

## Hotting up

**The private rented sector is hotting up, with a deluge of new legislation and consultation coming out. This includes the draft tenant fees legislation, minimum energy efficiency standards guidance and even a proposal that private landlords may have to join a redress scheme.**

Looking at the legislation recently introduced or announced, the private rented sector has certainly been in the spotlight for legislative attention in the last two years. Greater clarity has been brought to the Minimum Energy Efficiency Standards (MEES) with the launch of the guidance document explaining how the scheme will work.

This clarifies it will only apply to the Housing Act 1988 tenancies, Rent Act 1977 tenancies and certain agricultural tenancies. This means that properties let to companies or where it is not the tenant's only or principal home are not covered and can still be let on band F or G.

Other than this, if the property is in band F or G, but finance is not available to improve it, or consent cannot be obtained to do the works and some other conditions, then by April 2018 it will have to be registered on the exemptions register before the property can be let or re-let. Exemptions generally have to be renewed every 5 years and whilst there is no direct cost for being on the register there may be indirect costs of showing the exemption still applies (for example some exemptions need a surveyors valuation).

Properties on a fixed term tenancy continuing beyond 1 April 2018 will not be allowed to run statutory periodic if they are in band F or G and do not have an exemption, so consideration should be made now as to how the works will be done.

In April 2018 we will see the second stage of the section 24 tax changes coming into force. This will mean that landlords will only be allowed to offset 50% of their mortgage payments at the higher rate of tax and the rest will attract only basic rate relief. This will increase the tax cost to higher rate tax payers and increase the number of people caught in the higher rate tax rate (as the effectively the gross rent is added to income to establish if higher rate tax is payable, not the rent net of costs).

The draft of the tenant fees ban legislation was released in early November 2017 and essentially bans all fees not listed in Schedule 1. Schedule 1 contains four fees that can be charged: rent, deposit, holding deposit and "default fees". The latter is very important as to be able to charge any of these they must be listed in the tenancy agreement. These four can be changed later by regulations with the exception that rent cannot be removed from the list. This is interesting in that they have created a power to ban deposits without a further act of Parliament.

Tenancy deposits will be limited to 6 weeks' rent and holding deposits limited to one week's rent. There are new specific rules about holding deposits in Schedule 2.

In October 2017 the Department for Communities and Local Government (DCLG) put out a 'call for evidence' on "protecting consumers in the letting and managing agent market". Whilst the objectives may be laudable, the understanding is not. Paragraph 2 states: "Those paying and benefitting from the service often have no say as to who their agent is". This is a complete misunderstanding of the lettings market where the landlord engages the agent and the agent works for the interest of the landlord, not the tenant.

They asked for evidence on if minimum standards should apply to those working in the private rented sector, including a fit and proper person test, qualifications, membership of professional bodies or a standard code of conduct. Such changes should benefit landlords and tenants by raising standards.

Para 24 clarifies that there is an intention for all landlords to have to join a redress scheme, similar to the current requirement for all agents to be a member of a redress scheme. As stated, it has not been made clear if this will only be landlords that manage their own properties or if it will cover those who let their properties through agents. Logic would suggest it will not cover those where redress is already available through the agent.

A DCLG working group have also recommended the introduction of 5 yearly mains testing so expect this to come in too.

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