

EXPLANATORY NOTES

Renters' Rights Act 2025

Chapter 26

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EXPLANATORY NOTES—RENTERS' RIGHTS ACT 2025

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RENTERS' RIGHTS ACT 2025

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Renters' Rights Act 2025 which received Royal Assent on 27 October 2025 (c. 26).

- These Explanatory Notes have been prepared by the Ministry of Housing, Communities and Local Government in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

Policies in the Act

1. The Renters' Rights Act 2025 ("the Act") delivers the government's manifesto commitment to transform the experience of private renting, including by abolishing section 21 evictions and introducing a robust Decent Homes Standard in the sector for the first time. The objective of the Act is to ensure private renters not only have access to a secure and decent home but that they can exercise their rights to challenge poor treatment and bad practice. Landlords should retain the confidence to repossess their properties where they have good reason to but with suitable safeguards for tenants who may lose their home. To this end, the Act:

    a. Abolishes section 21 "no fault evictions", removing the threat of arbitrary evictions and increasing tenant security. Landlords will also benefit from clear and expanded possession grounds so they can reclaim their properties when they need to.

    b. Strengthens tenants' rights and protections to challenge punitive practices such as unreasonable rent rises and rental bidding, empowering tenants to challenge rent increases designed to force them out by the backdoor, ensuring they will not face an even higher rent if they choose to appeal an increase.

    c. Prohibits landlords from inviting, encouraging or accepting payments of rent before a tenancy is signed and may require no more than one month's rent ahead of a tenancy beginning. Landlords will also be unable to enforce any terms in a tenancy agreement that require rent to be paid in advance of agreed due dates, once a tenancy starts.

    d. Gives tenants the right to request a pet, which landlords must consider and cannot unreasonably refuse.

    e. Applies a Decent Homes Standard to the private rented sector to give renters safer, better value homes and remove the blight of poor-quality homes in local communities. "Awaab's Law" will also be applied to the sector, which will set clear legal expectations about the timeframes within which PRS landlords must make homes safe where they contain serious hazards.

    f. Creates a digital private rented sector database to bring together key information for landlords, tenants, and councils. Tenants will be able to access key information to inform choices when entering new tenancies, promoting greater transparency and accountability. It will also support landlords to understand their obligations and demonstrate compliance. In addition, councils will be able to use the database to target enforcement where it is needed most, against the minority of unscrupulous landlords.

    g. Provides for the introduction of a new ombudsman service that will provide quick, fair, impartial and binding resolutions for tenants' complaints about their landlord, bringing tenant-landlord complaint resolution on par with established redress practices for tenants in social housing or consumers of property agent services.

    h. Makes it illegal for landlords to discriminate against tenants in receipt of benefits or with children when choosing to let their property – so no family is discriminated against and denied a home when they need it. Landlords will still retain the final say on who they let to.

i. Strengthens local authorities' enforcement powers, expands financial penalties from which councils can keep the proceeds and use for future enforcement and introduces a new requirement for councils to report on enforcement activity. New investigatory powers will make it easier for councils to identify and fine unscrupulous landlords. Changes to rent repayment orders will make it easier and more appealing for local authorities to pursue them.

j. Significantly expands rent repayment orders, including extending them to new offences, making superior landlords and company directors liable, doubling the maximum penalty, doubling the period in which tenants and local authorities can apply and requiring landlords to pay the maximum penalty when they have reoffended. The aim is to increase the deterrent effect of rent repayment orders and make it easier for tenants and local authorities to take effective action against unscrupulous landlords.

Structure of the Act

2. The Act contains 5 parts and 6 schedules. It introduces substantial new provisions on the face of the Act and makes changes to a number of pieces of housing legislation.

3. Part 1 deals with changes to assured tenancy legislation, including abolishing section 21 evictions and fixed term assured tenancies; making changes to landlords' grounds for possession; making changes to the procedure for rent increases; making provisions for requirements relating to rent in advance; making provision for the right to request permission to keep a pet; prohibiting rental bidding practices; making it unlawful for landlords and agents to engage in discriminatory conduct against those in receipt of benefits or who have children; and applying "Awaab's Law" to the private rented sector.

4. Part 2 makes provisions for the new Ombudsman (landlord redress scheme) and the PRS Database.

5. Part 3 introduces provisions for a Decent Homes Standard to apply to the private rented sector.

6. Part 4 deals with enforcement of the reforms introduced by the Act including powers to establish a Lead Enforcement Authority, expanding the use of rent repayment orders and giving new investigatory powers to local housing authorities.

7. Part 5 contains the technical provisions related to the Act, including territorial extent, commencement and application, and powers to make consequential and transitional provision.

Policy background

Context

8. The government believes that there is an urgent need to reform the regulation of the private rented sector following over three decades since the last overhaul in the late 1980s. The private rented sector has doubled in size since 2002 and is now the second largest housing tenure. There are 4.7 million households (c. 11 million people) that rent from a private landlord, accounting for 19% of the housing market – remaining relatively stable at this level since 2013-14.[1] This compares to 65% of households in the owner-occupied sector and 16% in social housing.

9. With this historic growth of the sector, both landlords and tenants have become increasingly diverse. Many more tenants, especially families and older renters, rely on the sector for a stable and secure home as well as young professionals and students seeking flexibility.[2] There is also great variety in landlords. The English Private Landlord Survey 2021 found that some are large corporates with large portfolios, while others are individuals letting a property as an investment for the future or may have become landlords more by circumstance than design and 4% originally became a landlord in order to let property as a full-time business.

10. There is clear evidence that there needs to be change in the private rented sector, including that:

    a. Section 21 evictions have led tenants to feel reluctant to challenge poor standards due to the risk of eviction without reason. Short notice moves which can occur because of section 21 have negative effects on outcomes and reduce investment in local communities.

    b. The private rented sector has a higher proportion of properties that do not meet standards than other housing tenures. According to the 2023-24 English Housing Survey, 21% of privately rented properties do not meet the Decent Homes Standard (the government's main metric for decency). This is compared to 10% in the social rented sector. Likewise, hazards that present an imminent risk to health exist in 10% of properties – compared to 4% of local authority rented properties. Private rented homes containing these hazards are estimated to cost the NHS £340 million annually (Health Equity in England: The Marmot Review 10 Years On, February 2020).

    c. There are higher concentrations of homes that do not meet the Decent Homes Standard in certain parts of the UK with lower productivity such as Yorkshire and the Humber. The Building Research Establishment (BRE) has estimated that poor quality housing across all tenures is costing society £18.6 billion every year. [3]

    d. Landlords report problems in recovering properties when faced with anti-social behaviour or rent arrears. They face difficulties being able to access information and support to navigate the legal landscape. Landlords are frustrated when criminal landlords undercut those landlords who take their responsibilities seriously and this can be compounded by limited redress options meaning disputes escalate to more costly and protracted court proceedings. Private landlords can voluntarily join an agent redress scheme or the Housing Ombudsman.

[1] MHCLG English Housing Survey Headline Report 2024-2025

[2] The sector has the highest proportion of younger people (43% aged 16-34). The number of older people (aged 65-75) in the sector is increasing – up 38% since 2010 to 5% in 2020-21.

[3] The Cost of Poor Housing in England, BRE, 2021 Briefing Paper

Detail of individual policies in the Act

Abolishing section 21

11. The Act abolishes section 21 evictions and fixed term tenancies. All tenants who would previously have had an assured tenancy or assured shorthold tenancy will move onto a single system of periodic tenancies. Tenants will need to provide two months' notice when leaving a tenancy. Landlords will only be able to evict a tenant in reasonable circumstances as set out in this legislation.

12. The Act also mandates that landlords must provide a written statement of terms setting out basic information about the tenancy and both parties' responsibilities while retaining both parties' right to agree and adapt terms to meet their needs.

Reforming landlord possession grounds

13. The Act reforms the grounds for possession to make sure that tenants have greater security in their homes but that landlords can regain possession to a property when necessary. In order to use any of the grounds, landlords must give their tenants the required notice period as set out in the Act and must be prepared to evidence the ground in court. The Act outlines penalties for misuse of the grounds so that tenants can feel secure that landlords will only be able to rely on the grounds where it is fair to do so.

14. As far as possible, the grounds have been defined unambiguously, to seek to offer tenants clarity and landlords certainty about whether the ground will be met if going to court. Grounds have only been made mandatory where it has been judged reasonable to do so.

15. The Act contains a new ground for landlords who wish to sell their property and amends the ground for moving in to include close family members. Landlords must be prepared to evidence these grounds, and they will not be available to be used in the first 12 months of a new tenancy.

16. The Act increases the notice period for the rent arrears grounds to four weeks. It also increases the arrears threshold for ground 8 so that eviction will be mandatory in cases where a tenant has three months' arrears (or, if rent is payable weekly or fortnightly, 13 weeks' arrears) at both the time of serving notice and of the hearing. This is intended to ensure that tenants have a reasonable opportunity to pay off arrears without losing their home.

17. The Act also expands the principles that judges must consider when making a decision whether to evict under the discretionary ground for anti-social behaviour, giving weight to the impact on housemates within houses in multiple occupation (HMOs), and whether the tenant has failed to engage with other interventions to manage their behaviour.

