

## THE RENTERS (REFORM) BILL

### The Renters (Reform) Bill

1. The Renters (Reform) Bill was published on 17 May 2023. It represents the biggest statutory reform in relation to residential tenancies since the Housing Act 1988.
  
2. The most significant changes will be:
  - No assured shorthold tenancies
  - No fixed term assured tenancies
  - Only monthly periodic tenancies, with rent periods of no more than 28 days
  - Tenancies of more than 7 years will not be assured
  - New grounds for possession, and some current grounds amended or omitted
  - Rent increases will only arise on the service of a statutory notice, to take effect no earlier than two months after the service of the notice, or on determination by the Tribunal should the tenant apply to challenge the proposed increase before the landlord intends the new rent to take effect
  - Contractual rent increase provisions in the tenancy will be of no effect
  - New provisions in relation to pets
  - New requirements for a tenant's notice to quit.
  - Changes in duties owed to the homeless
  - Amendments to Tenancy Deposits requirements
  - Duties and prohibitions imposed on landlords the breach of which could result in financial penalties and/or amount to a criminal offence
  - The introduction of financial penalties imposed by a local authority for unlawful eviction
  - A new landlord redress scheme and a database, the creation of which will be dependent on the Secretary of State making regulations.

3. The changes can be grouped broadly into five categories with commencement and transitional provisions in a sixth:

- (A) New assured tenancies, grounds for possession and notice requirements
- (B) Rent control
- (C) Miscellaneous
- (D) Duties on landlords, civil penalties, and criminal offences
- (E) Redress scheme and database
- (F) Commencement and Transitional provisions

A (summarised) description of most of the changes referred to above is set out below. For the 'real detail', however, reference should be made to the Bill.

A. New assured tenancies, grounds for possession and notice requirements

New assured tenancies

4. The Renters (Reform) Bill sets out provisions that will make fixed term tenancies a thing of the past. There will only be (unless excluded) assured monthly periodic tenancies.
5. Terms of an assured tenancy will be of no effect so far as they provide for the tenancy be a fixed term tenancy, cl.11. Where there are such terms they will have no effect. The tenancy will have effect an assured periodic tenancy under which the periods of the tenancy are the same for which rent is payable.
6. Where the rent periods are expressed to be more than 28 days (unless stated to be monthly) they will be recalculated on the basis of a formula set out the legislation, cl.1.

---

<sup>1</sup> The use of 'cl' refers to clauses of the Bill.

7. Possession will only be recoverable if there is a ground for possession, with the result that there will no longer be any need for assured shorthold tenancies which will, under the proposed provisions, be done away with.
8. Tenancies which are for a fixed term of more than 7 years will not be assured tenancies, cl.21, a provision which will come into effect 2 months after the date on which the Act is passed. Forfeiture rules, rather than grounds for possession, will apply.

#### Grounds for Possession

9. The changes to grounds for possession set out in Sched. 2, 1988 Act are set out in Sched. 1 to the Bill.
10. Ground 1 will be replaced with a new Ground 1: if at the date specified in the section 8 notice (Notice of Possession) the tenancy has existed for at least 6 months and the landlord requires the dwelling-house as the only or principal home for themselves or their spouse, civil partner, their cohabitee, or their extended family.
11. New Ground 1A will permit a landlord to recover possession of the property if they intend to sell it and the tenancy<sup>2</sup> has existed for at least six months or the sale is pursuant to a compulsory purchase order.
12. New Grounds 1 and 1A represent an effort to ensure that property owners will still want to be landlords, something that is of course important given the profile of the residential tenancy market. The English Private Landlord Survey 2021 recorded that 94% of landlords were individuals, representing 84% of tenancies. Almost half of all landlords owned one property, representing 20% of all tenancies. A further 39% of landlords owned between two and four properties, making up another 31% of all tenancies.
13. Where Grounds 1 or 1A are relied on and the landlord obtains possession, the landlord must not let or market the property, or instruct an agent to do so,

---

<sup>2</sup> Provided it did not come into existence by virtue of any provision in Schedule 1 to the Rent Act 1977 or s. 4 of the Rent (Agriculture) Act 1976.

at any time within 3 months from the date specified in the s.8 notice: new ss.16E(3) and (4), 1988 Act. To do so will amount to a criminal offence. If guilty, that person will be liable on summary conviction to a fine: new s.16G, 1988 Act, inserted by cl.11.

