RENT REFORM BILL UPDATE

This Bill has been promised for quite some time now, and when it is passed into law (and at the moment October 2024 seems a very likely time for this to happen) it will significantly alter the private rental sector.

So, briefly, what are the biggest proposed changes and their implications?

STATUS AND RENT

Abolition of ASTs

Assured Shorthold Tenancies (ASTs) are currently by a large margin the single most common type of private residential tenancy. They will be abolished, and all such tenancies will revert back to being Assured Tenancies. Therefore no initial fixed terms will be allowed and all tenancies will be periodic from the start. In fact, it will be an offence to try and impose any kind of fixed term.

Rent

Rental periods can only be monthly or 28 days. Anything else is of no effect, is recalculated monthly, and penalties can be imposed on the landlord by the local council for attempting otherwise.

The government keeps saying that payment of rent in advance of each period is still permissible, but frankly the wording of the Bill is very confused on this point, so we shall have to see.

Rent increases can *only* be done under a statutory scheme. Rent increase clauses in the contract, hand-shake agreements with the tenant, and all other forms of agreements on rental increase are all void.

Landlords can *only* increase rent with the service of a s13 notice on the tenant. The tenant has 2 months to dispute the figure, after which the matter will be referred to the First-Tier Property Tribunal for a ruling. However the Tribunals already have a six-month delay, and this change of law will likely result in a deluge of new applications.

Restrictions

All landlords will need to register on certain country-wide registers, or otherwise will be subject to Rent Repayment Orders by application from the tenant.

A landlord is not permitted to market the property as unsuitable for children or tenants on DSS (i.e. claiming benefits), and is not permitted to refuse a tenant with children or on DSS. A landlord may market the property as not suitable for pets, but once the tenant is in occupation the landlord can only refuse them introducing a pet for 'reasonable reasons'. Any breaches can incur a fine from the local council of up to £5,000, and the penalty can keep re-occurring.

The only exceptions allowed are:

- Landlords can theoretically require the tenant to have pet insurance against damage to the house.

- If there are too many children for the number of rooms in the house.

- Where the mortgage lender, insurance company, or head-lease has these restrictions in place then the landlord can refuse, but only until they renew the next term of that relationship, when they must demand those restrictions are removed.

- The landlord may account for each tenant's overall income when deciding between applicants.

EVICTING THE TENANT

Abolition of s21 Notice

Currently, a landlord may attempt to seek a Possession Order from the Courts using either a s8 Notice or a s21 Notice. The s8 Notice is 'fault-based'. If the tenant is at fault (damage to property, rent arrears etc etc) then the landlord can obtain a Possession Order from Court on the back of their fault. A s21 Notice is a 'no-fault' notice. It can be used to obtain a Possession Order when the tenant is perfectly satisfactory, but the landlord wants their property back for their own reasons.

The s21 Notice is set to be abolished. This effectively means that all private residential tenancies will be 'life-long' tenancies if the tenant is never at fault, as the landlord will be incapable of evicting them. There is no getting around it – this gives the tenant significant control.

New s8 Grounds

It has been recognised that there are some scenarios in which it is still reasonable for the landlord to recover possession of the property, for which they would normally use the s21 Notice, and which the s8 Notice does not currently cover. So new 'grounds' will be introduced that can be cited in a s8 Notice. However, these are very limited, and do not offer anywhere near the current scope of the s21 Notice. Some grounds will only apply for Social Housing, others only to the private sector.

Points in Favour of Landlords

There are in fact some changes that benefit landlords:

- It used to be that certain grounds under a s8 Notice could only be used if the tenancy agreement *stated* they could be used – this is no longer the case and any ground can potentially be relied upon regardless of what is written into the tenancy agreement.

- Most of the current 'tripwires' surrounding s21 Notices no longer apply. Therefore under the current drafting there is no impetus for a landlord to acquire - and no penalty for a landlord failing to acquire - an Energy Performance Certificate, a Gas Safety Certificate etc. This is a complete reversal from the current situation. The only possible consequence is the local council serving an Improvement Notice, but it is currently unclear whether they will want to do that for these kind of failings.

- Further, while failing to protect the tenancy deposit can still result in a penalty claim against the landlord, it does not hinder possession proceedings and can be protected the day before the Hearing, instead of needing to be protected before service of Notice.

Points Against Landlords

Here are some of the changes that hurt landlords:

- Nearly all notice periods have doubled in length.

- It is an offence to serve the wrong kind of notice. Therefore if (even innocently) a landlord serves a s21 Notice or Notice to Quit when actually a s8 Notice was appropriate, or if they get the notice period wrong in the notice, or if they cite a ground in the notice that they cannot actually rely on, then they can be fined by the local council!

- Any rent arrears grounds cited must *exclude* anticipated upcoming payments from the local council for universal credit.

New Grounds for the s8 Notice

- There is a new Rent Arrears ground, but it will be very difficult to actually prove. The ground relies on the tenant having been over 2 months in rent arrears for at least a day, any three times in a three year period.

- There is a new ground where the landlord genuinely wishes to sell the property. The tenant must have been in place at least 6 months, and the notice period is 2 months. The landlord cannot re-let the property for 3 months after serving notice if they change their mind and the tenant has vacated. The biggest issue at the moment though is – how does the landlord *prove* to the Court that they genuinely wish to sell?

- There is a new ground to cover student lets. The property must be an HMO (House of Multiple Occupation), it is only available if at the time of renting the landlord genuinely believed that all tenants in the HMO would be full-time students, the notice has 2 months to expire, and can only expire between 1 June and 30 September.

- Ground 14 (tenants causing nuisance) is having its wording subtly altered – but most commentators believe it will actually make no difference to what you have to prove in Court. Ultimately, the neighbours to the property still have to be willing to be witnesses to give you a good chance of success.