18. The Act introduces a new mandatory ground which will allow landlords renting HMOs to full-time students to seek possession ahead of each new academic year, facilitating the ongoing yearly cycle of short-term student tenancies. It will apply to full-time students who occupy on either joint or individual tenancy agreements. In order for a landlord to rely on this new ground to gain possession, the tenant must have been given a written statement to that effect before the tenancy is entered into.

19. The Act introduces new grounds for possession for the supported housing sector to end tenancies where necessary, to enable them to continue to operate housing safely or effectively, or otherwise protect the viability of their service.

20. The Act also introduces new grounds for possession in relation to temporary accommodation for homelessness and for sectors that give accommodation tied to employment. This is intended to ensure that these services can continue to be delivered.

21. The Act makes consequential changes to Part 7 of the Housing Act 1996 to remove reference to section 21 notices, as section 21 is being abolished by this Act, and replace the references to assured shorthold tenancies and fixed term tenancies with assured tenancies. The majority of these changes will be minor wording amendments, excepting the changes to the threatened with homelessness definition which will require local housing authorities to accept a homelessness duty if a household is served with a section 8 notice, instead of a section 21 notice (since such a notice will no longer exist). The Act also repeals "the reapplication duty", as England moves to a new tenancy framework.

Rent increases

22. Landlords will be able to raise rents annually to market prices and must provide two months' notice of any change. Tenants will be able to challenge above-market rent increases through the First-tier Tribunal (Property Chamber) ("the Tribunal") – this seeks to prevent above-market rent increases being used to force tenants to vacate a property. Terms which allow rent increases outside of the statutory mechanism will be of no effect.

Rental bidding

23. The Act prohibits "rental bidding" – the inviting, encouraging or accepting of a higher rent when letting a property. Landlords and letting agents will be required to publish an asking rent for their property. They will then be prohibited from inviting, encouraging or accepting offers of rent above this price.

Rent in advance

24. The Act prohibits landlords from inviting, encouraging or accepting payments of rent before a tenancy agreement is signed and ensures that any breaches may be subject to local authority enforcement action. Between a tenancy agreement being signed and that tenancy beginning, a landlord may require no more than one month's rent (or 28 days' rent for tenancies with rental periods of less than one month). Once the tenancy starts, landlords will be unable to enforce any terms in a tenancy agreement that require rent to be paid in advance of agreed due dates.

Renting with pets

25. The Act requires landlords not to unreasonably withhold consent when a tenant requests to have a pet in their home, with the tenant able to challenge a decision.

Rental discrimination

26. The Act makes it unlawful for landlords and agents to engage in discriminatory conduct against tenants with children or who receive benefits. This will include both overt discriminatory practices such as "No DSS" adverts, and situations where landlords or letting agents use other indirect practices in order to prevent someone entering into a tenancy, such as requiring higher deposits or sums of rent in advance that are not otherwise applied to tenants without children or in receipt of benefits. Breaches in England will be a civil offence with a fine of up to £7,000. Breaches in Wales and Scotland will be subject to criminal sanctions.

27. This prohibition of rental discrimination will apply in England, Wales and Scotland. However, the enforcement mechanism will vary across the devolved administrations.

Landlord redress schemes

28. The Act enables the government to approve or designate one or more redress schemes which all private landlords who rent out property on an assured or regulated tenancy in England will be required to join, regardless of whether they use an agent. This will ensure all tenants under relevant tenancies have access to redress services to deal with their complaints, and that landlords remain accountable for their own conduct and legal responsibilities. The intention is that the government will approve or designate only one scheme to act as Ombudsman for the sector.

29. The Act provides for membership of an approved or designated scheme to be mandatory and for landlords to remain members, including for a specified period after ceasing to let the property. It provides for local councils to be able to take enforcement action against landlords that fail to join an approved or designated scheme, or who are expelled for failure to adhere to their member obligations. It also sets out the redress powers of a scheme, which will include compelling landlords to issue an apology, provide an explanation, take remedial action, and/or pay compensation.

Private Rented Sector Database.

30. The Act legislates for a Private Rented Sector Database, which will support the new PRS Database service. Landlords will be required to sign up and register all properties they let out, and the Act provides for local authorities to be able to take enforcement action against landlords who do not meet their obligations to register their properties. The Act provides for an Operator of the database, who will be the Secretary of State or an organisation appointed by the Secretary of State. The Act provides for regulations which will set out further details about how the database will be operated and overseen, what information will be collected and made public, and details about how renewals will work.

Restriction on gaining possession

31. The Act will prevent the court from granting a possession order in circumstances where the residential landlord has failed to comply with the duty to ensure there is an active entry in the private rented sector database. This does not apply in cases where possession is sought on grounds of anti-social behaviour (ground 7A and ground 14) given the potential threat posed to both landlords and others in the vicinity.

Lead Enforcement Authority

32. The Act gives the Secretary of State the power to appoint a lead enforcement authority, or lead enforcement authorities, for the purpose of any provisions in the relevant landlord legislation. A lead enforcement authority's functions will include providing guidance, information and advice to local housing authorities about how to exercise their functions under that legislation, helping the provisions to be enforced in a consistent way. In addition, a lead enforcement authority will have the power to enforce, allowing it to take on complex or high-profile cases for which the responsible local housing authority may lack the capacity or capability to pursue.

Decent Homes Standard

33. The Act gives the Secretary of State power, subject to the affirmative resolution procedure, to set requirements for the minimum standards that properties in the private rented sector must meet, thereby introducing the Decent Homes Standard to the private rented sector. The Act amends the Housing Act 2004 to provide means of enforcement where properties do not meet the new requirements, for example by way of an enforcement notice.

34. For landlords who have failed to take reasonably practicable steps to keep their properties free of serious hazards, local councils will be able to issue fines of up to £7,000, and powers are also available for local councils to prosecute or impose a fine for non-compliance with such earlier enforcement action. Fines of up to £30,000 can be imposed under the relevant provisions in the Housing Act 2004. The government intends to use secondary legislation to increase this to £40,000 to reflect inflation since this financial penalty was introduced and to be consistent with the fines for similar offences in the Act.

35. The Act will allow "Awaab's Law" to be applied to the private rented sector. It will enable timeframes to be set out in regulations within which PRS landlords and licensors must make homes safe where they contain serious hazards.

Investigatory Powers

36. The Act strengthens local housing authorities' investigatory powers. Local housing authorities will have additional powers to target rogue landlords including the power to require information and the power of entry into residential or business premises. The new powers contain safeguards to ensure that they are used by local housing authorities when appropriate.

Structure of these notes

37. The section-by-section commentary in these notes follows a set structure. The explanatory notes for each section are divided as follows:

Effect

38. Details exactly what the section is going to do.

Background

39. Explains what the current legal position is. This might be the position under an existing piece of legislation which is being textually amended by the Act, or the position under common law. For example: "this section replaces X provision in the XX Act 2000" or "this is a new provision".

40. It also provides some explanation as to why this change to the law is being made by the Act.

Proposed use of power

41. Where applicable, this section outlines how it is intended that any powers to make regulations will be used.

Examples

42. Where possible, examples are provided detailing how the provision will operate in practice. The descriptions provided are based on an assumption that the relevant provisions are enacted as proposed in the Act.

Legal background

43. A list of primary legislation referenced or amended by the Act is as follows (alphabetised)

a. Agricultural Holdings Act 1986

b. Anti-social Behaviour Act 2003

c. Building Safety Act 2022

d. Capital Allowances Act 2001

e. Charities Act 2011

f. Consumer Rights Act 2015

g. Criminal Justice and Police Act 2001

h. Deregulation Act 2015

i. Finance Act 2003

j. Housing Act 1985

k. Housing Act 1988

l. Housing Act 1996

m. Housing Act 2004

n. Housing and Planning Act 2016

o. Housing and Regeneration Act 2008

p. Housing (Scotland) Act 1988

q. Immigration Act 2016

r. Land Compensation Act 1973

s. Landlord and Tenant Act 1985

t. Local Government Act 1974

u. Local Government and Housing Act 1989

v. Localism Act 2011

w. Police Reform Act 2002

x. Private Housing (Tenancies) (Scotland) Act 2016

y. Protection from Eviction Act 1977

z. Rent (Scotland) Act 1984

aa. Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019

bb. Renting Homes (Wales) Act 2016

cc. Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

dd. Tenant Fees Act 2019

44. The Protection from Eviction Act 1977 protects tenants from illegal eviction and harassment. Local councils and the police have enforcement powers to investigate cases of illegal eviction and harassment and can prosecute where an offence has been committed. The Rent (Scotland) Act 1984 legislates for criminal offences relating to eviction and harassment in Scotland.

45. The Housing Act 1988 sets out the statutory framework for assured and assured shorthold tenancies in England, including introducing section 21 notices. The Housing (Scotland) Act 1988 made similar provision for Scotland. Assured and assured shorthold tenancies are the two main tenancy types for tenants of private registered providers of social housing and in the private rented sector.

46. An assured tenancy is a tenancy agreed under the Housing Act 1988. A landlord may, having given a section 8 notice to the tenant citing one of the statutory grounds for possession, apply to the Court for an order for possession of the premises. Grounds can be mandatory or discretionary. A mandatory ground requires the court to order possession if the landlord can prove that the ground applies. A discretionary ground allows the court to decide whether it is reasonable for possession to be granted if the landlord proves the ground applies. Assured tenancies are currently most commonly offered to tenants of private registered providers of social housing.

