

Renters Reform Bill



Four years after pledging to remove section 21 of the Housing Act 1988 in its 2019 manifesto, the Conservative government has introduced the Renters (Reform) Bill to parliament. The Bill amends the Housing Act 1988 to protect renters whilst improving the remedial routes available to landlords. The focus on the 1988 Act means it does not apply to service occupancy tenancies or service occupancy licences or tenancies where the rent exceeds £100,000 per annum. The Bill only applies to England; separate renters' reform processes are underway in Wales and Scotland. This note summarises the main proposals in the Bill.

In brief

Key points from the newly introduced Renters (Reform) Bill:

- Section 21, also known as “no fault” evictions, are to be scrapped
- Section 8 grounds for possession have been reviewed and expanded to permit eviction in specified reasonable circumstances
- Assured shorthold tenancies (ASTs) will be transitioned over to ‘periodic assured tenancies’
- Notice periods for rent increases to be doubled to two months
- Landlords cannot unreasonably refuse requests to keep pets in a property.

More rights for tenants

Section 21 evictions, also referred to as “no fault” evictions, currently allow eviction in England without reason with two months’ notice. It has been argued this makes tenants reluctant to ask for repairs or challenge rent rises due to the ease with which landlords can evict them. The Bill proposes removing this right for landlords and extends the tenant’s notice period. Under the new proposals, private rented residential tenancies will only come to an end following the tenant serving two months’ notice or if the landlord can evidence a valid ground for possession under the revised section 8. The extension of the tenant’s notice period may enable landlords to achieve shorter void periods.

More comprehensive possession grounds

The Bill extends the grounds of possession available to landlords under section 8 of the Housing Act for cases of rental arrears and antisocial behaviour. There is a new mandatory ground for repeated serious arrears, which allows a section 8 notice to be served if rent arrears have exceeded two months on at least three separate instances within a three year period. This responds to the previous issue of partial payments systematically taking arrears below the two month threshold just before a court hearing. The notice period for the existing rent arrears eviction grounds is also being amended from two to four weeks. In cases of criminal or serious antisocial behaviour, the notice period will now be two weeks for the existing mandatory eviction grounds.

Other notable new grounds include if the landlord wishes to move a close family member into a rental property and if the landlord wishes to sell the property. In both scenarios the mandatory grounds cannot be utilised within the first six months of a tenancy (unless compulsory purchase is involved) and their use also prevents the landlord letting or advertising the property for let within the next three months. The definition of close family member extends from the landlord’s grandparent to grandchild, and also includes a partner’s child and grandchild.

Other grounds for possession:

- Grounds 2A and 2B for superior lease ending and possession by superior landlord allow the possession of cottages sublet from an agricultural tenancy to be recovered when the agricultural tenancy is ending or has ended
- Ground 5A to obtain possession so that someone who will be employed by the landlord as an agricultural worker can be housed. The current tenant does not need to be an employee. There is not a comparable ground available for housing non-agricultural employees
- Ground 5C where the dwelling was let as a result of the tenant’s employment by the landlord, and the employment has come to an end or the tenancy was not meant to last for the duration of the employment and the dwelling is required by new employee. This ground applies to non-agricultural workers and offers employers an alternative to service occupancies
- Ground 6 for substantial redevelopment that cannot be completed with the tenant living there
- Former ground 3 relating to re-establishing a prior holiday cottage use has been scrapped.

For rural estates, the flexibility offered by new the section 8 grounds may in fact be more limited. First, the possession ground for occupation by the landlord or a close family member will not be available where the landlord is a trust or corporate body. Second, in cases where the employer and property ownership differ, care is needed with respect to the employment grounds and how this might best be structured. For example ground 5C does allow the landlord to be “someone acting on behalf of the employer”; however carefully documenting the link is advised to help ensure the ground can be relied upon later. It is also worth noting that this ground is not available in relation to agricultural workers as Assured Agricultural Occupancy provisions remain and these tenants will continue to enjoy greater security of tenure.

One of the welcome aspects of the reforms for landlords who want to realise value from their residential portfolio is the new mandatory ground to regain possession in preparation for sale. This provides a clearer pathway to delivering vacant possession in this scenario relative to the previous section 21 and section 8 provisions. A complete summary of the reformed grounds for possession is available in table one [here](#).

The process for using a section 8 ground will be similar to the current section 21 process. Landlords will need to serve the notice in the prescribed form to their tenant with the required notice period. Landlords will need to apply to the court if a tenant does not leave and they will need to provide evidence that the ground applies. To support this, the court process is also being reformed. A ‘modern, digital service’ is being introduced to improve the speed and efficiency of the process, including ‘end-to-end’ digitisation and the prioritisation of anti-social behaviour cases. Many grounds are discretionary so the impact will become clearer in time once the typical approach of the court becomes established. Evidence required to support each ground will not be mandated, however there will be guidance issued.

