn't been returned, or that an application hasn't been made, a section 21 notice cannot be given:

<sup>8</sup> Articles 2(1)(g)(iii), 2(3)(a) and 2(5) of the Housing (Tenancy Deposits) (Prescribed Information) Order 2007.

<sup>9</sup> Articles 2(1)(g)(vii), 2(3)(a) and 2(5) of the Housing (Tenancy Deposits) (Prescribed Information) Order 2007.

<sup>10</sup> *Bali v Manaquel Company Limited*, County Court at Central London, 15 April 2016.

<sup>11</sup> Articles 2(1)(g)(iii), 2(3), 2(4) and 2(5) of the of the Housing (Tenancy Deposits) (Prescribed Information) Order 2007.

<sup>12</sup> Articles 2(1)(g)(vii), 2(3), 2(4) and 2(5) of the of the Housing (Tenancy Deposits) (Prescribed Information) Order 2007.

<sup>13</sup> Section 215(2A)(a) of the Housing Act 2004.

<sup>14</sup> Section 215(2A)(b) of the Housing Act 2004.

- a. at a time when the deposit is not being held in accordance with an authorised scheme<sup>15</sup>;
  - b. at any time, if the initial requirements of the scheme haven't been complied with within 30 days of receipt of the deposit<sup>16</sup>; or
  - c. until the prescribed information has been provided<sup>17</sup>.
15. Whilst the requirement to provide the prescribed information may be remedied outside of the 30-day window, the requirement to protect the deposit within the initial 30 days cannot be corrected. Accordingly, if the deposit wasn't protected within the initial 30 days, the landlord will need to return it in order to serve a section 21 notice.
16. There are currently three authorised schemes, all of which offer custodial and insurance protection: mydeposits; the Tenancy Deposit Scheme (TDS); and the Deposit Protection Service (DPS).
17. The Scheme Rules (April 2014) in respect of mydeposits include:

**Clauses C1 and C2 are the 'initial requirements of the scheme'** for the purposes of Chapter 4, s.213 (4) of the Act. These are the requirements imposed by the scheme for a member to comply with when receiving a deposit.

C1.2 When protecting a deposit the member must provide us with all of the information we request and that we will rely on throughout the protection. It is the **member's responsibility to ensure that the information provided is the same as that contained in the AST agreement.**

C1.6 It is the **member's responsibility to provide the Prescribed Information about the deposit protection to the tenant within 30 days of taking the deposit. ...**

C1.7 If the **member makes an administrative mistake** when protecting a deposit the member **may request changes** to the deposit protection if they inform us in writing of the changes required and provide a copy of the AST to show that the changes are necessary. ...

18. It is arguable that in relation to this authorised scheme the meaning holding a deposit "in accordance with [the] scheme" includes the requirement to provide the prescribed information within the initial 30 days.

19. The Membership Rules (March 2018) in respect of the TDS include:

5.1 If a Member of this Scheme has client money protection insurance it must hold the Deposit in accordance with the requirements of its insurers. As a minimum requirement of the Scheme, all Members must **hold the Deposits** which they receive, **in a bank account in the UK.**

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<sup>15</sup> Section 215(1) of the Housing Act 2004.

<sup>16</sup> Section 215(1A) of the Housing Act 2004.

<sup>17</sup> Section 215(2) of the Housing Act 2004.

6.3 This Scheme's 'initial requirements' are that the **Member must enter** on the TDS tenancy database all **the required details about a Deposit** if that Deposit has not previously been Protected.

6.6 Sections 213 (5) and (6) of the 2004 Act require a Landlord to give the Tenant **Prescribed Information**, including any leaflet published by the applicable tenancy deposit protection scheme, within the Statutory Time Limit. This is **not an initial requirement** of these Rules or of this Scheme, but it is what the law requires.

20. For those landlords that opt to use the TDS insurance scheme, they may find themselves having to prove that the balance in the bank account into which the deposit was placed has not fallen below the level of the deposit.

21. The Terms and Conditions (May 2018) in respect of the DPS include:

Sections 10 (Deposit Submission) and 11 (Payment Options) of these Terms and Conditions comprise the Initial Requirements for the purposes of the Housing Act 2004.

## Houses in Multiple Occupation ("HMO") Licensing

### Legislation

22. The "standard test" to determine whether a building, or part of it, is an HMO is set out in section 254 of the Housing Act 2004 which states:

(2) A building or a part of a building meets the standard test if–

(a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;

(b) the **living accommodation is occupied by persons who do not form a single household** (see section 258);

(c) the **living accommodation is occupied by those persons as their only or main residence** or they are to be treated as so occupying it (see section 259);

(d) their occupation of the living accommodation constitutes the only use of that accommodation;

(e) **rents are payable** or other consideration is to be provided **in respect of at least one of those persons' occupation** of the living accommodation; and

(f) **two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.**

(8) In this section–

**"basic amenities" means–**

- (a) a **toilet**,
- (b) **personal washing facilities**, or
- (c) **cooking facilities**;

23. Section 55 of the Housing Act 2004 provides:

(1) This Part provides for **HMOs to be licensed** by local housing authorities **where—**

- (a) they are **HMOs to which this Part applies** (see subsection (2)), and
- (b) they are **required to be licensed under this Part** (see section 61(1)).