47. An assured shorthold tenancy is a type of assured tenancy. Most new tenancies in the private rented sector in England are automatically this type. A tenancy can be an assured shorthold tenancy if all the following apply:

    a. It is let by a private landlord or housing association;

    b. The tenancy started on or after 15 January 1989;

    c. The property is a tenant's main accommodation; and

    d. A landlord does not live in the property.

48. A landlord can end a tenancy of this type by either giving to the tenant a section 8 notice citing a ground for possession (as above for an assured tenancy), or by giving to the tenant a section 21 notice requiring the tenant to give up possession at the end of a period of the tenancy but without requiring a reason to be provided or citing a ground.

49. The Housing Act 1996 amended the Housing Act 1988 to remove the requirement of service of a notice to turn an assured tenancy into an assured shorthold tenancy. As a result, assured shorthold tenancies were made the default tenancy in the private rented sector. The Housing Act 1996 also provides for functions of local housing authorities to be used to assist those who are homeless or threatened with homelessness.

50. The Housing Act 2004 sought to modernise and improve standards and management of private rented sector properties, including by requiring houses in multiple occupation (HMOs) to be licensed and removing the ability for section 21 notices to be issued where they are not licensed. It also introduced tenancy deposit schemes and rent repayment orders (RROs), alongside the Housing Health and Safety Rating System (HHSRS).

51. The Housing and Planning Act 2016 introduced the Database of Rogue Landlords and Property Agents and banning orders.

52. The Tenant Fees Act 2019 bans unfair letting fees and caps tenancy deposits to either five- or six-weeks' rent. It prevents a landlord from serving a section 21 notice if the landlord has required a prohibited payment and the payment is made as a result or if the landlord breached the rules on holding deposits in relation to an assured shorthold tenancy. A landlord

is prevented from serving a section 21 notice to end the tenancy if the payment or deposit has not been repaid. The Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019 introduced similar measures in Wales.

53. The Building Safety Act 2022 includes provisions to improve the design, construction and management of higher-risk buildings. The Act amongst other things makes provisions for information sharing with other bodies.

54. The Consumer Rights Act 2015 amended the law relating to the rights of consumers and protection of their interests, this included making provision about investigatory powers for enforcing the regulation of traders.

55. The Criminal Justice and Police Act 2001 gave extra powers to the police, with the aim to tackle crime and disorder more effectively. The Act gives powers of seizure in specified circumstances.

56. The Local Government Act 1974 introduced the Local Government and Social Care Ombudsman.

57. The Renting Homes (Wales) Act 2016 introduced a new tenancy system in Wales and requirements on landlords related to maintenance and communication.

58. The Private Housing (Tenancies) (Scotland) Act 2016 introduced a new tenancy system in Scotland.

59. The Act makes consequential changes to a number of existing Acts further to the Decent Homes Standard measures. Consequential changes are made to the Land Compensation Act 1973, Housing Act 1985, Housing and Regeneration Act 2008, Housing and Planning Act 2016, Tenant Fees Act 2019, Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, Landlord and Tenant Act 1985, Agricultural Holdings Act 1986, Capital Allowances Act 2001, Police Reform Act 2002, Finance Act 2003, Anti-social Behaviour Act 2003, Localism Act 2011, Housing Act 1996, Housing Act 2004, Renting Homes (Wales) Act 2016, Homelessness Reduction Act 2017, Local Government Act 1974, Government of Wales Act 1998, Public Services Ombudsman (Wales) Act 2005, Building Safety Act 2022, Leasehold and Freehold Reform Act 2024, Deregulation Act 2015, and Immigration Act 2016.

Territorial extent and application

60. Section 144 sets out the territorial extent of sections in the Act, which is England and Wales, and, in respect of certain provisions, Scotland. The extent of an Act is the legal jurisdiction of which it forms part of the law; application refers to where it has practical effect. The application of the Act is mostly England only, but provisions in Part 1 Chapters 4 and 5 in relation to rental discrimination against tenants who receive benefits or with children, and a handful of other provisions, will also apply to Wales and Scotland.

61. Housing legislation in relation to Wales, Scotland and Northern Ireland is within the devolved legislative competence of Senedd Cymru, the Scottish Parliament, or the Northern Ireland Assembly respectively. In line with the Legislative Consent Motion Convention (the "Sewel Convention"), the UK Parliament will not normally legislate for areas within devolved legislative competence without the consent of the devolved legislature concerned. A Legislative Consent Motion has been requested from both the Welsh and Scottish Governments.

Commentary on provisions of Act

Part 1: Tenancy reform

Chapter 1: Assured Tenancies

Section 1: Assured tenancies to be periodic with rent period not exceeding a month

Effect

62. Section 1 inserts a new section 4A before section 5 of the Housing Act 1988. This section provides that all assured tenancies will be periodic and can no longer have fixed terms.

63. Subsections (1) and (2) provide that any terms of an assured tenancy that try to create a fixed term will have no legal effect. Terms of an assured tenancy providing for the duration of the periodic tenancy to be different to the rent period will also have no legal effect. Where such terms exist, the tenancy will instead be periodic, and the tenancy's periods will be the same duration as the period for which rent is paid.

64. Subsections (3) to (8) limit the length of the rent period of an assured tenancy. Subsection (3) provides that rent periods must be either monthly or no more than 28 days long. Assured tenancy terms which try to create any other length of period will be of no legal effect. Instead, the tenancy has effect as if it provided for monthly periods with the rent payable monthly on the first day of each period. Subsection (4) allows for rent periods to vary in length at different times during the tenancy, however the length of each rent period must be permitted by subsection (3). Subsection (5) provides that the rent will remain at the same level as agreed between the parties initially but will instead be paid monthly on a pro-rata basis in accordance with subsection (6). Subsection (7) clarifies that the new section 4A does not restrict landlords and tenants agreeing different terms, but any terms cannot contravene subsections (1) and (3).

Background

65. Tenancy agreements under the Housing Act 1988 can currently be either fixed term or periodic in nature.

66. A "fixed term tenancy" is defined in section 45, subsection (1) of the Housing Act 1988 as any tenancy other than a periodic tenancy. As determined by the Court of Appeal in *Goodman v Evely* [2001] EWCA Civ 104, the defined term "fixed term tenancy" includes both a tenancy granted for a fixed period (e.g., one year) and one that is granted for an initial fixed period and thereafter a periodic term (e.g., one year and thereafter month-to-month).

67. In future, it will not be possible to grant an assured fixed term tenancy. Instead, all assured tenancies must be periodic from the beginning of the tenancy. Upon the commencement date, all existing assured tenancies will also become periodic. This will give tenants more flexibility to end tenancies where they need to, including where landlords are failing to meet their obligations, or properties are poor quality.

68. The periods of a periodic tenancy can currently be any length. Unless the parties expressly agree otherwise, when a tenant gives notice to end a tenancy, the date on which they wish to end the tenancy must align with the end of a period. A tenant cannot end a tenancy midway through a period and so must pay rent for the entirety of the final period. To prevent tenants from being locked into unduly long periods in future – which would have the same or similar impact as a fixed term – it is necessary to limit the length of periods of an assured tenancy.

Section 2: Abolition of assured shorthold tenancies

Effect

69. Section 2 removes provisions of the Housing Act 1988 which establish assured shorthold tenancies, so that such tenancies cannot be created in future. This section also removes section 21 of the Housing Act 1988. As well as this, section 6A is removed which detailed the mechanism that social housing providers could use to demote their tenants to assured shorthold tenancies if they commit anti-social behaviour.

Background

70. The Housing Act 1988 introduced assured shorthold tenancies and section 21 evictions. Section 2 removes the assured shorthold tenancy regime and mechanisms to demote social housing tenants to assured shorthold tenancies as well as section 21 itself, as in future all tenancies will be assured. Removing assured shorthold tenancies will require a very large number of consequential provisions, which are either made elsewhere in the Act or will be made using relevant powers.

Section 3: Changes to grounds for possession

Effect

71. Section 3 amends the grounds for possession in Schedule 2 of the Housing Act 1988, including in relation to notice periods and the courts making orders for possession. It also makes consequential amendments to the relevant sections of the Housing Act 1988 following the removal of fixed-term tenancies.

72. Each possession ground has a minimum notice period – after this period, a tenant must either vacate the property, or the landlord may start court proceedings to regain possession. Subsection (3)(e) updates section 8 of the Housing Act 1988 to set out notice periods for all grounds other than those for anti-social behaviour (grounds 7A and 14). When serving notice under grounds 1, 1A, 1B, 2, 2ZA, 2ZB, 2ZC, 2ZD, 4A, 6, 6A and 6B, the notice period before the landlord can begin court proceedings is four months. When serving notice under grounds 5, 5A, 5B, 5C, 5D, 5H, 7 and 9 the notice period before the landlord can begin court proceedings is two months. When serving notice under grounds 5E, 5F, 5G, 8, 10, 11 and 18 the notice period before the landlord can begin court proceedings is four weeks. When serving notice under grounds 4, 7B, 12, 13, 14ZA, 14A, 15 and 17 the notice period before the landlord can begin court proceedings is two weeks.

73. Landlords can begin court proceedings under anti-social behaviour grounds (7A and 14) immediately, although a court cannot make an order for possession until at least 14 days after the landlord has given notice to the tenant. If the court has used its power to dispense with the requirement for a section 8 notice, the 14 days will begin either from the date on which any purported notice was served if the court thinks that is fair in the circumstances, or from the date on which the possession proceedings began.

