

News Hour - November

12th November 2024



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Summary

Welcome to November's edition of Rightmove's News Hour. In this month's News Hour, Rightmove's General Counsel, David Cox, and Events Manager, Tanya Richards explored the major changes to eviction procedures including the mandatory and discretionary grounds for possession under Section 8 following the end of Section 21.

We covered:

- Specific examples of evictions under the new Bill
- Changes under the new rules
- Details about transition from Assured Shorthold Tenancy (AST) to periodic tenancies.
- Your questions

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The Renters' Rights Bill

Last time, we covered the specifics of the Renters' Rights Bill, which passed the Committee stage unanimously on the 9th Oct. There are some new grounds for possession depending on the person and situation for notices, which we'll cover today.

They are as follows:

Ground	Name	Summary	New Notice Period	Current Notice Period
Mandatory Grounds				
1	Occupation by landlord or family	The landlord or their close family member wishes to move into the property. Cannot be used for the first 12 months of a new tenancy.	4 months	2 months
1A	Sale of dwelling-house	The landlord wishes to sell the property. Cannot be used for the first 12 months of a new tenancy.	4 months	N/A
1B	Sale of dwelling-house under rent-to-buy	The landlord is a private registered provider of social housing and the tenancy is under a rent-to-buy agreement.	4 months	N/A
2	Sale by mortgagee	The property is subject to a mortgage and the lender exercises a power of sale requiring vacant possession.	4 months	2 months
2ZA	Possession when superior lease ends	The landlord's lease is under a superior tenancy that is ending. Can only be used by private registered providers of social housing, agricultural landlords, a person who held the dwelling for the purposes of making it supported accommodation or a company majority owned by a local authority.	4 months	N/A

2ZB	Possession when superior lease ends	The landlord's lease is under a superior tenancy that is coming to an end or has ended. Can only be used if the superior lease was for a fixed term of over 21 years.	4 months	N/A
2ZC	Possession by superior landlord	After a superior tenancy ends, the superior landlord becomes the tenant's direct landlord and seeks to take possession. Can only be used where the intermediate landlord prior to reversion was a private registered provider of social housing, agricultural landlord, a person who held the dwelling for the purposes of making it supported accommodation or a company majority owned by a local authority.	4 months	N/A
2ZD	Possession by superior landlord	After a superior tenancy ends, the superior landlord becomes the tenant's direct landlord and seeks to take possession. Can only be used where the superior lease was for a fixed period of over 21 years and has expired, or within a 12 month period of the fixed term expiry date, if the fixed term has been ended early. Or if the superior tenancy comes to an end after the expiry of the fixed term as a result of a valid notice.	4 months	N/A
3	Holiday Accommodation	Removed	N/A	2 weeks
4	Student accommodation	In the 12 months prior to the start of the tenancy, the property was let to students. Can only be used by specified educational establishments.	2 weeks	2 weeks
4A	Properties rented to students for occupation by new students	A property is let to full-time students and is required for a new group of students in line with the academic year.	4 months	N/A

5	Ministers of religion	The property is held for use by a minister of religion to perform the duties of their office and is required for occupation by a minister of religion.	2 months	2 months
5A	Occupation by agricultural worker	The landlord requires possession to house someone who will be employed by them as an agricultural worker.	2 months	N/A
5B	Occupation by person who meets employment requirements	A private registered provider of social housing holds the property for use by tenants meeting requirements connected with their employment and it is required for that purpose (and the current tenant does not fulfil those requirements).	2 months	N/A
5C	End of employment by the landlord	Previously ground 16 (expanded). 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 the duration of the employment and the dwelling is required by a new employee.	2 months	N/A
5D	End of employment requirements	A private registered provider of social housing, included an employment requirement in the tenancy agreement that the tenant no longer fulfils (e.g., key worker).	2 months	N/A
5E	Occupation as supported accommodation	The property is held for use as supported accommodation and the current tenant did not enter the tenancy for the purpose of receiving care, support or supervision.	4 weeks	N/A
5F	Dwelling-house occupied as supported accommodation	The tenancy is for supported accommodation and one of the circumstances set out in the ground, making the accommodation no longer viable or suitable for that tenant, has occurred.	4 weeks	N/A

