

Private Rental Sector - Summary of legislative changes

Letting Agent Transparency

Letting agents will be required to publicise a full breakdown of their fees, state whether or not they are a member of a client money protection scheme and which redress scheme they have joined (if they are required to) prominently in their offices and on their website.

As lawyers can act on behalf of a landlord or tenant, for example to draft a tenancy agreement, the broad definition of a letting agent includes members of the legal profession carrying out lettings-related work. Secondary legislation, laid today, excludes legal professionals from the requirement to publicise their fees etc when they engage in lettings-related work.

For further information on the provisions requiring greater transparency for letting agents, please see the relevant section in the 'Improving the private rented sector and tackling bad practice: a guide for local authorities' guidance available at: www.gov.uk/government/publications/improving-the-private-rented-sector-and-tackling-bad-practice-a-guide-for-local-authorities

Comes into effect: 27 May 2015

Selective Licensing

We have reformed the system of selective licensing which will help local authorities to focus their enforcement activity where it is most needed while ensuring that good landlords are not adversely impacted. Local authorities will have to seek confirmation from the Secretary of State for any selective licensing scheme which, either on its own or when combined with other schemes, would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area. This approach will help ensure that local authorities focus their activity on areas with the worst problems while helping to ensure that they do not adversely impact on good landlords.

A guide for local authorities on Selective Licensing in the private rented sector along with a copy of the General Approval is available at: www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities

A copy of the Statutory Instrument is available at: www.legislation.gov.uk/id/uksi/2015/977

Comes into effect: 1 April 2015

Smoke and CO Alarms

Subject to Parliamentary approval, private rented sector landlords will be required to have working smoke alarms on every floor of their property and carbon monoxide alarms in rooms where a solid fuel heating system is installed. Alarms must be tested at the start of every new tenancy. The regulations do not stipulate the type of alarm to be installed; rather, landlords should make an informed decision and choose the best alarm for their circumstances and property. Landlords who fail to comply with the duties outlined in the regulations may be subject to a civil penalty

For further information please refer to the relevant guidance at:

www.legislation.gov.uk/ukdsi/2015/9780111133439/contents

Comes into effect: 1 October 2015

Retaliatory Eviction

Tenants in the private rented sector will be protected from being evicted by their landlord simply because they have made a legitimate complaint about the condition of the property. Where a tenant has made a complaint to their landlord, and a local authority has confirmed that a repair needs to be carried out to prevent a potential risk to health and safety, the landlord will not be able to evict the tenant for 6 months.

A landlord will also be prevented from evicting a tenant where they have not complied with certain legal obligations such as supplying Gas Safety Certificates and Energy Performance Certificates. This restriction would be lifted as soon as these documents are provided. It will no longer be possible to serve a section 21 eviction notice at the start of a tenancy and landlords will have to wait a minimum of four months before they can serve an eviction notice.

In parallel we are making it easier for landlords to evict where it would be legitimate to do so, by introducing a prescribed form notice which will reduce errors and remove the need for a landlord to specify the exact date a tenancy comes to an end, while retaining the requirement to give two months' notice.

Guidance on the new legislation will be published in due course.

Comes into effect: 1 October 2015

Tenant Deposit Protection

There are three changes relating to the protection of tenant's deposits that landlords, letting agents and tenants should be aware of:

1. Section 32 (Tenancy Deposits: deemed compliance with requirements). In response to the Superstrike Court of Appeal case where landlords took a deposit

prior to the introduction of the tenancy deposit protection legislation on 6 April 2007 in respect of a tenancy which (a) rolled over into a statutory periodic tenancy on or after that date and (b) is still in existence landlords have, in most cases, until the end of 23 June to protect their tenant's deposit or potentially face a fine. In cases where legal proceedings are already underway and the case is due to be determined before 23 June, the landlord will need to protect the deposit and send the prescribed information to the tenant prior to the date on which the court makes its determination. Section 32 of the Act also covers cases where a landlord "receives" a deposit on or after 6 April 2007 (which could be at the start of a brand new tenancy or at the start of a renewed tenancy and subsequently protects that deposit and sends the required information to the tenant. If the tenancy is subsequently renewed or rolls over into a statutory periodic tenancy, then so long as the deposit remains protected in accordance with the same authorised tenancy deposit scheme from one tenancy to the next, there is no requirement for the landlord to re-send the same information to the tenant each time the tenancy is renewed or rolls over: the landlord will be treated as having complied with the tenancy deposit protection requirements afresh at the start of each new tenancy. This applies not just to the first "renewal" of the tenancy but also to cases where there are multiple tenancy renewals, which could include a mixture of fixed term tenancies and periodic tenancies.

2. Section 30 (Tenancy deposits: provision of information by agents). The Act also makes retrospective amendments to the Housing (Tenancy Deposits) (Prescribed Information) Order 2007 to make it clear that each of the references to "the landlord" in the order are to be read as references to either the landlord or the letting agent where relevant.
3. Section 31 (Tenancy deposits: non-compliance with requirements). Finally the Act also sets the decision made in the Court of Appeal case of Charalambous and another v Ng and another [2014] EWCA Civ 1604 into statute. Namely, that where the landlord received the deposit prior to the coming into force of the tenancy deposit legislation on 6 April 2007 in respect of a tenancy which began before that date, and which has continued without renewal since before that date, landlords will need to protect such deposits if they wish to be able to rely on the no-fault ground for possession in section 21 of the Housing Act 1988 at the end of the tenancy. However, landlords in this situation will not be subject to any fines should they fail to protect deposits.

Comes into effect: 26 March 2015

For further information please see the full Acts and accompanying explanatory notes for the Act, available at: www.legislation.gov.uk

Source: Department for Communities & Local Government