14. "Obtains possession", for these purposes, means if, as a result of the s.8 notice, the tenant surrenders possession.
15. New Ground 1B will entitle Private Registered Providers (PRPs) to recover possession of rent-to-buy tenancies.
16. Ground 2 will be amended to permit a mortgagee to recover possession of the property for the purposes of sale regardless of whether the mortgage was granted before or after the beginning of the tenancy (currently they can only do so where the mortgage was granted before).
17. New Ground 2ZA will permit the landlord under a superior tenancy to recover possession, where the superior landlord has served notice to terminate, or the superior fixed-term tenancy is due to expire within 12 months of the s. 8 notice, and the landlord is any of the following – a PRP, an agricultural tenant, a person by whom the property is provided as supported accommodation, or a company of which the local authority owns 50% of the shares.
18. Ground 3 – holiday accommodation – will be abolished.
19. Where a landlord became the assured tenant's landlord upon a mesne tenancy terminating (s.18, 1988 Act) and the landlord issues claim within six months, new Ground 2ZB will permit possession where previous mesne landlord was any of the following - a PRP, an agricultural tenant, a person by whom the property is provided as supported accommodation, or a company of which the local authority owns 50% of the shares.
20. New Grounds 5A–5G will permit possession where the property is required for a particular purpose, or where the purpose for which the existing tenancy was put has come to an end.

Ground 5A – possession is required so that the property can be used as accommodation for a person who will be employed by the landlord as an agricultural or seasonal worker

Ground 5B – the landlord is a PRP and requires possession of the property so it can be let to a person who will meet requirements connected to their employment, which requirements the current tenant no longer meets

Ground 5C (previously Ground 16) – the property was let to the tenant in consequence of his employment which has now come to an end, or the purpose of that employment has come to an end

Ground 5D – the landlord is PRP and the tenancy contains a requirement connected to tenant's employment which requirement the tenant no longer meets.

Ground 5E – the landlord requires possession of the property to let it as supported accommodation, a purpose for which the landlord holds it, and the tenant did not enter the tenancy for such services

Ground 5F – in relation to property that was supported accommodation when it was let, the landlord will be able to recover possession where

- (i) the tenancy was granted to provide the tenant with support services for a limited time which time has come to an end, or
- (ii) someone other than the landlord was providing support services to the tenant but is no longer doing so and the landlord has not been able to find another person to do provide those services, or
- (iii) the support services were funded by someone other than the landlord and that funding has ceased and it would not be reasonable for the landlord to continue to accommodate or for the support services to continue without the funding, or
- (iv) the tenant either does not need the level of support provided, or does not need support, or the services do not meet the tenant's needs, or the physical support features of the property are not needed by the tenant or are otherwise unsuitable.

Ground 5F – the tenancy was granted pursuant to the landlord’s duty to secure accommodation for a homeless person (s.193, Housing Act 1996) and the local housing authority has notified the landlord that the tenancy is no longer required, and the date specified in the s.8 notice is no more than 12 months after the date on which the landlord was so notified.

21. Ground 6 permits possession where the property is to be demolished or redeveloped. The substance of this ground remains the same but reference should be made to the Bill for the detail proposed amendments.

22. New Ground 6A will entitle the landlord to recover possession in any of the following circumstances

- the letting was in breach of a banning order or would be if the tenancy continued
- where the hazard (HHSRS) of overcrowding exists and the local housing authority has served an improvement notice
- a prohibition order prohibits any part of the property either for all purposes or for one that is incompatible with continued occupation by the tenant
- the property is an HMO which is required to be licenced and either the landlord’s application for a licence was refused, or the licence revoked
- the property is occupied by more than the number of people specified in the HMO licence.

23. Ground 7 provides for possession in circumstances where the tenant has died. The amendment set out in the Bill provides for the period within which the subsequent claim for possession must be issued to be changed from 12 months to 24.

24. Ground 8 provides for possession in circumstances where two months' or 8 weeks' rent is owed both when the s.8 notice was served and the claim is heard.
25. New Ground 8A will entitle the landlord to possession of the property if the tenant has owed on three separate occasions, each lasting for at least a day, in the three years prior to the service of a s.8 notice, at least 2 months' if the rent is paid monthly, or, if payable for a shorter period, 8 weeks' rent. The occasions are separate if the rent owed was less than 2 months or 8 weeks for at least a day.
26. In relation to both Grounds 8 and 8A arrears that have arisen as a result of an unpaid entitlement to universal credit are to be left out of account.
27. In relation to discretionary Ground 14, it will be amended so that includes behaviour that is "capable" of causing nuisance or annoyance, rather than likely to. A small change but one that probably lowers the threshold for establishing the ground.
28. New discretionary Ground 18 will provide for possession where the tenancy is of supported accommodation and the tenant has unreasonably refused to co-operate with the person providing support services with regard to those services.