5G	Tenancy granted for homelessness duty	The property has been used as temporary accommodation for a homeless household, under s193 of the Housing Act 1996, and a local housing authority has notified the landlord that the tenancy is no longer required for that purpose. The landlord can only use this ground if within 12 months of the date of the notice from the local housing authority.	4 weeks	N/A
5H	Occupation as 'stepping stone accommodation'	A registered provider of social housing or a charity lets to a tenant meeting eligibility criteria (e.g., under a certain age) at "affordable rent", to help them access the private rented sector and/or transition to living independently, and the tenant no longer meets the eligibility criteria, or a limited period has come to an end.	2 months	N/A
6	Redevelopment	The landlord wishes to demolish or substantially redevelop the property which cannot be done with the tenant in situ. Various time limits and/or notice requirements exist for this ground depending on the circumstances. The landlord and tenancy must be of the kind listed in the table.	4 months	2 months
6A	Compliance with enforcement action	The landlord is subject to enforcement action and needs to regain possession to become compliant.	4 months	N/A
7	Death of tenant	The tenancy was passed on by will or intestacy. Possession proceedings must begin no later than 12 months after death or, if the court directs, after the date on which the landlord became aware of the death.	2 months	2 months

7A	Severe ASB/ Criminal Behaviour	The tenant has been convicted of a type of offence listed in the ground, has breached a relevant order put in place to prevent anti-social behaviour or there is a closure order in place prohibiting access for a continuous period of more than 48 hours.	Immediately	1 month
7B	No right to rent	At least one of the tenants has no right to rent under immigration law as a result of their immigration status and the Secretary of State has given notice to the landlord of this.	2 weeks	2 weeks
8	Rent arrears	The tenant has at least 3 months' (or 13 weeks' if rent is paid weekly or fortnightly) rent arrears both at the time notice is served and at the time of the possession hearing.	4 weeks	2 weeks
Discretionary Grounds				
9	Suitable alternative accommodation	Suitable alternative accommodation is available for the tenant.	2 months	2 months
10	The tenant is in any amount of arrears	The tenant is in any amount of arrears.	4 weeks	2 weeks
11	Persistent arrears	The tenant has persistently delayed paying their rent.	4 weeks	2 weeks
12	Breach of tenancy	The tenant is guilty of breaching one of the terms of their tenancy agreement (other than the paying of rent).	2 weeks	2 weeks
13	Deterioration of property	The tenant has caused the condition of the property to deteriorate.	2 weeks	2 weeks

14	Anti-social behaviour	The tenant or anyone living in or visiting the property has been guilty of behaviour causing, or likely to cause, nuisance or annoyance to the landlord, a person employed in connection with housing management functions, or anyone living in, visiting or in the locality of the property. Or the tenant or a person living or visiting the property has been convicted of using the premises for illegal/immoral purposes, or has been convicted of an indictable offence in the locality.	Immediately	Immediately
14A	Domestic Abuse	A social landlord wishes to evict the perpetrator of domestic violence if the partner has fled and is unlikely to return.	2 weeks	2 weeks
14ZA	Rioting	The tenant or another adult living at the property has been convicted of an indictable offence which took place at a riot in the UK.	2 weeks	2 weeks
15	Deterioration of furniture	The tenant has caused the condition of the furniture to deteriorate.	2 months	2 weeks
16	False statement	The tenancy was granted due to a false statement made knowingly or recklessly by the tenant or someone acting on their instigation.	2 weeks	2 weeks
17	Supported accommodation	The tenancy is for supported accommodation and the tenant is refusing to engage with the support.	4 weeks	N/A

Fundamental Questions:

Q: When we lose Section 21s and go onto periodic tenancies, how are we able to regain possession?