(2) This **Part applies to the following HMOs** in the case of each local housing authority—

- (a) any **HMO** in the authority's district **which falls within any prescribed description of HMO**, and
- (b) if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation.

24. Section 61 of the Housing Act 2004 provides:

(1) **Every HMO to which this Part applies must be licensed** under this Part unless—

- (a) a temporary exemption notice is in force in relation to it under section 62, or
- (b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

25. Article 4 of the Licensing of Houses in Multiple Occupation Prescribed Description) (England) Order 2018 provides:

An **HMO is of a prescribed description** for the purpose of section 55(2)(a) of the Act if it—

- (a) is **occupied by five or more persons**;
- (b) is **occupied by persons living in two or more separate households**; and
- (c) **meets—**
  - (i) the **standard test** under section 254(2) of the Act;
  - (ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or

(iii) the converted building test under section 254(4) of the Act.

26. Section 75 of the Housing Act 2004 provides:

(1) **No section 21 notice may be given** in relation to a shorthold tenancy of a part of an **unlicensed HMO so long as it remains such an HMO**.

27. An “unlicensed HMO” is defined in section 73 of the Housing Act 2004 as:

(1) For the purposes of this section an HMO is an “**unlicensed HMO**” if–

(a) it is **required to be licensed** under this Part **but is not so licensed**, and

(b) **neither of the conditions in subsection (2) is satisfied**.

(2) The conditions are–

(a) that a notification has been duly given in respect of the HMO under section 62(1) and that notification is still effective (as defined by section 72(8));

(b) that an **application for a licence has been duly made** in respect of the HMO **under section 63** and that application is still effective (as so defined).

### Commentary

28. As of 01 October 2018, there is no longer a requirement for the HMO to have three or more storeys. In order to be licensed the HMO must simply contain five or more persons comprising two or more households.

29. A section 21 notice cannot be given in relation to an HMO which requires licensing. However this can be easily overcome by the landlord by simply making an application for a licence.

### **The Tenant Fees Act 2019**

#### Legislation

30. Section 1 of the Tenant Fees Act 2019 provides:

(1) A **landlord must not require** a relevant person to make a **prohibited payment** to the landlord in connection with a tenancy of housing in England.

31. Section 3 of the Tenant Fees Act 2019 provides:

(1) For the purposes of this Act a **payment is a prohibited payment unless it is a permitted payment by virtue of Schedule 1**.

32. Section 17 of the Tenant Fees Act 2019 provides:

(1) **This section applies if—**

(a) a **landlord breaches section 1(1)** by requiring a relevant person to make a **prohibited payment** in connection with an assured shorthold tenancy, **and**

(b) the **relevant person makes a prohibited payment** to the landlord as a result of the requirement being made.

(2) This **section also applies if—**

(a) a **landlord breaches Schedule 2** in relation to a **holding deposit** paid by a relevant person, and

(b) the deposit relates to an assured shorthold tenancy.

(3) **No section 21 notice may be given** in relation to the tenancy **so long as all or part of the prohibited payment or holding deposit has not been repaid** to the relevant person.

(4) **Subsection (3) does not apply** where **none of the prohibited payment or holding deposit has been repaid** to the relevant person **if**, with the consent of the relevant person—

(a) the **payment or deposit has been applied towards a payment of rent** under the tenancy,

(b) the **payment or deposit has been applied towards the tenancy deposit** in respect of the tenancy, or

(c) **some** of the payment or deposit has been **applied** as mentioned in **paragraph (a)** and the **rest** has been **applied** as mentioned in **paragraph (b)**.

(5) **Subsection (3) does not apply** where **part of the prohibited payment or holding deposit has been repaid** to the relevant person **if**, with the consent of the relevant person—

(a) the **remaining part has been applied towards a payment of rent** under the tenancy,

(b) the **remaining part has been applied towards the tenancy deposit** in respect of the tenancy, or

(c) **some** of the remaining part has been **applied** as mentioned in **paragraph (a)** and the **rest** has been **applied** as mentioned in **paragraph (b)**.

33. Schedule 2 to the Tenant Fees Act 2019 provides:

(1) This **Schedule applies where a holding deposit is paid** to a landlord or letting agent in respect of a proposed tenancy of housing in England.

2(1) (1) In this Schedule "**the deadline for agreement**" means the **fifteenth day** of the period beginning with the day on which the landlord or letting agent **receives the holding deposit**.