#### Notice Requirements

29. The Notice of Proceedings for Possession, 'the s.8 notice', is a prescribed form. The notice periods in respect of the various Ground for Possession are set out in cl.3(3). Leaving aside grounds 7A and 14, the following will apply

Ground	Period
1, 1A, 1B, 2ZA, 2ZB, 5, 5A, 5B, 5C, 5D, 6, 6A, 7, 9	two months beginning with the date on which the notice was served

5E, 5F, 5G, 8, 8A, 10, 11,18      four weeks beginning with the date on which the notice was served

4, 7B, 12, 13, 14ZA, 14A, 15      two weeks beginning with the date on which the notice was served

30. Where only Ground 7A and/or 14 are relied on the, the court may not make a possession order to take effect within the period of 14 days beginning with the day on which the notice was served, cl.3(2)(b).

#### B. Rent Control

31. By amendments set out cl.5(3) of the Bill, rent increase provisions will apply to assured tenancies other than a “relevant low-cost tenancy” which will be defined by new s.13(4C) to mean an assured tenancy of social housing and any other assured tenancy as may be prescribed.

32. Rent increases will only be achievable by the service of a notice under s.13, 1988 Act which provides for an increase to take effect no sooner than 2 months from the date on which the notice was served and on the date that falls 52 weeks after the date on which the first period of the tenancy began. Thereafter, rent may be increased annually on two months’ notice. The proposed rent will take effect unless the tenant applies to the Tribunal before the proposed rent increase date.

33. The new rent cannot be increased without an unchallenged notice, a determination of the tribunal, or unless the landlord and the tenant have agreed a rent lower than that in specified in the notice or determined by the tribunal. The rent determination will (as now) be by reference to market rent.

34. Contractual provisions as to rent increases will be of no effect, cl.5(7), inserting new s.13(4A).



### C. Miscellaneous

35. Pets and Pet Insurance, cl.8: new sections 16A -16 D provide that, other than social tenancies, a term is to be implied into all assured tenancies that the tenant may keep a pet if they seek permission in writing from the landlord. Any such request must be responded to in writing to by the landlord withing six weeks. The landlord may not unreasonably refuse consent.
36. Where, however, the landlord, within 6 weeks of the tenant's requests, asks for further information from the tenant, the landlord will have 7 days from the provision of that information to make a decision. If there is no response the landlord will not have to consent. If, before giving consent, the landlord must first seek the consent of a superior landlord, which is sought within 6 weeks from the tenant's request, the landlord will have 7 days to make a decision following the consent or refusal of the superior landlord.
37. The landlord and the tenant will be able to agree longer time periods.
38. If, as a condition of consent, the landlord either requires the tenant to obtain insurance that covers pet damage or to agree to reimburse the landlord the cost of the same, the tenant must comply with that condition.
39. Tenant's Notice to Quit, cl.14: amendments to s.5, Protection from Eviction Act 1997 will provide that, where a notice to quit is given by a tenant, the notice period must be for any period agreed in writing subject to a maximum of two months. If there is no agreement, the notice period will be two months. A tenant's NTQ can be withdrawn if the landlord agrees.
40. Homelessness, cl.18: s.193(1A)(b), Housing Act 1996 will be omitted meaning that the main housing duty will continue even though the relief duty has been terminated where the local housing authority consider that the applicant has unreasonably refused to co-operate.
41. Section 193(6)(cc), HA 1996 will be omitted meaning that the main housing duty will no longer terminate if the applicant accepts an assured tenancy from a private landlord.

42. Section 193C, HA 1996 will be amended so that the main housing duty will no longer be terminated where the authority consider the applicant to have behaved unreasonably.

43. Section 195A, HA 1996 will be omitted so that there will be no “re-application duty” (main housing duty if the applicant is eligible and unintentionally homeless) in relation to those who accept a private rented sector offer and subsequently re-apply to the authority within two years.

44. Tenancy Deposit Requirements, cl.19: consequential amendments will be made to the statutory provisions set out in Chapter 4, Part 6, Housing Act 1996 which relate to tenancy deposits in order to remove the references to assured shorthold tenancies.

