

Homelessness Reduction Act

With a General Election called and the Dissolution of Parliament at one minute past midnight on the 3 May 2017 all the public bills before Parliament had either to be rushed through in a process known as “wash up” or they fell at dissolution. One bill that survived “wash up” was the Homelessness Reduction Bill (now an act).

From the name of this legislation it is obvious it has some relevance to housing and therefore possibly the rented sector. In fact it contains an important provision that has been the source of frustration to many private landlords and the expenditure of needless costs on court applications.

Historically, if a landlord served notice on a tenant and the tenant went to the local authority it was common practice for the local authority to tell the tenant to ‘stay put’. Sometime this was till the landlord got a court order and on some occasions it was to wait till the bailiff was booked.

For years this action has been against the guidance from the Department of Communities and Local Government, apart from in exceptional circumstances. Sadly exceptional circumstances seemed to happen far too often, and so the Government have decided to clarify expectation in legislation.

Section 1 of the Homelessness Reduction Act 2017 provides a new definition of “threatened with homelessness”. It makes amendments to the Housing act 1996 section 175 and inserts this new definition:

(5) A person is also threatened with homelessness if –
(a) a valid notice has been given to the person under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) in respect of the only accommodation the person has that is available for the person’s occupation, and (b) that notice will expire within 56 days.

As the section 21 notices is typically 2 months long it means that the qualification of being threatened with homelessness will now arise almost as soon as the notice is served.

Section 2 deals with the obligation of the local authority to provide advisory services to people who are homeless or are threatened with homelessness. Advice should cover, preventing homelessness, advice on securing accommodation, the rights of the tenant, the responsibilities of the local authority, information about help that is available from the local authority or any one else (for example housing associations and charities) and information about how to access that help.

Section 4 then deals with what the local authority must do if a person is threatened with homelessness. The first suggestion is that they should take reasonable steps to secure that accommodation does not cease to be available. In other words, they will be asking if the person can remain in the property! Section 4 also deals with the situation where the council can serve notice to say they do not consider the person homeless or threatened with homelessness due to the circumstances or inaction of the person threatened with.

The likely outcome will be more engagement with the local authority about why the section 21 notice is being served and if the landlord would consider withdrawing the notice. Section 11 introduces the power to produce a new code of practice which the local authority will be required to “have regard to” in exercising their homelessness functions.

It should also lead to the local authority getting engaged and accepting more responsibility at an earlier stage and they should be seeking to find alternative accommodation for those threatened with homelessness without the landlord needing to spend the money and the inconvenience of having to start the whole court action process.

This new legislation will apply to England and Wales. Although the act has received Royal Assent before the dissolution of Parliament, other than section 13 (dealing with the extent, commencement and short title), the rest has to await regulations to be passed before it comes into effect. These will obviously not be in force till some time after the General Election, meaning that the earliest the new legislation is likely to be in force will be October 2017 and it could miss that deadline and be set for an introduction in April 2018. Much will depend on the outcome of the election and the focus of any new government.

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