(3) Subject as follows, the **person who received the holding deposit** must **repay it if—**

(a) the **landlord and the tenant enter into a tenancy agreement** relating to the housing,

(b) the **landlord decides before the deadline for agreement not to enter into a tenancy agreement** relating to the housing, or

(c) the **landlord and the tenant fail to enter into a tenancy agreement** relating to the housing **before the deadline for agreement.**

(4) If paragraph 3 applies, **the deposit must be repaid within** the period of **7 days** beginning with—

(a) where **paragraph 3(a) applies**, the **date of the tenancy agreement**,

(b) where **paragraph 3(b) applies**, the **date on which the landlord decides not to enter into the tenancy agreement**, or

(c) where **paragraph 3(c) applies**, the **deadline for agreement.**

(5)(1) The **person who received the holding deposit** must **repay it if—**

(a) that person believes that any of **paragraphs 8 to 12 applies** in relation to the deposit, **but**

(b) that **person does not give** the person who paid the deposit a **notice in writing** within the relevant period **explaining why** the person who received it **intends not to repay** it.

(5)(2) In sub-paragraph (1) "the relevant period" means—

(a) where the landlord decides not to enter into a tenancy agreement before the deadline for agreement, the period of 7 days beginning with the date on which the landlord decides not to do so;

(b) where the landlord and tenant fail to enter into a tenancy agreement before the deadline for agreement, the period of 7 days beginning with the deadline for agreement.

(6) **Paragraph 3(a) does not apply** if or to the extent that the amount of the **deposit is applied**, with the consent of the person by whom it was paid—

(a) **towards the first payment of rent** under the tenancy, or

(b) **towards the payment of the tenancy deposit** in respect of the tenancy.

(9) **Paragraph 3(b) or (c) does not apply** if the **tenant provides false or misleading** information to the landlord or letting agent and—

(a) the landlord is reasonably entitled to take into account the difference between the information provided by the tenant and the correct information in deciding whether to grant a tenancy to the tenant, or

(b) the landlord is reasonably entitled to take the tenant's action in providing false or misleading information into account in deciding whether to grant such a tenancy.

(10) Subject to paragraph 13, **paragraph 3(c) does not apply** if the tenant notifies the landlord or letting agent before the deadline for agreement that the **tenant has decided not to enter into a tenancy agreement**.

(11) Subject to paragraph 13, **paragraph 3(c) does not apply** where the **deposit is paid to the landlord** if—

(a) the **landlord takes all reasonable steps to enter into a tenancy agreement** before the deadline for agreement, and

(b) if the landlord has instructed a letting agent in relation to the proposed tenancy, the **agent takes all reasonable steps to assist the landlord** to enter into a tenancy agreement before that date, but

(c) the **tenant fails to take all reasonable steps to enter into a tenancy agreement** before that date.

(12) Subject to paragraph 13, **paragraph 3(c) does not apply** where the **deposit is paid to the letting agent** if—

(a) the **agent takes all reasonable steps to assist the landlord to enter into a tenancy agreement** before the deadline for agreement, and

(b) the **landlord takes all reasonable steps to enter into a tenancy agreement** before that date, but

(c) the **tenant fails to take all reasonable steps to enter into a tenancy agreement** before that date.

(13) **Paragraph 10, 11 or 12 does not apply** (so that paragraph 3(c) does apply) if, before the deadline for agreement—

(a) the **landlord or a letting agent** instructed by the landlord in relation to the proposed tenancy **breaches section 1 or 2** by imposing a requirement under that section on the tenant or a person who is a relevant person in relation to the tenant, or

(b) the **landlord or a letting agent** instructed by the landlord in relation to the proposed tenancy **behaves towards the tenant**, or a person who is a relevant person in relation to the tenant, **in such a way that it would be unreasonable to expect the tenant to enter into a tenancy agreement** with the landlord.

## Commentary

34. The following are permitted payments:

- a. rent;
- b. tenancy deposit;
- c. holding deposit;
- d. payment in the event of default;
- e. payment on variation, assignment or novation of a tenancy;
- f. payment on termination of a tenancy;
- g. payment in respect of council tax;
- h. payment in respect of a television licence; and
- i. payment in respect of communication services.

35. If a prohibited payment was accepted by the landlord and not repaid in full to the tenant, or applied in full towards the rent and/or tenancy deposit, then the landlord cannot give the tenant a section 21 notice.

36. Similarly, a landlord cannot give a section 21 notice to a tenant if he breaches the requirement to repay the holding deposit, and it has not been repaid to applied against the rent / tenancy deposit.

37. The Ministry of Housing, Communities & Local Government has issued guidance documents for landlords as well as tenants, the latter of which contains “draft letters to landlords and agents”.

### **The Deregulation Act 2015**

38. Sections 33 to 40 of the Deregulation Act 2015 (the “2015 Act”) introduced a number of provisions relating to the validity of notices served under section 21 of the Housing Act 1988.

39. Section 41 of the 2015 Act sets out the timescale for implementation and provides as follows:

(1) Subject to subsections (2) and (3), **a provision of sections 33 to 40 applies only to an assured shorthold tenancy of a dwelling-house in England granted on or after the day on which the provision comes into force.**

(2) Subject to subsection (3), **a provision of sections 33 to 40 does not apply to an assured shorthold tenancy that came into being under section 5(2) of the Housing Act 1988 after the commencement of that provision and on the coming to an end of an assured shorthold tenancy that was granted before the commencement of that provision.**

(3) **At the end of the period of three years beginning with the coming into force of a provision of sections 33 to 38 or section 40, that provision also applies to any assured shorthold tenancy of a dwelling-house in England—**

(a) which is **in existence at that time**, and

(b) to which that provision does not otherwise apply by virtue of subsection (1) or (2).