74. Subsection (2)(d) inserts a new section (5ZA) into section 7 of the Housing Act 1988. Section 5ZA prevents a court awarding possession under grounds 1-5H or ground 6A where an agricultural tenancy came to an end as a result of a notice to quit under Case A in Part 1, Schedule 3 of the Agricultural Holdings Act 1986 and an assured tenancy was granted immediately after it ended. For this possession restriction to apply, this tenancy must have been granted by the same landlord as the agricultural tenancy, or by a new landlord under a

contract or other agreement entered with the former landlord under which it was agreed that the property was to be let as 'suitable alternative accommodation" for the tenant for the purposes of Case A, meaning that the notice to quit will have effect without the consent of a tribunal.

75. Section 3 also inserts new section 8ZA into the Housing Act 1988. Section 8ZA provides for circumstances where the court has used its power to dispense with the requirement for a valid section 8 notice, but the requirements of the grounds relate to the timing of a date specified in a valid notice. For example, if the invalidity of the notice is only noticed during proceedings, but the court waives the validity requirement, the timing conditions required to establish the grounds may nevertheless be missed because the landlord has observed the relevant notice periods required following service of a valid section 8 notice before issuing proceedings. The landlord would then be unable to recover possession despite the requirement for a valid notice being waived because the court thought that was fair in the circumstances. Section 8ZA aims to resolve this issue in relation to grounds 4A, 5G and 6. If the court considers it just and equitable, new section 8ZA provides that the requirement to commence possession proceedings within a specified period may be disapplied.

76. Subsection (5) inserts a new section 11A into the Housing Act 1988 which allows courts to order landlords to pay compensation to tenants evicted under ground 6B. Ground 6B allows landlords to evict tenants when they are subject to enforcement action and evicting a tenant is the only way to comply with that enforcement action. For example, where an improvement notice has been served because a property is overcrowded. Courts may order an amount of compensation that is sufficient to cover the loss sustained by the tenant as a result of the possession order. Courts must take into account the circumstances that led to the enforcement action being taken, including any conduct of the tenant which contributed to this.

Background

77. The grounds for possession that landlords must use to evict their tenants are set out in Schedule 2 of the Housing Act 1988. Section 7 of the Housing Act 1988 sets out when a court must award possession. Section 8 of the Housing Act 1988 sets out the notice periods that landlords must give tenants before they can begin court proceedings. The government has amended these sections to protect security for tenants while accepting the legitimate interests of landlords. This includes extending the notice period for the main "no fault" grounds from two months to four months, and for rent arrears from two weeks to four weeks. The Act also reduces the notice period for serious anti-social behaviour (ground 7A), so landlords are able to make a claim for possession immediately.

78. A table detailing the grounds in Schedule 2 of the Housing Act 1988 (incorporating changes made by this Act) can be found in Annex C.

Section 4: Possession for anti-social behaviour: relevant factors

Effect

79. Section 4(a) adds a new paragraph (d) to subsection (2) of section 9A of Housing Act 1988, and subsection b) adds subsections (3), (4), and (5) to section 9A of the Housing Act 1988. Together these provisions amend the matters a judge must specifically consider when deciding whether to make an order for possession under the discretionary anti-social behaviour ground (14).

80. Paragraph (d) of subsection (2), requires judges to specifically consider whether the person against whom the eviction order is sought has engaged with attempts by the landlord to resolve the behaviour.

81. Subsections (3) to (5) provide that judges must give particular consideration to the impact of anti-social behaviour on fellow tenants in HMOs who share with the perpetrator accommodation or facilities within the HMO.

Background

82. Under the current provisions of section 9A of the Housing Act 1988, judges must give specific consideration to the impact anti-social behaviour has had on victims, any continuing effect of the behaviour, and any effect the behaviour would have if it was repeated. Judges will now also have to consider whether the perpetrator has engaged with steps taken to resolve their behaviour and the particular impact of the behaviour on fellow tenants in HMOs.

Section 5: Form of notice of proceedings for possession

Effect

83. Section 5 inserts a new subsection (7) into section 8 of the Housing Act 1988. This provides that regulations may allow for the Secretary of State to publish the form to be used when serving notice of possession proceedings, and that the version of the form to be used is the one which has effect at the time the notice is served.

Proposed use of power

84. The addition of new subsection (7) is to enable the government to publish updates to the forms as necessary.

Background

85. This is a new provision which inserts new subsection (7) into section 8 of the Housing Act 1988. The forms for possession are to be used by landlords where possession of accommodation, let under an assured tenancy or an assured agricultural occupancy, is sought on one of the grounds in Schedule 2 to the Housing Act 1988. Previously, any updates to forms needed to be made by statutory instrument, rather than being published.

Section 6: Statutory procedure for increases of rent

Effect

86. Section 6 amends section 13 of the Housing Act 1988 to provide that issuing a section 13 notice will be the only valid way that a private landlord can increase the rent. The process for relevant low-cost tenancies (defined in subsection (7)(4C) and explained below) is set out in subsection (9).

87. Subsection (4) amends section 13(2) of the Housing Act 1988 to provide that the minimum notice period for a rent increase will be two months. Subsection (6) amends subsection 13(4) and provides that the new rent amount will take effect two months after a section 13 notice is issued, if it is not challenged by the tenant in the Tribunal or if the landlord and the tenant agree on a different rent. If the landlord and tenant agree a different rent, this new rent must either be lower than the rent proposed in the notice, or the landlord and tenant can agree that the rent should not be varied. The Tribunal process is set out in section 14 of the Housing Act 1988.

88. Subsection (7) inserts new subsections (4A), (4B), (4C), (4D) and (4E) into section 13 of the Housing Act 1988. Subsections (4A) and (4B) set out the circumstances in which rent can be increased within a tenancy. Rent can only be increased by a section 13 notice or by the landlord and tenant agreeing a lower amount than the amount proposed in the notice (but this is higher than the current rent), a determination by the Tribunal (as set out in section 14) or by agreement in writing between a landlord and tenant after a Tribunal has made a

determination as set out in 14ZA and 14ZB. When agreeing the rent after a Tribunal determination, the agreed rent must be lower than that determination. This does not affect the ability of landlords and tenants to vary other terms in the tenancy by agreement, including those reducing the rent.

89. New subsection (4C) of section 13 of the Housing Act 1988 defines a "relevant low-cost tenancy" as an assured tenancy of social housing, within the meaning of Part 2 of the Housing and Regeneration Act 2008, where the landlord is a private registered provider of social housing. This includes tenancies of low-cost rental accommodation as defined by section 69 of the Housing and Regeneration Act. Other tenancies offered by private registered providers of social housing besides assured tenancies are not included in the definition of "relevant low-cost tenancy". New subsections (4C(b)) and (4D) allow the Secretary of State to make regulations to include any other assured tenancy of a specified description within the definition of "relevant low-cost tenancy". Such regulations are subject to the negative resolution procedure.

90. Subsection (8) omits subsection 13(5) of the Housing Act 1988. This means that all rent increases (apart from those which meet the definition of "relevant low-cost tenancy") must be undertaken via the statutory process. A landlord and tenant can agree to a downward variation of the rent at any time, including after the service of the section 13 notice or the Tribunal has made a determination.

91. Subsection (9) inserts section 13A into the Housing Act 1988. This sets out how rent will be increased for private registered providers of social housing granting an assured tenancy of social housing, defined as a "relevant low-cost tenancy". Landlords of relevant low-cost tenancies will be permitted to increase the rent at any point in the first 52 weeks of a tenancy, and then once every 52 weeks thereafter, and must give one month's notice. Those offering relevant low-cost tenancies will be permitted to increase the rent via a term in the tenancy agreement.

92. Subsection (9) also inserts section 13B into the Housing Act 1988. The section allows a tenant under an assured tenancy to apply to the Tribunal to challenge the validity of a notice to increase the rent, instead of in the county court. The tenant can do this at the same time as challenging the rent. There is no requirement or power for the Secretary of State to prescribe the form which a tenant must use to make an application to the Tribunal.

Proposed use of power

93. New subsection (4C)(b) of the Housing Act 1988, inserted by subsection (7), enables the Secretary of State to specify a description of other assured tenancies that meet the definition of "relevant low-cost tenancy". This is to take into account changes in the regulation of rent in the social housing sector where more relevant assured tenancies may fit the definition of a relevant low-cost tenancy. The regulations will be made via the negative procedure.

Background

94. This section amends section 13 of the Housing Act 1988, which sets out the process by which a landlord can issue notice to inform the tenant of a rent increase. This means that the only way private landlords (except those of a "relevant low-cost tenancy") can increase the rent is by using a section 13 notice, which gives tenants the opportunity to challenge the rent (under section 14) increase, should they believe it to be above market rate. The aim of this is to stop retaliatory rent increases being used as a route to evict tenants. Assured tenancies of social housing provided by a private registered provider can include terms to increase rents in tenancy agreements, can increase the rent at any point during the first year of a tenancy, and must give one month's notice of any rent increase.

Section 7: Challenging amount or increase of rent

Effect

95. Section 7 amends section 14 of the Housing Act 1988. The amended section sets out the circumstances in which a tenant can submit an application to the Tribunal, to either challenge the rent amount in the first six months of a tenancy (with similar effect to the existing mechanisms provided for by section 22 of the Housing Act 1988) or following service of a section 13 rent increase notice.