45. Section 215, HA 1996 is to be replaced by a new s.215, cl.19(5). The new s.215 will require a landlord to properly protect a deposit before a court will award possession and will apply to all grounds for possession (except grounds 7A and 14)

#### D. Duties on landlords, financial penalties, and criminal offences

46. By new s.16D, before the commencement of the tenancy, other than a social housing tenancy, the landlord will be obliged to give the tenant a written statement

- (i) of such terms as may be prescribed by regulations
- (ii) where the landlord wishes to do so, that the landlord may seek to recover possession on Grounds 1, 1A, 2ZA, 2AB, 5 to 5G, or 18
- (iii) any other information as may be required by regulation

47. The following duties set out in new s.16E, will also apply in respect of assured tenancies (other than social housing tenancies):

A landlord must not

- (i) purport to let the property on a fixed term

- (ii) purport to end the tenancy by notice to quit
- (iii) serve what purports to be s.8 notice but which is not in the prescribed form
- (iv) serve a s.8 notice or any other document purporting to be a s.8 notice ('a purported notice under s.8(3)) to end the tenancy on a ground on which the landlord is not entitled to rely
- (v) serve a s.8 notice, or a purported s.8 notice, which specifies any of Ground 1A, 2ZA, 2ZB, 4, 5 to 5G or 18 if the landlord has not served, before the commencement of the tenancy, a notice of his intention to rely on those grounds
- (vi) serve a s.8 notice, or purported s.8 notice, which specifies one or more of Grounds 1, 1A and 6, and specifies a date earlier than 6 months after the beginning of the tenancy as the earliest date on which possession may be sought.

48. Financial penalties, cl. 11: by new s.16F the local housing authority will be able to impose financial penalties where the landlord fails to comply ss.16D (para.46, above) and 16E summarised in para. 47 above (excluding (iv)). A financial penalty may also be imposed with the landlord serves a s.8 notice (or a purported s.8 notice) which specifies a ground on which he is not entitled to rely as a result of which the tenant surrenders the tenancy – see para.47(iv) above.

49. More than one penalty for the failure to provide a statement of terms or notice of potential grounds (new s.16D) may be imposed only if the contravention continues for more than 28 days, beginning with the day on which the first penalty was imposed and the landlord has not appealed. A penalty (whether a first or a second) cannot be more than £5000.

50. The landlord will commit an offence under new s.16G if

- the landlord serves a s.8 notice, or a purported s.8 notice, which requires possession on a ground on which the landlord is not entitled

to rely, or one or more of Grounds 1, 1A and 6, and, as a result, the tenant surrenders the tenancy

- a financial penalty under new ss.16F or 16H (financial penalty in place of prosecution) has been (and remains) imposed, and the failure continues after 28 days from the imposition of that penalty (or, if appealed, the day after the appeal is finally determined or abandoned) – a ‘relevant penalty’
- the landlord receives a final penalty under s.16F (see, para. 47, above) and within the period of 5 years ending on which the conduct occurs a relevant penalty has been imposed for different conduct
- the landlord receives a final penalty under s.16F and, within 5 years, is convicted of an offence under s.16G for different conduct

51. The local housing authority will be able to impose a financial penalty in lieu of prosecution, in which circumstance the penalty may be as much as £30,000, new s.16H.

52. New Schedule 2ZA sets out the procedure for the imposition of penalties under ss.16F and 16H, and for appeals and enforcement of the same. Recovery of financial penalties may be done by court order.

53. Financial penalty for unlawful eviction or harassment, cl.22: the local housing authority may impose a financial penalty for an offence under s.1, Protection from Eviction Act 1977 (unlawful eviction or harassment of an occupier), if the person has not already been convicted, or criminal proceedings for the offence commenced or, if commenced, resulted in acquittal. The maximum for any such penalty will be £30,000. This provision will not come into effect until a date to be appointed.

54. New Schedule A1 sets out the procedure for the imposition of such a penalty and for appeals and enforcement of the same.

55. The financial penalty provisions for unlawful eviction offences will come into effect on a day to be appointed.

#### E. Redress Scheme and database

56. Cl.24 states that regulations may be made requiring the landlord to be a member of a landlord redress scheme under which a tenant or prospective tenant could raise a complaint, which would then be independently investigated and decided.

57. The regulations may require a person to be a member of the redress scheme before marketing a rental property or prohibit marketing unless the person first becomes a member, and require the person to remain a member even after ceasing to be a residential landlord.