40. A provision of a section therefore applies to an AST if the AST was granted on or after the date on which that section came into force. However, statutory periodic AST's arising by virtue of section 5(2) of the Housing Act 1988 are explicitly excluded.

41. With the exception of section 39, a provision of a section will apply to all AST's in existence (including statutory periodic AST's) on the date three years after the coming into force of that provision.

42. There is no transitional period for section 39. Accordingly, a landlord will never need to comply with the provisions of section 39 in respect of an AST granted before the coming into force of the section.

#### Commencement dates

43. The Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015 provides as follows:

(10) The day appointed for the coming into force of the following provisions of the Act is **1st July 2015—**

(a) **section 37** (prescribed form of section 21 notices);

(b) **section 38** (compliance with prescribed legal requirements), **so far as is necessary for enabling the exercise on or after that day of any power to make provision by regulations made by statutory instrument;**

(c) **section 39** (requirement for landlord to provide prescribed information), **so far as is necessary for enabling the exercise on or after that day of any power to make provision by regulations made by statutory instrument.**

(11) The day appointed for the coming into force of the following provisions of the Act is **1st October 2015—**

...

(g) section 33 (preventing retaliatory eviction in relation to assured shorthold tenancies);

(h) section 34 (further exemptions to section 33);

(i) section 35 (notice to be provided in relation to periodic assured shorthold tenancies);

(j) section 36 (time limits in relation to section 21 notices and proceedings);

(k) **section 38** (compliance with prescribed legal requirements), **so far as not already in force;**

(l) **section 39** (requirement for landlord to provide prescribed information), **so far as not already in force;**

(m) section 40 (repayment of rent where tenancy ends before end of a period);

44. The commencement date for sections 33-36 and 40 of the 2015 Act is 01 October 2015<sup>18</sup>.

45. The commencement date for section 37 is 01 July 2015<sup>19</sup>.

46. Sections 38 and 39 have two commencement dates: 01 July 2015 “so far as is necessary for enabling the exercise on or after that day of any power to make provision by regulations made by statutory instrument”<sup>20</sup>, and 01 October 2015 “so far as not already in force”<sup>21</sup>. As such, the Secretary of State was given the power to make regulations on 01 July 2015, but the remainder of the sections came into force on 01 October 2015.

#### Implementation of provisions of Deregulation Act 2015

47. The following table summarises the position.

Section	Description	Commencement	Applies to all tenancies on/after
33	preventing retaliatory eviction in relation to assured shorthold tenancies	01.10.15	01.10.18
34	further exemptions to section 33	01.10.15	01.10.18
35	notice to be provided in relation to periodic assured shorthold tenancies	01.10.15	01.10.18
36	time limits in relation to section 21 notices and proceedings	01.10.15	01.10.18
37	prescribed form of section 21 notices	01.07.15	01.07.18
38	compliance with prescribed legal requirements	01.07.15 / 01.10.15	01.07.18 / 01.10.18
39	requirement for landlord to provide prescribed information	01.07.15 / 01.10.15	N/A
40	repayment of rent where tenancy ends before end of a period	01.10.15	01.10.18

<sup>18</sup> Article 11(m) of the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015.

<sup>19</sup> Article 10(a) of the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015.

<sup>20</sup> Articles 10(b)-(c) of the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015.

<sup>21</sup> Articles 11(k)-(l) of the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015.

## Retaliatory eviction

### Legislation

48. Section 33 of the Deregulation Act provides:

(1) **Where a relevant notice is served** in relation to a dwelling-house in England, a **section 21 notice may not be given** in relation to an assured shorthold tenancy of the dwelling-house—

(a) **within six months** beginning with the day **of service of the relevant notice**,  
or

(b) **where the operation of the relevant notice has been suspended, within six months beginning with the day on which the suspension ends.**

(2) A **section 21 notice** given in relation to an assured shorthold tenancy of a dwelling-house in England is **invalid where—**

(a) **before the section 21 notice was given, the tenant made a complaint in writing to the landlord regarding the condition of the dwelling-house at the time of the complaint,**

(b) the **landlord—**

(i) **did not provide a response** to the complaint **within 14 days** beginning with the day on which the complaint was given,

(ii) **provided a response** to the complaint **that was not an adequate response, or**

(iii) **gave a section 21 notice** in relation to the dwelling-house **following the complaint,**

(c) the **tenant then made a complaint** to the relevant **local housing authority** about the same, or **substantially the same, subject matter** as the complaint to the landlord,

(d) the relevant **local housing authority served a relevant notice** in relation to the dwelling-house **in response to the complaint, and**