96. Unlike the previous provisions for challenging a rent increase or the rent amount in the first six months of the tenancy, the amended section does not require the Secretary of State to prescribe by regulations the form which must be used to make an application to the Tribunal.

97. New subsection (A2) of section 14 provides that no application may be made to the Tribunal under new subsection (A1) to challenge the initial rent payable under the tenancy if the Tribunal has already made a decision on this, or if more than six months have passed since the beginning of the tenancy. New subsection (A3) nevertheless provides that all tenants under assured tenancies are able to challenge a rent increase undertaken via the section 13 process. Tenants of relevant low-cost tenancies are unable to challenge the rent amount in the first six months of a tenancy.

98. Subsection (7) omits subsection 14(6) of the Housing Act 1988 which refers to section 6 Housing Act 1988 process of varying terms of a tenancy and is being repealed by the Act. It also omits subsection 14(7) of the Housing Act 1988. The omission results in the removal of the Tribunal's ability to determine a new rent which is higher than that proposed by the landlord in the section 13 notice and to backdate this to the date specified in that notice. This is replaced by new section 14ZB (Effect of determination: proposed new rent) as set out below.

99. Subsection (10) inserts sections 14ZA (Effect of determination: rent payable) and 14ZB (Effect of determination: proposed new rent) into the Housing Act 1988. These sections outline the processes the Tribunal is to follow where a tenant has challenged the rent in the first 6 months of the tenancy (new section 14ZA) and where the tenant is challenging a rent increase as set out in section 13 of the 1988 Housing Act (new section 14ZB).

100. Section 14ZA applies when the Tribunal makes a determination of the open-market rent following a challenge by the tenant to the rent amount in the first six months of the tenancy. The section provides that the new rent amount will be the lower of the determined open-market rent and the rent payable under the tenancy immediately before the Tribunal's determination of the open-market rent. The rent payable will be the new rent plus any appropriate amount for rates and takes effect from the date the Tribunal directs. This must not, however, be earlier than the date of application to the Tribunal. Nothing in this section stops the landlord and tenant agreeing to a lower amount than the Tribunal determines but this should be agreed by the tenant and landlord in writing.

101. Section 14ZB applies when the Tribunal makes a determination of the open-market rent when the tenant is challenging a section 13 rent increase under section 14(A3). The section provides that the new rent amount will be the lower of the determined open-market rent and the proposed rent in the section 13 notice. The rent payable will be the new rent plus any appropriate amount for rates and generally takes effect from the start of the next rent period following the Tribunal's determination (though the Tribunal may delay the rent increase taking effect for up to two months from the date of its determination in cases of undue hardship).

102. Subsection (6) of new section 14ZB enables the Secretary of State to make regulations amending subsection 14ZB(3)(b) of the Housing Act 1988 to enable the Tribunal to backdate rent increases following determination of the open-market rent, to a date no earlier than the date specified in the section 13 notice. Section 14ZB(8) provides that regulations made under section 14ZB(6) can be used to amend section 14ZB of the Housing Act 1988, make different provision for different purposes, make supplemental, consequential, incidental, transitional, transitory or saving provision, and are to be made by statutory instrument. Section 14ZB(9) provides that any regulations made using this power must be subject to the affirmative procedure.

103. Where the landlord has served a section 13 notice, the landlord and tenant can agree to a variation in rent before the Tribunal has made a determination. This can be higher than the current rent but must be the same or below the rent specified in the section 13 notice. As set out in section 13(4A)(c) the landlord and tenant can agree a lower rent than the new rent amount resulting from the Tribunal's determination (which may be higher than the original rent or proposed rent increase) and this must be agreed in writing.

Proposed use of power

104. The power in new section 14ZB(6) of the Housing Act 1988 enables the Secretary of State to make regulations to allow the Tribunal to backdate rent increases following determination of the open-market rent. This is intended to avoid lengthy delays for genuine cases to be heard, where the Tribunal is at risk of being overwhelmed by a sharp increase in challenges.

Background

105. Section 14 (determination of rent by tribunal) of the Housing Act 1988 sets out how rent can be challenged in the Tribunal. The Tribunal will assess the proposed rent against what the landlord could expect to receive if letting to a new tenant on the open market. The new rent payable will be the lower of the Tribunal-determined open-market rent and either the tenancy rent (if challenged in the first six months of the tenancy) or the rent proposed in the section 13 notice. The landlord and tenant can agree in writing to a lower rent than what the Tribunal has determined but higher than the current rent. The ability to challenge a rent amount in the first six months of a tenancy has similar effect to the existing provisions of section 22 of the Housing Act 1988.

106. A tenant can use the forms published by the Tribunal for the purpose of making an application to challenge a section 13 rent increase notice, or to challenge a rent amount in the first six months of the tenancy. The Secretary of State had previously prescribed and published forms for these purposes assured tenancy forms 6 and 7. These will be withdrawn by statutory instrument. This change will support the aim of encouraging applicants to use the Tribunal's forms for making an application to the Tribunal, and all the forms used to make an application to the Tribunal will be published in the same place.

Section 8: Prohibition of rent in advance after lease entered into (except initial rent)

Effect

107. Section 8 inserts a new section 4B into the Housing Act 1988. This provides that terms of an assured tenancy that provide for rent to be due in advance of the rent due date in the tenancy agreement have no legal effect and are unenforceable. There is an exception for rent paid between the signing of the tenancy agreement and commencement of the tenancy, where a landlord may require rent for the first rent period (of one month, or up to 28 days depending on the length of the rent periods).

108. Subsection (1) provides that terms in an assured tenancy agreement that require the payment of rent before the rent period for which it is due will not be enforceable.

109. Subsection (2) provides that subsection (1) does not apply to tenancies entered into before the commencement date or to certain excepted tenancies (defined at subsection (12)). This subsection also confirms that subsection (1) does not apply to rent paid between the signing of the tenancy agreement and commencement of the tenancy. During this period a landlord may require rent for the initial rent period(s) (of one month in the case of monthly rent periods, or up to 28 days for rent periods of less than one month) at any point following the tenancy being entered into by all parties and the start of the tenancy.

110. Where a term of the tenancy is of no effect because it provides that rent is due in advance, subsections (4) and (5) provide that rent should be due on the regular rent day that falls within a compliant rent period, where both one or more of the periods contains a compliant rent period (as defined at subsection (12)) and those compliant rent periods have a regular pattern (see subsection (6)). New subsection (5) provides that where those conditions are not met, the rent will be due on the first day of the rent period.

111. Subsections (6) and (7) explain what is meant by compliant rent periods having a regular pattern. Subsection (6) provides that two conditions must be met. Firstly, that all compliant periods are the same length and secondly, that the rent for all compliant periods will be due on the same day during each period. New subsection (7) applies subsection (6) to tenancies where the first rent period of a tenancy is of a different length to the others, and to tenancies where rent for the first period of the tenancy is due on a different day.

112. Subsection (8) signposts the relevant provisions on applying holding deposits towards payment of rent for the first rent period (or periods, where a later rent period ends during the initial 28 day period), contained at Schedule 2 of the Tenant Fees Act 2019.

113. Subsections (9) to (11) give a power to the Secretary of State to amend the descriptions of tenancies or rent due in advance that are exempt from the general prohibition at subsection (1) on rent in advance after a tenancy is entered into.

114. New subsection (12) defines the terms "compliant rent period", "due in advance", "excepted tenancy", "initial rent", "local housing authority" and "permitted pre-tenancy period".

Proposed use of powers

115. The power in this section is intended to allow the Secretary of State to amend by regulations the descriptions of tenancies and rent in advance to which the general prohibition at subsection (1) on rent in advance once a tenancy has been entered into does not apply.

Background

116. This is a new provision.

Section 9: Prohibition of rent in advance before lease entered into

Effect

117. Subsection (1) provides that Schedule 1 to the Tenant Fees Act 2019 (permitted payments) is to be amended by subsections (2) and (3).

118. Subsection (2) inserts paragraphs (1A) and (1B) into Schedule 1 to the Tenant Fees Act 2019 and provides that a payment of rent under an assured tenancy is a prohibited payment where it is payable before a tenancy is entered into.

119. Subsection (3) inserts new paragraph 1A into Schedule 1 to the Tenant Fees Act 2019. This new paragraph ensures that existing provisions at paragraphs (2) to (8) of Schedule 1 concerning prohibited payments of increased rent continue to apply as intended.

120. Subsection (4) inserts new sections 5A and 5B into the Tenant Fees Act 2019. Section 5A prohibits landlords and letting agents from inviting, encouraging, accepting an offer of, or accepting a payment of rent in advance from tenants or third parties before a tenancy is entered into. Section 5A also gives a power to the Secretary of State to amend the circumstances in which the prohibitions on pre-tenancy rent payments (defined at subsection 5A(8)) at subsections 5A(1) to (4) apply. Section 5B provides that a term of a tenancy agreement that breaches the prohibitions in section 5A is not binding on a tenant but that otherwise the agreement continues to have effect.

121. Subsection (5) makes consequential amendments to the Tenant Fees Act 2019 to ensure that the enforcement provisions in this Act apply to breaches of new section 5A and that landlords will be required to repay payments received in breach of these prohibitions where enforcement action is taken by the local authority.

