

Housing and Planning Act

This new legislation received Royal Assent (became a law) on the 12th May 2016. However, the relevant provisions for the private rented sector have not yet been brought into force and are not generally expected till April 2017. This is due to the amount of secondary legislation (regulations) needed to give effect to the powers granted in the act.

There are several provisions within the act that will affect the private rented sector and we will consider each in turn. Much of the legislation has nothing at all to do with the private rented sector (for example the right to buy for housing association tenants) so this only focuses on the private rented sector provisions.

Part two chapters one and two contain a provision allowing for the banning of landlords or letting agents guilty of more serious offences. The act does not provide exact details of the offences which will result in a ban but section 14 does indicate that regulations will decide the offences which can be related to the breach committed, where it was committed, the characteristic of the offender, the circumstances in which it is committed, the court issuing the sentencing and the sentence imposed.

A ban against a company must include a ban against any officer of the company convicted of the same offence, in an attempt to prevent them simply starting up a new limited company and carrying on. The ban will be imposed by the First-tier Tribunal.

Chapter three stays with troublesome landlords and agents and requires (the wording says the Secretary of State 'must') the creation of a rogue landlord and property agent database. This would include those convicted of banning order offences, for as long as the ban lasts. The database would be accessible to, and maintained by, local authorities.

Chapter four extends the scope of rent repayment orders. These were introduced in the Housing Act 2004 in respect of the failure to obtain a licence for the property. Unlike the licensing breaches where the landlord must first be convicted of an offence, the new use allows for the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence (in other words they have to be convinced of the guilt but they can make that decision).

Whilst the offences listed include a breach of banning orders and not licensing a property that requires a licence, it also includes not complying with an improvement or prohibition order. This will increase the motivation for tenants to report the failure of a landlord to carry out the improvements needed by the improvement notice to have their rent refunded.

Part three of the act introduces a clear new system for dealing with abandoned properties. This has always been a tricky area of the law and whilst the new process is not a giveaway, it does introduce some certainty to a traditionally tricky area of the law.

It involves serving several notices within defined time frames, with the total process taking at least eight weeks. This makes it only marginally faster than a section 21 notice and the tenant still has the right to re-appear and claim against the landlord, even if the landlord followed the process.

Part 5, section 122 introduces a power for landlords to 'ensure electrical safety standards are met'. The electrical safety standards are not stated in the act but would be part of the secondary legislation.

However, the act indicates the scope that regulation could cover and states how it includes the installation in the property for the supply of electricity and the electrical fixtures, fittings and appliances provided by the landlord. The regulations will also define how and when such checks should be carried out and who is qualified to carry these out (which could be limited to categories of qualified electricians).

We would expect this to be something like the PAT testing regime for the electrical appliances and the periodic inspection report for the mains installation. Periodic inspection reports are already required for all HMOs so it would be reasonable to presume the provisions would be similar. Currently, these are required every five years for all HMOs (whether they need a licence or not).

It will be the duty of the local housing authority to enforce these new standard.

This newsletter is produced and distributed on a limited basis. Whilst the information researched and provided is believed to be correct, neither the sender nor anyone involved in the production of it, accepts responsibility for its accuracy. © TFP



Rees & Associates Property Management

Unit 7, Stow Court, Stow Road, Stow-cum-Quy, Cambridge CB25 9AS

T: +44 (0)1223 810055 F: +44 (0)1223 810059 E: info@reesassociates.co.uk W: reesassociates.co.uk