(e) **if the section 21 notice was not given before the tenant's complaint to the local housing authority, it was given before the service of the relevant notice.**

(6) The **court must strike out proceedings** for an order for possession under section 21 of the Housing Act 1988 in relation to a dwelling-house in England **if, before the order is made, the section 21 notice** that would otherwise require the court to make an order for possession in relation to the dwelling-house **has become invalid under subsection (2).**

(13) In this section and section 34—

... **“relevant notice” means—**

- (a) a **notice served under section 11 of the Housing Act 2004** (improvement notices relating to category 1 hazards),
- (b) a **notice served under section 12 of that Act** (improvement notices relating to category 2 hazards), or
- (c) a **notice served under section 40(7) of that Act** (emergency remedial action)

49. Section 34 of the Deregulation Act provides:

(1) Subsections (1) and (2) of section 33 do not apply where the condition of the dwelling-house or common parts that gave rise to the service of the relevant notice is due to a breach by the tenant of—

- (a) the **duty to use the dwelling-house in a tenant-like manner**, or
- (b) an express term of the tenancy to the same effect.

(2) **Subsections (1) and (2) of section 33 do not apply where at the time the section 21 notice is given the dwelling-house is genuinely on the market for sale.**

...

(6) **Subsections (1) and (2) of section 33 do not apply where the landlord is a private registered provider of social housing.**

(7) **Subsections (1) and (2) of section 33 do not apply where—**

- (a) the dwelling-house is subject to a **mortgage granted before the beginning of the tenancy**,
- (b) the **mortgagee is entitled to exercise a power of sale** conferred on the mortgagee by the mortgage or by section 101 of the Law of Property Act 1925, and
- (c) **at the time the section 21 notice is given the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power.**

#### Comment

50. The purpose of sections 33 and 34 of the Deregulation Act is to ensure that a landlord cannot shirk his repairing obligations and responsibilities by evicting the complaining tenant.

51. A landlord cannot give a section 21 notice within 6 months of receiving:

- a. an improvement notice relating to category 1 hazards;
  - b. an improvement notice relating to category 2 hazards; or
  - c. an emergency remedial action notice.
52. If the tenant complains to the landlord in writing regarding the condition of the property, a section 21 notice given thereafter is invalid if<sup>22</sup>:
- a. the landlord does not provide an adequate response to the complaint within 14 days;
  - b. the tenant then makes the same complaint to the local authority; and
  - c. the local authority then issues a relevant notice.
53. The protection from retaliatory eviction does not apply where:
- a. at the time the section 21 notice was served, the property was marketed for sale<sup>23</sup>; or
  - b. the landlord is a private registered provider of social housing<sup>24</sup>.

#### **Notice to be provided in relation to periodic assured shorthold tenancies**

##### Legislation

54. Section 21(4ZA), inserted by section 35 of the Deregulation Act, states:

**In the case of a dwelling-house in England, subsection (4)(a) above has effect with the omission of the requirement for the date specified in the notice to be the last day of a period of the tenancy.**

##### Commentary

55. Whilst section 21(4ZA) only applies in relation to dwelling-houses in England, it has the effect of no longer requiring a notice served under section 21(4)(a) to expire on the last day of a period of tenancy.
56. Nevertheless, the date specified in the notice cannot be less than two months from the date of service<sup>25</sup>.
57. In *Spencer v Taylor*<sup>26</sup>, the Court of Appeal confirmed that a notice pursuant to section 21(1)(b) may be given in respect of an AST even after the expiry of the fixed term.
58. In *Barrow v Kazim*<sup>27</sup>, the Court of Appeal considered whether a notice under section 21 given by a superior landlord to the residential tenants of the intermediate landlord was valid. At the

<sup>22</sup> Section 33(2) of the Deregulation Act 2015.

<sup>23</sup> Section 34(2) of the Deregulation Act 2015.

<sup>24</sup> Section 34(6) of the Deregulation Act 2015.

<sup>25</sup> Sections 21(1)(b) and 21(4)(a) of the Housing Act 1988.

<sup>26</sup> *Spencer v Taylor* [2013] EWCA Civ 1600; [2014] HLR 9.

<sup>27</sup> *Barrow v Kazim* [2018] EWCA Civ 2414; [2019] HLR 14.

time that the notice was served, the superior landlord was not the residential tenants' immediate landlord. However, by the time the notice had expired, the superior tenancy had been determined, so that the superior landlord was the immediate landlord of the residential tenants. The Court determined that a notice under section 21 could only be served by the landlord who was the immediate landlord at the date of service<sup>28</sup>. It did not matter who the landlord was as at the expiry date.