Proposed use of powers

122. Subsection (5) of new section 5A of the Tenant Fees Act 2019 provides the Secretary of State with a power to amend by regulations the circumstances in which the prohibition of rent in advance set out at subsections (1) to (4) of that new section applies.

Background

123. Schedule 1 of the Tenant Fees Act 2019 sets out an exhaustive list of permitted payments that a landlord or letting agent may require in connection with a tenancy to themselves or a third party. A payment that is not described in Schedule 1 is a prohibited payment. Section 9 amends Schedule 1 to make a payment of rent under an assured tenancy a prohibited payment where it is payable before a tenancy is entered into. This section also inserts additional prohibitions on landlords and letting agents to prevent them from being able to require large amounts of rent in advance of the tenancy agreement being signed.

Section 10: Repayment of rent

Effect

124. Section 10 inserts new section 14ZC into the Housing Act 1988. This section will allow tenants to be repaid rent when the tenancy ends before the period for which they have paid has expired.

Background

125. This section entitles tenants to a refund of rent where the tenancy has ended earlier than the period that has already been paid for. This applies regardless of how the tenancy came to an end.

Section 11: Right to request permission to keep a pet

Effect

126. Section 11 adds two new sections, 16A and 16B, to the Housing Act 1988.

127. Section 16A (Requesting consent to keep a pet) makes it an implied term of every assured tenancy except those listed in subsection (6) that a tenant may keep a pet with the landlord's consent unless the landlord reasonably refuses. Section 16A also sets out that a landlord must respond to a written request from the tenant within 28 days.

128. Subsection 16A(6) sets out that this provision does not apply to tenancies of social housing.

129. Subsection 16B(3) provides that the tenant's request must be made in writing and include a description of the pet sought.

130. Subsection 16B(4) provides that it is reasonable for a landlord to refuse where accepting a pet would breach an agreement with a superior landlord, and where such an agreement prohibits pets without the superior landlord's consent, and the landlord has taken reasonable steps to obtain that consent, but the superior landlord has not consented.

131. Section (2) permits the court to order specific performance of the obligation not to unreasonably refuse a pet if the landlord breaches the implied term in section 16A.

132. Subsection 16B(2) inserts a provision to define a "pet" in section 45, subsection (1) of the Housing Act 1988.

Background

133. This section adds two new provisions to the Housing Act 1988 to strengthen tenants' rights to keep a pet in their home, which has previously been at the landlord's discretion. This includes a new legal obligation for landlords to consider tenants requests to keep a pet, whilst also providing a route for landlords to reasonably refuse tenants requests to keep a pet when they can provide justification for why it would not be suitable.

Section 12: Duty of landlord and contractor to give statement of terms etc

Effect

134. Section 12 inserts section 16D (Duty of landlord and contractor to give statement of terms etc) into the Housing Act 1988. This section places a duty on landlords and any contractors responsible for compliance with this section, such as letting agents, to provide the tenant with a written statement of terms and information before the tenancy is entered into. This section applies to an assured tenancy other than a tenancy granted by implication, after an implied surrender of a previous tenancy between the same parties, where the implied surrender and grant result from an agreement to vary the terms of the previous tenancy. If the tenancy arose by succession under the Rent Act 1977 or Rent (Agriculture) Act 1976, or is an assured agricultural occupancy, the requirement must be met within 28 days of the landlord acknowledging the tenancy.

135. Where a landlord wishes to use any of the "prior notice" grounds for possession which are 1B, 2ZA, 2ZB, 2ZC, 2ZD, 4, 5 to 5H, 6A, or 18 in Schedule 2, the landlord is required to have stated that they may wish to use these grounds in the written statement of terms (see sections 16D(3), 16E(1)(f) and 16I(1)(a) of the Housing Act 1988 as inserted by sections 13 and 15). Section 12 also enables the Secretary of State to make regulations to specify which terms and information are required in writing at the start of a tenancy.

136. A tenancy may change status during its lifetime and become an assured tenancy – and therefore become a tenancy to which the requirement to provide a written statement of terms applies. This may happen if the tenant begins to use the dwelling as their principal home or a rent becomes payable, for example. Where a tenancy becomes assured during its lifetime, landlords will have 28 days to comply with the requirement to provide a written statement of terms, starting from when the tenancy became assured.

Proposed use of power

137. The provision in new section 16D(2) of the Housing Act 1988 will enable the Secretary of State to set out in regulations specified terms or information that must be provided in writing as part of the written statement. This will enable government to reflect future changes to regulation of the private rented sector and allow further consultation on the details of which terms are necessary. Regulations will be subject to the negative procedure.

Background

138. This is a new duty being added to the Housing Act 1988 to require landlords and any contractors responsible for compliance with this section, such as letting agents, to provide a written statement to the tenant setting out basic information about the tenancy and both parties' responsibilities. The intention in mandating written statements is to help avoid and resolve disputes, and provide evidence if disputes go to court. Landlords who include "prior notice" possession grounds will warn tenants that they may be evicted under specified circumstances.

Section 13: Other duties

Effect

139. Section 13 inserts new sections 16E (Other duties), 16F (Exceptions from letting and marketing prohibitions) and 16G (Interpretation of terms related to marketing in section 16E) into the Housing Act 1988. Section 16E prohibits certain actions by a "relevant person" in relation to an assured tenancy, including misuse of possession grounds. (See new section 16M (duties of landlords etc. penalties and offences: interpretation) inserted by section 19 for meaning of "relevant person", who will usually be a landlord, someone acting for them or someone purporting to do so). Section 16F details the circumstances where the letting and marketing prohibitions in section 16E do not apply, and section 16G interprets terms related to marketing used in section 16E. These sections apply to assured tenancies.

140. Section 16E(1) sets out the prohibitions placed on relevant persons (such as landlords, former landlords or letting agents) in relation to an assured tenancy. This includes that a relevant person must not purport to let the property for a fixed term or purport to bring the tenancy to an end, or require that it is brought to an end, orally, or via a notice to quit. Relevant persons are also prohibited from: serving a "purported notice of possession" (defined in section 16M to exclude valid section 8 notices and claim forms relating to possession proceedings); relying on a ground that the relevant person does not reasonably believe the landlord will, or may be able to obtain a court order for possession on (for example, relying on grounds 1 (occupation by landlord or family) or 1A (selling) in the first year of the tenancy where the conditions for establishing that ground do not allow this); or specifying a possession ground in relation to which prior notice must be given, having failed to give prior notice in the written statement of terms.

141. Subsections 16E(2) and 16E(3) provide that where a relevant person relies on either the occupation or selling possession grounds (grounds 1 or 1A), the landlord is prohibited from taking certain actions. These are that, within a "restricted period" (defined in section 16M and generally within 12 months of the date specified in the section 8 notice or purported notice of possession as the earliest date on which possession proceedings can begin) they must not let or market the property on a tenancy with a term of 21 years or less, or permit the property to be occupied or marketed for occupation under a licence in return for money (except as provided for in subsection 16F(1)).

142. Subsection 16E(4) provides that these prohibitions continue to apply until the end of the restricted period regardless of whether the tenancy continues during the period or not. Subsection 16E(5) provides that if a relevant person has not provided prior notice in the written statement of the landlord's intention to be able to recover possession by relying on one or more of grounds 1B, 2ZA, 2ZB, 2ZC, 2ZD, 4, 5 to 5H, 6A, or 18, the court may still make an order for possession of the property using the ground. In that situation the relevant person may be subject to a financial penalty (see new section 16I (financial penalties) inserted by section 15).

143. Section 16F sets out the exceptions to the letting and marketing prohibitions in section 16E. Subsection 16F(1) provides that the letting and marketing prohibitions during the restricted period following the use of ground 1, detailed in subsections 16E(2) and (3), do not apply if the letting or marketing is to a landlord or a family member mentioned in paragraphs (a) to (d) of ground 1. Subsection 16F(1) also provides that the letting and marketing prohibitions during the restricted period following the use of ground 1A, detailed in subsections 16E(2) and (3), do not apply if the letting or marketing is to a licensee who has either agreed to purchase the landlord's interest in the dwelling-house, or has agreed to lease the property for a term of more than 21 years without a break, and the licence to occupy is granted in anticipation of that purchase or lease.

144. Section 16F(2) sets out that the prohibitions in subsection 16E(3) do not apply where the marketing of the property within the restricted period is in connection with letting, or occupation under a licence, which is permitted as a result of subsection 16F(1). Sections 16F(3) – (5) also set out that prohibitions on letting or marketing the property during the restricted period do not apply if the landlord is a shared owner, has relied on possession ground 1A, and certain conditions have been met. These include that:

    a. The landlord has notified the tenant in writing before the tenancy was entered into that they are a shared owner and the prohibitions in subsections 16E(2) and (3) might not apply;

    b. The landlord has notified their own landlord of their intention to sell the property by the date on which the tenant is required to have moved out; and

    c. a RICS valuation has been undertaken on the property or the landlord has marketed the property for sale.

145. Section 16G (Interpretation of terms related to marketing in section 16E) clarifies terms related to marketing in 16E, including a definition of what constitutes "lettings agency work" and stating where exclusions apply.

146. Subsections 16G(1) and (2) set out what constitutes marketing a dwelling house to be let on a tenancy or licence to occupy for the purposes of section 16E. Subsection 16G(3) excludes publication of an advertisement from these definitions provided the publisher is not involved with "lettings agency work" and did not themselves supply the advertisement.