Paying rent

AST are to become a thing of the past. The government intends to transition all tenancies to ‘periodic assured tenancies’ that will have no fixed term or set end date. Instead, all rental properties will be under a periodic tenancy which rolls on every month without a specified end date. A tenant will simply need to provide an increased two months’ notice to the landlord to terminate and vacate the property. Existing rent periods that have a period of greater than 28 days (unless of one month) will be recalculated by a formula to meet this requirement. Government has committed to giving at least six months’ notice after the date of Royal Assent for this change to come into effect.

A new system of statutory rent review is also being introduced. The proposals mirror the current section 13 process, but will be via a new online portal on gov.uk. This portal will create a form that can be given to the tenant. If the landlord proposes to increase the rent and the tenant accepts the increase, they simply pay the new amount on the next rent day; if the tenant disputes the rent increase, there is a referral process to a First-tier Tribunal. This is also designed to help protect tenants against “backdoor evictions” caused by unreasonable rent increases. A landlord can still only increase the rent once per year, but now needs to provide at least two months’ notice in advance, double the current requirement.

Pets and property

The Bill aims to give people the legal right to request having a pet in their home. Landlords will have to consider these requests and won’t be able to unreasonably refuse. Landlords will be afforded some protection against the possible implications of pets in a property. A tenant must provide in writing confirmation that they have acquired insurance for their pet. Alternatively, they can state they are willing to pay reasonable costs to cover the landlord’s insurance in case of pet damage and this will be made a permissible tenant’s fee.

Understanding and enforcing

A new online property portal will be created to provide a hub of information aimed at both tenants and landlords. In the case of tenants, the portal is intended to inform them of what is deemed substandard when renting. For landlords, the intent is to support good landlords to demonstrate compliance as they will be required to register their property on the portal.

The Bill proposes a new private renter sector ombudsman for England and it will be compulsory for landlords to join this government approved redress scheme. There will be a cost to join the scheme, and landlords will be expected to provide basic information such as their name, contact information, address, and private rented property details – the online portal is expected to streamline this process for landlords with multiple properties. There will be fines enforced by local councils for failure to join, and the potential for a Banning Order for repeat offenders. The service is designed to be for the benefit of tenants and will not provide a means of redress for landlords. Should the ombudsman find an incidence of wrongdoing, it would be able to compel landlords to apologise, provide information, take remedial action and pay fines anywhere up to £25,000. The ombudsman is also able to require landlords to reimburse rent to tenants where the service or standard of property is substandard. Failure to comply with a decision may result in repeat or serious offenders being liable for a Banning Order.

What's next?

The Bill was introduced to parliament on 17 May 2023 and is in the early stages of its parliamentary journey so there is potential for elements of it to change before it becomes law. Housing Secretary Michael Gove has said he hopes it will become law before the end of the year, however implementation will not be immediate. The reforms will be implemented in two stages, with at least six months' notice given for the first implementation date after which all new tenancies will be periodic and governed by the new rules. This date will be dependent on when Royal Assent is received, and when the improved court system is ready. At least twelve months later the second implementation date will see all existing tenancies transition onto the new system too. This means that landlords' will have time to consider the impact on their portfolios once the Act's final wording is known.

The Renters Reform Bill only covers a proportion of the pledges that the government made in the 2021 renters' reform white paper. The policy announcements that accompanied the Bill reconfirmed that government is still intending to bring forward additional legislation on ending blanket bans on renting to those with children or receiving benefits and to strengthen councils' enforcement powers. It also intends to apply the Decent Homes Standard to the private rented sector which could lead to a significant amount of work being required to some properties to achieve compliance.

Agent's view

There are obvious similarities between what is included in the Bill and what has been in place in Scotland since November 2021, relating to the removal of section 21 notices, rent review procedures, First Tier Tribunal, housing standards and pets. There is no doubt that managing tenancies is becoming increasingly specialised and complicated. However, this is an evolutionary process, and the reality is that both we and our clients in Scotland have largely adapted to these changes without too much fuss. The cautionary notes from our experiences there, are the needs to plan well ahead, to be transparent around the decision making process and to hold good records.

Whilst this legislation progresses clients will wish to reflect on strategy for their property portfolio.

Contacts

Andrew Teanby
Associate Director
ateanby@savills.com
+44 (0) 7835 445 458



Rupert Clark
Director & Head of Management
rclark@savills.com
+44 (0) 7768 708 227

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