## Time limits in relation to section 21 notices and proceedings

### Legislation

59. Sections 21(4B) to 21(4E), inserted by section 36 of the Deregulation Act, provide:

(4B) A **notice under subsection (1) or (4) may not be given** in relation to an assured shorthold tenancy of a dwelling-house in England—

(a) in the case of a **tenancy which is not a replacement tenancy, within the period of four months beginning with the day on which the tenancy began,** and

(b) in the case of a **replacement tenancy, within the period of four months beginning with the day on which the original tenancy began.**

(4C) **Subsection (4B) does not apply where the tenancy has arisen due to section 5(2).**

(4D) **Subject to subsection (4E), proceedings** for an order for possession under this section in relation to a dwelling-house in **England may not be begun after the end of the period of six months beginning with the date on which the notice was given under subsection (1) or (4).**

(4E) Where—

(a) a **notice under subsection (4)** has been given in relation to a dwelling-house in England, and

(b) paragraph (b) of that subsection **requires the date specified** in the notice **to be more than two months after the date the notice was given,**

**proceedings** for an order for possession under this section **may not be begun after the end of the period of four months beginning with the date specified in the notice.**

### Commentary

60. Unless the current tenancy is a statutory periodic tenancy, the notice served under section 21 cannot have been given within the first four months of the original tenancy.

61. Even if the current tenancy is a statutory period tenancy, an order for possession cannot take effect earlier than six months after the beginning of the original tenancy<sup>29</sup>.

<sup>28</sup> *Barrow v Kazim* [2018] EWCA Civ 2414; [2019] HLR 14 at [24].

<sup>29</sup> Section 21(5) of the Housing Act 1988.

62. The claim for possession based on the section 21 must be brought within six months of service of the notice, unless more than two months' notice is required, pursuant to section 21(4)(b), in which case proceedings must be started within four months from the expiry of the notice.
63. In *Lower Street Properties Ltd (formerly Mirod Estates) v Jones*<sup>30</sup>, the Court of Appeal held that the notice must have expired by the time the claim was issued.

### **The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015**

64. The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 ("NPR Regulations") were made pursuant to sections 21(8), 21A and 21B of the Housing Act 1988 (which were inserted by sections 37, 38 and 39 of the Deregulation Act 2015 respectively).
65. Regulation 1 of the NPR Regulations provides as follows:

(3) Subject to paragraph (4), these **Regulations apply** in relation to an **assured shorthold tenancy** of a dwelling-house in England **granted on or after 1st October 2015**.

(4) These Regulations **do not apply to an assured shorthold tenancy that came into being under section 5(2) of the Housing Act 1988** on or after 1st October 2015 **on the coming to an end of an assured shorthold tenancy that was granted before that date**.

### **Prescribed form of section 21 notices**

#### Legislation

66. Sections 21(8) and 21(9), inserted by section 37 of the Deregulation Act 2015, provide:

(8) The **Secretary of State may by regulations** made by statutory instrument **prescribe the form of a notice** under subsection (1) or (4) given in relation to an assured shorthold tenancy of a dwelling-house in England.

(9) A statutory instrument containing regulations made under subsection (8) is subject to annulment in pursuance of a resolution of either House of Parliament."

#### Commentary

67. The Secretary of State used the power granted to him under section 21(8) to create the NPR Regulations, which came into force on 01 October 2015 and only apply to assured shorthold tenancies granted on or after 01 October 2015<sup>31</sup>.
68. Regulation 4 of the PR Regulations amended the Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 ("Forms Regulations"). In so doing, it created

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<sup>30</sup> *Lower Street Properties Ltd (formerly Mirod Estates) v Jones* (1996) 28 HLR 877 (CA).

<sup>31</sup> Regulation 1(3) of the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015.

a prescribed form, Form 6A, to be used when seeking possession under section 21 of the Housing Act 1988<sup>32</sup>.

69. Regulation 3 of the Forms Regulations, in so far as is material, now reads as follows:

The forms prescribed for the purposes of Part I (rented accommodation) of the Housing Act 1988 are—

... (fa) for a notice under paragraph (1) or (4) of section 21 informing a tenant that the landlord intends to seek recovery of possession of a dwelling-house let on an assured shorthold tenancy, Form No. 6A;

70. The Forms Regulations came into force on 06 April 2015<sup>33</sup>, and do not limit their applicability to only certain types of tenancies (e.g. those granted on or after a certain date).

71. There are at least three possible ways to approach the question of applicability of Form 6A:

- a. as section 37 came into force on 01 July 2015, Form 6A applies to all tenancies in existence three years thereafter i.e. on or after 01 July 2018;
- b. as the NPR Regulations came into existence on 01 October 2015, Form 6A applies to all tenancies in existence three years thereafter i.e. on or after 01 October 2018; or
- c. alternatively, section 37 is a mere power: it provides the Secretary of State with the requisite authority to make regulations; the Secretary of State exercised that power, and made the NPR Regulations which limit their applicability to tenancies granted on or after 01 October 2015; accordingly, Form 6A is not required for older tenancies.

72. As of 01 June 2019, there is a new prescribed Form 6A.

## Compliance with prescribed legal requirements

### Legislation

73. Section 21A of the Housing Act 1988, inserted by section 38 of the Deregulation Act, provides:

(1) A **notice under subsection (1) or (4) of section 21 may not be given** in relation to an assured shorthold tenancy of a dwelling-house in England **at a time when the landlord is in breach of a prescribed requirement**.