147. Subsection 16G(4) sets out the meaning of "lettings agency work" to encompass things like informing another person about available homes to rent. This works together with the meaning of marketing, found in subsections 16G(1) and (2). This provides that for the purposes of the prohibitions in section 16E(2) and (3), informing another person that a residence is available within the course of "lettings agency work" qualifies as "marketing" for the purposes of this section. Subsection 16G(5) excludes certain activities from the "lettings agency work" definition, on the condition that no other activities listed in subsection 16G(4)

have been carried out. For example, should a landlord advertise a property online within twelve months of using the moving or selling grounds, the landlord would be in breach of the rules, rather than the advertising site, because publishing an advertisement in and of itself is an excluded activity and does not constitute "lettings agency work".

148. Under subsections 16G(6) and 16G(7) the Secretary of State may make regulations to exclude other activities from the definition of "lettings agency work". These regulations will be subject to the negative resolution procedure.

Proposed use of power

149. The power in subsection 16G(6) allows the Secretary of State to specify matters in regulations which are to be excluded from the definition of "letting agency work". This is defined at 16G(4) for the purposes of setting out the types of marketing activities that are prohibited during "the restricted period" (see new section 16M for the meaning of that term) after relying on grounds 1 (occupation by landlord or family) or 1A (selling).

150. This power gives the Secretary of State discretion to achieve a consistent definition of "letting agency work" across legislation, should definitions change in other Acts or in Part 2 of this Act where, for example, it is used in relation to the private rented sector database and related marketing restrictions. It will also enable government to narrow the definition by further listing activities that do not fall under "letting agency work" if, in light of experience, it proves too broad, for example, because other elements of the enforcement regime for this Act change.

151. These Regulations are subject to the negative resolution procedure.

152. The power in section 13, subsection (2) allows the Secretary of State to repeal sections 16F(3) to (5), which provide an exemption for shared owners to the restriction on reletting or remarketing a property for twelve months after using Ground 1A. This will allow the Secretary of State to remove this exemption should it no longer be considered necessary.

153. Regulations made using this power are subject to the affirmative resolution procedure.

Background

154. New sections 16E, 16F and 16G are being inserted into the Housing Act 1988 to prohibit landlords, former landlords and those acting on their behalf from taking steps that would infringe the security of tenure of an assured tenant.

Section 14: Landlords acting through others

Effect

155. Section 14 inserts new section 16H (Landlords acting through others) into the Housing Act 1988 to make clear that the separate duties imposed on landlords and on people acting or purporting to act on behalf of landlords by sections 16D and 16E do not prevent a landlord from fulfilling or contravening any duty imposed on them through another person acting on their behalf.

Section 15: Landlords etc: financial penalties and offences

Effect

156. Section 15 inserts new sections 16I, 16J, 16K and 16L into the Housing Act 1988 to set out the financial penalties and offences for the breach of the prohibitions inserted into the 1988 Act by sections 12 and 13, including those relating to the misuse of possession grounds and for not providing a written statement of terms.

157. Section 16I (Financial penalties) sets out that a local housing authority will be able to impose a financial penalty if satisfied beyond reasonable doubt that a person (i.e. landlord, former landlord or other relevant person) has contravened prohibitions inserted into the 1988 Act by sections 12 or 13.

158. Subsection 16I(2) provides that where a landlord has already provided a written statement of terms, a person contracted by that landlord cannot be fined for non-compliance only by virtue of 16D(8). Subsection 16I(3) provides that if certain conditions are met then more than one financial penalty may be imposed on the same person in relation to the same conduct for a breach under section 16D. These conditions are that the contravention continues for more than 28 days, either after a final notice for a penalty is given or after the person appeals the penalty and it is determined to be unsuccessful. Subsection 16I(5) provides that a local housing authority cannot, for example, impose two financial penalties on a person both for attempting to end a tenancy by serving a tenant a notice to quit as well as for issuing a purported notice of possession where they arise from the same conduct. In this example, the local housing authority should choose one or the other when imposing a financial penalty.

159. The amount of the financial penalty imposed is to be determined by the local authority imposing it but must not be more than £7,000 (subsection 16I(6)). Subsection 16I(7) provides that a local authority may impose a joint financial penalty for the same contravention where persons have acted on behalf of others and the local authority is satisfied beyond reasonable doubt that more than one of the persons is guilty of the contravention; each person is jointly and severally liable to pay the fine.

160. Subsection 16I(8) provides for circumstances where a financial penalty cannot be imposed, including where a person has been prosecuted for an offence under section 16J in respect of the same conduct and where a financial penalty has been imposed under section 16K as an alternative to prosecution. Subsections 16I(9) and 16I(10) enable the Secretary of State to provide guidance on imposing financial penalties that local housing authorities must have regard to when they are undertaking enforcement activity under this section. Subsection 16I(11) specifies the date on which a financial penalty is imposed.

161. Section 16J (Offences) sets out the different conduct which will constitute an offence. Under subsection 16J(1), a person commits an offence by using a possession ground knowing that the landlord would not be able to get a court order for possession using that ground, or they are reckless as to whether the landlord would be able to. This only becomes an offence if the tenant surrenders the tenancy within 4 months of the date the ground was relied upon and an order for possession is not made at that time.

162. Under subsection 16J(2), a person commits an offence where they contravene subsections 16E(2) or (3) (when seeking to rely on possession grounds 1 and 1A) by letting or marketing the property within the restricted period, unless the person, who is not the landlord, can prove that they took all reasonable steps to avoid contravening those subsections.

163. Under subsection 16J(3), a person commits an offence relating to a continuing breach, if they have not complied with a requirement, have received a financial penalty for that prohibited conduct (a "relevant penalty") and continue the same conduct for more than 28 days thereafter (assuming the final notice has not been withdrawn and any appeal has been determined or concluded). Under subsection 16J(4), a person commits an offence relating to a repeat breach, if they have not complied with a requirement, have received a financial penalty for prohibited conduct (a "relevant penalty") and within the next five years receive either a relevant penalty for different conduct or a conviction for an offence under section 16J for different conduct.

164. Subsection 16J(5) defines "relevant penalty" for the purposes of subsections 16J(3) and (4). Subsection 16J(6) provides that a person may not be convicted of an offence under subsection 16J(1), (2) or (4) if a financial penalty has been imposed for the same conduct, under sections 16I or 16K. Subsections 16J(7), (8) and (9) provide that officers and members of bodies corporate that have committed an offence under section 16J may be liable to be prosecuted and punished accordingly, where it can be proven that they either consented to, connived in or were negligent as to the commission of an offence.

165. Subsection 16J(10) provides that a guilty person is liable on summary conviction to a fine.

166. Section 16K (Financial penalties as an alternative to prosecution under section 16J) provides that a local housing authority can impose a financial penalty of up to £40,000 if they are satisfied beyond reasonable doubt that a person has committed an offence under section 16J. Subsection 16K(2) provides for where a financial penalty cannot be issued, including if the person has already been convicted of a criminal offence under 16J for the same conduct, if criminal proceedings are ongoing, or if criminal proceedings have taken place and the person has not been found guilty. Subsection 16K(4) provides that a local housing authority can impose a joint penalty for the same contravention where persons have acted on behalf of others and the local housing authority is satisfied beyond reasonable doubt that more than one of the persons is guilty of the offence. All persons upon whom the penalty is imposed are jointly and severally liable to pay it.

167. Subsections 16K(5) and 16K(6) give the Secretary of State powers to issue guidance on the imposition of financial penalties that local housing authorities must have regard to when they are undertaking enforcement activity under this section.

168. Section 16L (Financial penalties: supplementary and interpretation) enables the Secretary of State to give financial assistance to local housing authorities to support their enforcement functions under 16I to 16K. It also gives the Secretary of State powers to amend the maximum penalty levels specified in sections 16I and 16K in regulations to reflect inflation. Regulations made under this power are subject to the negative resolution procedure.

169. Subsection 16L(5) introduces Schedule 2ZA which provides more information on the procedures, appeals and enforcement processes of local authorities, as well as how local authorities are to deal with proceeds from fines.

Proposed use of powers

170. Subsections 16I(9) and 16K(5) allow the Secretary of State to issue guidance on the use of financial penalties that local authorities must have regard to when exercising their enforcement functions under those sections. Guidance will assist local housing authorities to effectively enforce contraventions of the duties imposed by sections 16D and 16E and to prioritise enforcement appropriately.

171. The power under section 16L(2) allows the Secretary of State to amend maximum penalty levels. This aims to ensure that the financial penalties continue to serve as a deterrent by reflecting changes to the value of money due to inflation.

172. Regulations made under these sections will be subject to the negative procedure.

Background

173. Sections 16I, 16J, 16K, and 16L are all new provisions being added to the Housing Act 1988 to ensure appropriate financial penalties for prohibited behaviour under the new system. These provisions are intended to deter non-compliance and help local authorities proportionately target enforcement activity against those landlords, former landlords and relevant persons who wilfully or recklessly disregard their obligations to tenants.

Example 1: Offering a fixed-term contract

A landlord offers a tenant a fixed-term contract, which is in contravention of the new tenancy system (so, the landlord committed a breach under section 16I(1)). No criminal proceedings have been initiated against the landlord. If the local housing authority is satisfied beyond reasonable doubt that this has taken place, they could fine the landlord up to £7,000.