A: You will need to use one of the Section 8 Grounds and go through the courts. Section 21 is going. If you want to use the courts you will need to use Section 8. You will go through the courts all the way up to the bailiffs, using the High Court officer to recover the property.

Q: Are there any alternative ways to have a tenant legally removed, other than court, if they have reached the end of their section 8 (or 21 notice at the moment) but still haven't left?

A: You could come to an amicable commercial agreement for them to surrender the tenancy – i.e. “if you leave at the end of the month, I will give you your whole deposit back and pay you the equivalent of one month's rent”. You can't harass the tenant or put them under duress or this risks a fine.

Q: Does the Renters' Rights Bill apply to Non-Housing Act tenancies?

A: The provisions around discrimination and blanket bans do but the Grounds for possession only apply to the new Assured Tenancies. The Register and Redress Schemes apply to Assured and Rent Act tenancies. The ban on pets, benefits and redress schemes only applies to assured tenancies.

Q: What advice would you give to lettings negotiators on how to effectively communicate these new eviction procedures and grounds for possession to both landlords and tenants?

A: “No-fault” evictions are coming to an end. Landlords will need a reason to evict a tenant in the future. The law sets out various reasons (grounds) that a landlord can rely on to evict a tenant and under some of them, the court must award possession if the landlord can prove the ground. Under the others, the court has discretion on whether to award possession if the landlord can prove the ground. Landlords must give notice before they can begin eviction proceedings and depending on the reason (the ground) used, notice periods differ. Tenants also have to give notice of a 2 months, operating on a calendar month rental period, rather than months of the tenancy.

Tenancy Agreement Queries:

Q: Before we go to Court, will we have to issue replacement tenancy agreements once the Act has come into force or will the AST remain in place until the term has come to an end?

A: The AST will end on the day the Act comes into force and it will automatically turn into an AT. However, it is not yet clear whether new tenancy agreements will need to be issued or if the relevant provisions of the AST just get swapped out for the new provisions to make it an AT. It's important to note that the Statutes are the bare bones; the guidance adds flesh. There are various ways this could go. Wales wrote a full modern tenancy agreement, while for England, they could just insert the new prescribed clauses into the old documents. The Government could also go lighter touch than that, although it's unknown at the moment how the transition period will play out.

Q: Is there still going to be a minimum 6-month term under the Renters' Rights Bill?

A: No. Because of the 2-month written notice that tenants must provide and which must expire at the end of a rental period, the new minimum term will be 3-months.

Notice Period Queries:

Q: What will happen with Section 21 notices issued before Renters' Rights Bill comes into force?

A: It's not entirely clear at the moment as this will be set out in regulation but my guess is that any cases already before the courts will be allowed to continue (i.e. where the notice period has already come to an end and the case has been filed with the court). As for notices that have been issued, it's possible the regulations may say that they lapse and the landlord will have to start again with a new notice under Section 8. Section 8's shouldn't be affected other than the timescales might increase during the notice period.

Q: How late can we still confidently serve a section 21 notice; for example, can we still serve one in March 2025?

A: This will depend on the transition provisions made by the Secretary of State and when the Act comes into force, but I think you will probably be safe relying on any Section 21 notices that have expired and court proceedings issued; so if the Act comes into force on 1 July 2025, then, as long as the court papers get lodged during the day, then notices that expire on 30 June 2025 should be ok. Important to note, this is just my supposition and is based on the customs of Parliament, rather than anything written into the Bill or accompanying documents.

Q: How long after all existing tenancies become periodic could a landlord serve a 4-month notice?

A: This will depend on the transition provisions made by the Secretary of State but they could come into force immediately, meaning you can serve them from the day the Act comes into force. Where the eviction is not the fault of the tenant but not "no-fault," this is likely to be in place immediately.