58. A local housing authority will be able to impose financial penalties if a landlord breaches regulations, cl.24, or if they commit an offence described out in cl.27. The maximum financial penalty under the former will be £5000, and under the latter £30,000: cl.26. Penalties can be appealed to the FTT

59. Offences referred to in cl.27 may arise where

- (i) A final penalty has been imposed and the conduct underlying that penalty continues beyond 28 days from the imposition of that penalty
- (ii) If there has been a financial penalty and within 5 years the landlord commits another breach for different conduct.
- (iii) If the landlord has committed an offence and within five years breaches regulations issued under s.24.

60. A local authority may impose a financial penalty rather than prosecution. Where this happens the landlord may not be convicted of the same matter. Again, appeal routes lie to the FTT.

61. Chapter 3 of the Bill makes provision for the creation of a landlord database which will, like the redress scheme, be compulsory. Again, the regulations will set out circumstances in which financial penalties can be imposed (with rights of appeal to the FTT). Restrictions will be imposed on marketing and letting

the property unless there is an active landlord entry on the database and there is also an entry for the property.

#### Enforcement authorities

62. It will be the duty of every local housing authority to enforce the landlord and tenant legislation in its area, cl.58. This duty, however, will not prevent the housing authority from taking action in respect of property outside its area. Where it does so, it will have to notify the other local authority area, cl.59.

63. Cl.60, states that the Secretary of State may make arrangements for a relevant person to be the lead enforcement authority. A relevant person means either a combined authority established under s.103, Local Democracy, Economic Development and Construction Act 2009, or a local housing authority.

#### F. Commencement and Transitional provisions

64. Those provisions grouped broadly under sub-headings A, B, C and D will (mostly)<sup>3</sup> come into effect on a date to be appointed – the commencement date.

65. They will apply in relation to every assured tenancy entered into after the commencement date, and by the ‘extended application date’ to every assured tenancy that existed before the commencement date and which continues in effect on the extended application date – ‘existing tenancies’.

66. ‘The extended application date’ will mean, in relation to any assured tenancy that is converted into a periodic tenancy (i.e. . at the end of the fixed term) after the commencement date but before the date to be appointed, the date on which it converted. In relation to any other assured tenancy, on the date to be appointed.

---

<sup>3</sup> The provision relating to fixed term tenancies of more than 7 years ceasing to be assured will come in 2 months after the Act passes. The provisions in relation to unlawful eviction will come in on a date to be appointed.

67. Transitional provisions in relation to existing tenancies are set out in Sched. 4.
68. Where a s.21, HA 1988 notice has been served before the extended application date, the tenancy will remain an assured shorthold tenancy.
69. Rent increases in relation to existing tenancies on the basis of a tenancy agreement will remain valid.
70. Where an existing tenancy is wholly or partly in writing, the obligation to provide a written statement under s.16D will not apply. Where the tenancy was oral, the obligation to provide a written statement will arise before the “extended application date”.
71. Conduct that could give rise to a financial penalty under s.16F or s.16H will not do so before the extended application date.
72. The amendment to the tenant’s notice to quit requirements will not affect the validity of any notice given under s.5, Protection from Eviction Act 1977 before the extended application date.
73. The amendments to the tenancy deposit statutory provisions do not apply in relation to an existing tenancy that was an assured tenancy other than an assured tenancy
74. Tenancies of more than 7 years will cease to be assured, cl.21, and provision that will come into effect 2 months after the Act is passed.
75. Part 2 – redress scheme and database, will come into effect for the purposes of making regulations on the date on which the Act is passed.
76. The provisions in relation to financial penalties for unlawful eviction, Part 2, and ss.58, 59, 61 and 62 (relating to lead authorities) will come into effect on a date to be appointed. The provisions in relation to the database and enforcement authorities will also come into effect on a date to be appointed.

## Conclusion

77. The Bill is complicated. The above is provided only as a broad outline.

78. The proposed legislation will mean much greater regulation of residential landlords which is much-needed. However, it will result in some landlords, particularly smaller ones, withdrawing from the market. The extent of this, and its potentially detrimental effect, remains to be seen.

**Annette Cafferkey**

**23 May 2023**

This Q&A is provided free of charge for information purposes only. Every reasonable effort is made to ensure the information is accurate and up to date, but no responsibility for its accuracy, or for any consequences of relying on it, is assumed by the writer or by Chambers as a whole. The information and commentary do not, and are not intended to, amount to legal advice to any person. You are strongly advised to obtain case specific advice from a lawyer; please contact the clerking team at 4-5 Gray's Inn Square (clerks@4-5.co.uk) who will be glad to assist.