(2) The requirements that may be prescribed are requirements imposed on landlords by any enactment and which relate to—

- (a) the **condition of dwelling-houses** or their common parts,
- (b) the **health and safety of occupiers** of dwelling-houses, or
- (c) the **energy performance** of dwelling-houses.

<sup>32</sup> Regulations 4(2) and 4(4)(b) of the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015.

<sup>33</sup> Regulation 1 of the Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015.

...

74. Regulation 2 of the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 (the “NPR Regulations”):

(1) Subject to paragraph (2), the requirements prescribed for the purposes of section 21A of the Act are the requirements contained in—

(a) **regulation 6(5) of the Energy Performance of Buildings (England and Wales) Regulations 2012** (requirement to provide an energy performance certificate to a tenant or buyer free of charge); and

(b) **paragraph (6) or (as the case may be) paragraph (7) of regulation 36 of the Gas Safety (Installation and Use) Regulations 1998** (requirement to provide tenant with a gas safety certificate).

(2) For the purposes of section 21A of the Act, **the requirement prescribed by paragraph (1)(b) is limited to the requirement on a landlord to give a copy of the relevant record to the tenant and the 28 day period for compliance with that requirement does not apply.**

75. Regulation 6 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (the “EPC Regulations”), in which “relevant person” means “prospective landlord”<sup>34</sup>, provides:

(2) The **relevant person shall make available free of charge a valid energy performance certificate** to any **prospective buyer or tenant**—

(a) **at the earliest opportunity**; and

(b) **in any event no later than** whichever is the earlier of—

(i) in the case of a person who requests information about the building, the time at which the **relevant person first makes available any information in writing about the building to the person**; or

(ii) in the case of a person who makes a request to view the building, **the time at which the person views the building.**

(3) **Paragraph (2) does not apply if the relevant person believes on reasonable grounds that the prospective buyer or tenant—**

(a) is **unlikely to have sufficient means** to buy or rent the building

(b) is **not genuinely interested** in buying or renting a building of a general description which applies to the building; or

(c) is not a person to whom the relevant person is likely to be prepared to sell or rent out the building.

<sup>34</sup> In accordance with regulation 2 of the Energy Performance of Buildings (England and Wales) Regulations 2012.

(5) The **relevant person** must ensure that a **valid energy performance certificate** has been **given free of charge to the person who ultimately becomes the buyer or tenant**.

76. Regulation 36 of the Gas Safety (Installation and Use) Regulations 1998 (the “Gas Safety Regulations”):

(3)(c) ... a landlord shall ... ensure that a record in respect of any appliance or flue so checked is made and retained for a period of 2 years from the date of that check, which **record shall include** the following information—

- (i) the date on which the appliance or flue was checked;
- (ii) the address of the premises at which the appliance or flue is installed;
- (iii) the name and address of the landlord of the premises (or where appropriate, his agent) at which the appliance or flue is installed;
- (iv) a **description of** and the location of each **appliance** or flue checked;
- (v) any defect identified;
- (vi) any remedial action taken;
- (vii) **confirmation that the check undertaken complies with the requirements of paragraph (9) below;**
- (viii) the name and signature of the individual carrying out the check; and
- (ix) the **registration number with which that individual, or his employer, is registered** with a body approved by the Executive for the purposes of regulation 3(3) of these Regulations.

(6) Notwithstanding paragraph (5) above, every landlord shall ensure that—

- (a) a **copy of the record made pursuant to the requirements of paragraph (3)(c) above is given to each existing tenant** of premises to which the record relates **within 28 days of the date of the check;** and
- (b) a **copy of the last record** made in respect of each appliance or flue **is given to any new tenant** of premises to which the record relates **before that tenant occupies those premises** save that, in respect of a tenant whose right to occupy those premises is for a period not exceeding 28 days, a copy of the record may instead be prominently displayed within those premises.

(7) Where there is **no relevant gas appliance** in any room occupied or to be occupied by the tenant in relevant premises, the landlord **may**, instead of ensuring that a copy of the record referred to in paragraph (6) above is given to the tenant, ensure that there is **displayed in a prominent position in the premises** (from such time as a copy would have been required to have been given to the tenant under that paragraph), a **copy of the record with a statement** endorsed on it **that the tenant is entitled to have his own copy of the record on request** to the landlord at an address specified in

the statement; and on any such request being made, the landlord shall give to the tenant a copy of the record as soon as is practicable.

(9) A **safety check** carried out pursuant to paragraph (3) above shall **include**, but shall not be limited to, an **examination of the matters referred to in sub-paragraphs (a) to (d) of regulation 26(9)** of these Regulations.

### Commentary

77. A notice cannot be served at any time when the landlord has failed to comply with the prescribed requirements. These are:

- a. to provide an Energy Performance Certificate (“EPC”) to the tenant;
- b. to provide a gas safety record to the tenant before the commencement of the tenancy; and
- c. to provide a copy of the annual gas safety record to the tenant in respect of the check undertaken<sup>35</sup> (although the 28-day limit to provide a copy of the record is disapplied<sup>36</sup>).