Q: What key changes should we be aware of in terms of compliance documentation under the new Renters' Rights Bill?

A: You will still need to serve the TDP certificate and PI documentation but the other bits from the Deregulation Act 2015 will lapse (EICR, Gas Safety Certificate, How to Rent Guide etc.)

Q: Will there be any changes to how deposits are registered under the Renters' Rights Bill and will they then accept deposits from all tenancy types going forward rather than just deposits from ASTs as they currently do?

A: No, they will continue to be registered in the same way as they currently are. Most schemes will accept deposits for other forms of tenancy already. You should speak with your TDP provider.

Q: Will Ground 1 for possession still need to be served prior to the start of a tenancy now that it is to be extended to family members?

A: No. They have removed this requirement and also the requirement that the landlord needs to have lived in the property beforehand. It's now just a straightforward claim if the landlord needs the property for them or their close family (being spouse whom the landlord lives with, parent, grandparent, sibling, half-sibling, child or grandchild and includes children and grandchildren of their spouse). Used to be you had to have had a primary residence, which is now gone. So if you just buy a buy-to-let, you can't use Ground 1.

Q: Can a landlord Airbnb their property during that 12-month window whilst they can't re-let it?

A: AirBnB is unregulated; it doesn't fall under housing law and it also doesn't fall under hospitality law. As the Bill is drafted the answer could be yes but I could see an argument for no. Especially bear in mind that the tenant will be able to get a rent repayment order. But if a court holds that you're doing that deliberately and they had no intention of selling then not only could you get whacked by the £40,000 fine, you can also get whacked with two years of rent repaid to that previous tenant.

Q: If a landlord tries to sell the property but is unsuccessful, do they really have to wait 12 months to re-let?

A: Yes - protected period cannot be relet by the same landlord.

Student Lets Queries::

Q: Do you think that there will be any provisions to prevent student Landlords of HMOs from selling their portfolios?

A: No. There are no provisions to stop landlords selling.

Q: Many have been bemoaning the fact that students who are not in HMOs do not come under the new Ground 4A (possession for properties occupied by students). What are your thoughts on not being able to use the clause for student properties that are not HMOs and is there a possibility that this will change before the Bill is passed?

A: There is a possibility that this could change and you should be speaking with your professional bodies such as Propertymark, RICS and the NRLA to lobby for this to be amended.

A: It does seem unfair and I can't really see why they are specifically targeting HMOs only for this ground. I have checked the Explanatory Notes and there isn't anything that explains the Government's thinking on why this would only apply to HMOs and not other properties that are occupied by students. I wonder if it has anything to do with the assumption that could be made whereby it would be easier to find non-student tenants for a property which isn't a HMO.

Q: How can we advertise student houses now if we don't know if the houses will be vacant next summer?

A: The same could be said of the way the situation plays out today. I think you just have to trust the students will move out in the same way that you do today, as most leave during the June-September period anyway.

Application and Implementation Queries:

Q: How can negotiators best support landlords in adapting their strategies to align with these changes?

A: Think commercially rather than emotionally. What will achieve the best result for the landlord based on the circumstances of the case. Sometimes it will be best to go to court and recover the money; sometimes it will be easier to get the tenants out quickly and get the property re-let so landlords can start making money again.

Q: What happens to new tenancies signed before the legislation comes into place?

A: If the tenant has signed and paid in advance, then that will become an assured tenancy. If they leave before they've done their 12 months, you won't have to refund them. If it is a tenancy that has been signed and paid in advance of the bill coming into force but the tenancy doesn't start until after the bill comes into force then I think the same applies it will automatically become a tenancy a periodic assured tenancy and again the 12 months will be broken down into 12 monthly rental periods paid in advance that if the tenant then leaves at month 6 you have to give them the 6 months back. That is my understanding, there is some disagreement of whether rent-in-advance is lawful.

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