78. The terms “prospective landlord” and “person who ultimately becomes the ... tenant” suggest the EPC must be given in advance of the commencement of the tenancy. This is supported by regulation 6(2), albeit this paragraph is not explicitly referred to in the NPR Regulations.

79. The gas safety record must include various information<sup>37</sup>, including the engineer’s licence number<sup>38</sup> which can be checked on: <https://www.gassaferegister.co.uk/find-an-engineer>. A gas safety record which does not include the prescribed information is not valid. In order to remedy this, the same gas engineer would need to re-issue a record which complies with the Gas Safety Regulations – which may prove challenging to rectify years later.

80. In relation to the requirement to provide a gas safety record to a tenant prior to the commencement of the tenancy, the cases of *Assured Property Service Ltd v Ooo*<sup>39</sup>, *Caridon Property Ltd v Monty Shooltz*<sup>40</sup> and *Trecarrel House Limited v Rouncefield*<sup>41</sup> all suggest that this provision cannot be complied with retrospectively. On 04 June 2019 *Trecarrel House Limited v Rouncefield* was granted permission to appeal to the Court of Appeal: the appeal is due to be heard by 05 June 2020.

<sup>35</sup> Regulation 36(6)(a) of the Gas Safety (Installation and Use) Regulations 1998.

<sup>36</sup> Regulation 2(2) of the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015.

<sup>37</sup> Regulation 36(3)(c) of the Gas Safety (Installation and Use) Regulations 1998.

<sup>38</sup> Regulation 36(3)(c)(ix) of the Gas Safety (Installation and Use) Regulations 1998.

<sup>39</sup> *Assured Property Service Ltd v Ooo*, County Court at Edmonton, 30 June 2017.

<sup>40</sup> *Caridon Property Ltd v Monty Shooltz*, County Court at Central London, 02 February 2018.

<sup>41</sup> *Trecarrel House Limited v Rouncefield*, County Court at Truro, 13 February 2019.

## Requirement for landlord to provide prescribed information

### Legislation

81. Section 21B of the Housing Act 1988, inserted by section 39 of the Deregulation Act 2015, provides:

(1) The **Secretary of State may by regulations require information** about the rights and responsibilities of a landlord and a tenant under an assured shorthold tenancy of a dwelling-house in England (or any related matters) **to be given by a landlord** under such a tenancy, or a person acting on behalf of such a landlord, **to the tenant** under such a tenancy.

(2) Regulations under subsection (1) may—

(a) **require the information to be given in the form of a document** produced by the Secretary of State or another person,

(b) provide that the **document to be given is the version that has effect at the time the requirement applies**, and

(c) specify **cases where the requirement does not apply**.

(3) A **notice under subsection (1) or (4) of section 21 may not be given** in relation to an assured shorthold tenancy of a dwelling-house in England **at a time when the landlord is in breach of a requirement imposed by regulations under subsection (1)**.

...

82. Regulation 3 of the NPR Regulations:

(1) A **landlord under an assured shorthold tenancy of a dwelling-house in England**, or a person acting on behalf of such a landlord, **must give the tenant** under that tenancy the **information mentioned in paragraph (2)**.

(2) The information is the version of the document entitled "**How to rent: the checklist for renting in England**", as **published by the Department for Communities and Local Government**, that has effect for the time being.

...

(5) This **regulation does not apply**—

(a) where the landlord is a **private registered provider of social housing**; or

(b) where—

(i) the tenancy ("the new tenancy") is a **replacement tenancy**;

(ii) the landlord, or a person acting on behalf of the landlord, **provided** the tenant with the **document** mentioned in paragraph (2) **under an earlier tenancy**; and

(iii) the **version of the document** provided to the tenant under the earlier tenancy is the **same** version as the version which is in effect on the first day of the new tenancy.

### Commentary

83. The *How to rent* document does not need to be provided before the commencement of the tenancy, or at any particular time thereafter, however the document must be current as at the date served<sup>42</sup>. This requirement only applies to tenancies granted before 01 October 2015<sup>43</sup>.

84. If not given to the tenant, no section 21 notice may be given<sup>44</sup>.

85. Whilst the document does not need to be served again if updated during the course of the tenancy, it does need to be re-served if it has changed by the time a new tenancy between the landlord and the tenant in respect of the same property has been entered into. This provision also applies in respect of a statutory periodic tenancy.

86. The regulations concern the document published by the “Department for Communities and Local Government” (DCLG), the last iteration of which was published in February 2016. The most recent *How to rent* document (which can be downloaded from the [gov.uk](http://gov.uk) website), dated 31 May 2019, is published by the “Ministry of Housing, Communities and Local Government” (MHCLG).

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<sup>42</sup> Regulation 3(2) of the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015.

<sup>43</sup> Section 41 of the Deregulation Act 2015, and articles 10(c) and 11(l) of the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015.

<sup>44</sup> Section 21B(3) of the Housing Act 1988.