Example 2: Misuse of the moving in ground

A landlord evicted a tenant using the moving in ground, claiming they were planning to move in their brother. The tenant moved out four months after the eviction notice was issued. The landlord had never intended for their brother to move into the property and was waiting for the restricted period, where letting and marketing is prohibited, to end to re-let the property at a higher rent (so, the landlord committed an offence under section 16J(1)). If the local housing authority was satisfied beyond reasonable doubt that this had happened, they would have the choice to impose a fine of up to £40,000 as an alternative to criminal prosecution.

Section 16: Financial penalties: procedure, appeals and enforcement

Effect

174. Section 16 inserts Schedule 2ZA (Financial penalties under sections 16I and 16K) into the Housing Act 1988. Paragraphs 1 and 2 impose a duty on a local housing authority to issue a notice of intent before imposing a financial penalty on a person under sections 16I or 16K within specific timeframes. The notice must be issued either within six months of the local housing authority collecting sufficient evidence of the conduct to which the financial penalty relates or, if the person is continuing the conduct, any time during the period that the conduct is continuing or within six months of the conduct ending. Paragraph 3 details the information the notice must include, for example the amount of the proposed penalty and information about the person's right to make representations.

175. Paragraph 4 provides that a person who is given a notice of intent has the right to make written representations to the local housing authority about the proposed fine within 28 days of the notice being served.

176. Paragraphs 5, 6, 7 and 8 set out the procedure the local housing authority must follow once the period during which written representations can be made has ended. The local housing authority must decide whether to issue a financial penalty and the amount. If they decide to issue a penalty, the local housing authority must give the person a final notice imposing the penalty. The final notice must set out certain information, including the reasons for imposing the penalty, how to pay the penalty, information about rights of appeal, and the consequences of failure to comply with the notice.

177. Paragraph 9 provides for a local housing authority to withdraw a notice of intent or final notice or reduce the amount of the financial penalty. A decision to do so must be communicated to the person in writing.

178. Paragraph 10 sets out the appeals process for a person who has been issued a final notice. They may appeal to the Tribunal within 28 days from the day after the date the final notice was given. The Tribunal can either confirm, vary, or cancel the fine. Varying the fine means the Tribunal can either reduce the fine or increase it up to the statutory maximum fine stipulated in sections 16I and 16K. If a person appeals the local housing authority's decision, the final notice is suspended until the appeal is determined, withdrawn, or abandoned. The appeal may take into account additional evidence of which the enforcement authority was unaware.

179. Paragraph 11 details the process that local housing authorities should follow to recover unpaid fines. Should a person fail to pay all or part of a fine, the local housing authority can recover the unpaid amount by obtaining a county court order. In county court proceedings, a signed certificate by the chief finance officer of the local housing authority confirming the amount has not been paid is conclusive evidence of that fact.

180. Paragraphs 12, 13 and 14 provide for how local housing authorities may use the proceeds of financial penalties. Local housing authorities may use the proceeds towards costs and expenses associated with carrying out enforcement functions relating to the private rented sector. Any proceeds not used for this purpose must be paid to the Secretary of State.

Background

181. This section adds a new provision to the Housing Act 1988. It is intended to support local housing authorities with levying financial penalties appropriately and ensuring there is a robust appeals process.

Section 17: Duties of landlords etc, penalties and offences: interpretation

Effect

182. This section inserts new section 16M (Duties of landlords etc, penalties and offences: interpretation) into the Housing Act 1988 to provide essential definitions for terminology used in sections 16D to 16L and Schedule 2ZA. These relate to assured tenancies in England, such as "relevant person", "the restricted period" and "purported notice of possession".

183. Subsection 16M(4) defines "the restricted period". This is the total period during which letting and marketing is prohibited following reliance on the moving and selling possession grounds (ground 1 or 1A). This period generally starts when notice is served either via a section 8 notice or a purported notice of possession and ends twelve months after the date specified in the notice or purported notice as the earliest date on which possession proceedings will begin. For a case where a relevant person is relying on grounds 1 or 1A in a claim form where no notice is given, the "restricted period" period is twelve months beginning with the date when the claim form was filed with the court for the purposes of bringing possession proceedings. Subsections 16M(5) to (6) provide for the effect on the restricted period when a notice specifies ground 7A or 14 as well as either ground 1 or 1A, or a purported notice of possession either specifies no date or an invalid date for when possession proceedings will begin. When the court makes an order of possession on another ground other than 1 or 1A before the end of an ongoing restricted period, new subsection 16M(7) also provides that the restricted period ends on the day that order is made.

Proposed use of powers

184. The power under subsection 16M(1)(b) allows the Secretary of State to expand the definition of "legal representative" to include other persons, aside from those set out in 16M(1), who would as a consequence be exempt from the definition of "relevant person" and therefore not bound by the duties or enforcement action of local housing authorities as set out in sections 16D to 16L. This enables the government to exempt other types of legal services where their activities in England are subject to equivalent regulation. Regulations will be subject to the negative procedure.

Background

185. This is a new provision.

Section 18: No criminal liability of the Crown under Part 1 of the 1988 Act

Effect

186. Section 18, which amends section 44 of the Housing Act 1988, provides that the offences created under new section 16J do not bind the Crown. It is possible under new section 16K for a financial penalty of up to £40,000 in lieu of prosecution to be imposed on the Crown for conduct which would generally make a landlord guilty of an offence under 16J. This exemption from criminal liability does not extend to persons acting in service of the Crown.

Background

187. This section adds new provision to the Housing Act 1988 to set out how provisions in the Act will apply to the Crown.

Section 19: Guarantor not liable for rent payable after tenant's death

Effect

188. Section 19 inserts two new sections, 16N (Guarantor not liable for rent payable after tenant's death) and 16P (Section 16N: application and interpretation), into the Housing Act 1988. This section limits the liability of guarantors for rent in the event of a tenant's death in specified circumstances.

189. Section 16N details the circumstances in which a guarantor will not be held liable for guaranteed rent following the death of a tenant (or tenants). Subsection (1) confirms that this section applies where an individual (known as a guarantor) guarantees the rent of a tenant who is renting a property on an assured tenancy and the guarantor became a party to the guarantee agreement on or after commencement.

190. Subsection (2) deals with sole occupancy tenancies. It provides that where the deceased tenant was the sole occupant, the guarantor cannot be held liable for rent accrued on or after the tenant's death.

191. Subsections (3) to (5) deal with joint tenancies. Subsection (3) provides that where there are two or more tenants, and in the unlikely event all of those tenants die, the guarantor is not liable for rent from the date of their deaths (if they die on the same day) or the date of the last to die (if they do not die on the same day). Subsection (4) provides that where there are two or more tenants and one of the tenants is a family member of the guarantor, if the family member dies then the guarantor will not be liable for rent on or after the date of their death. Subsection (5) provides that where the guarantor is a family member of more than one of the tenants, the guarantor is not liable for rent from the date of their deaths (if they die on the same day) or from the date of the last to die (if they do not die on the same day). If the guarantor is not a family member of the deceased tenant(s), the guarantor remains liable for rent under an existing guarantee agreement.

192. Subsection (6) explains what constitutes guaranteed rent following the death of a tenant (or tenants). This is the rent for the remainder of the rent period in which the tenant (or tenants) dies and the rent for any subsequent rent period of the assured tenancy. Subsection (7) provides a formula to calculate the amount of guaranteed rent attributable to the time after the death of a tenant (or tenants) during the rent period in which death occurs.

193. Section 16P (Section 16N: application and interpretation) confirms how section 16N is to be applied and defines key terms in section 16N.

194. Subsection (1) outlines that section 16N applies to a guarantee whether or not the guarantee is in writing, in the lease or it guarantees sums other than rent.

195. Subsection (2) defines key terms used in section 16N, including "commencement date", "family member" (see also subsections (3) and (4)) and "rent period".

196. Subsection (3) confirms the relationships within the definition of a family member of the guarantor. Subsection (4) confirms that if a person meets the definition of family member when or at any point after the guarantee is entered into, they remain so at all times afterwards, regardless of whether the definition at subsection (3) continues to be met.

197. Subsection (5) provides further explanation of the intended meaning of the terms "co-habitee", "niece", "nephew", "aunt", "uncle", "cousin" and "sibling", to assist interpretation.

Background

198. Section 19 is a new provision that inserts sections 16N and 16P into the Housing Act 1988 to limit a guarantor's liability for rent following the death of a tenant. These sections apply to guarantee agreements that started on or after the commencement date. Terms of guarantee agreements that purport to hold a guarantor liable for rent in these circumstances will be unenforceable.

Section 20: Notices to quit by tenants under assured tenancies: timing

Effect

199. Section 20 amends section 5 of the Protection from Eviction Act 1977. Subsection (1ZA)(a) sets out rules about the period of notice that a tenant can be required to provide when ending an assured tenancy. If a landlord and tenant agree in writing the amount of notice a tenant must provide when serving a notice to quit, this must not be more than two months. If there is no written agreement, a tenant must give notice at least two months before the date on which the notice is to take effect (i.e., at the end of a period of the tenancy). If the tenancy is a joint tenancy, where a joint tenant agrees a shorter notice period for a notice to quit with the landlord, all other joint tenants must also agree to the shorter notice period.

200. Subsection (1ZA)(b) provides that for other tenancies where the Protection from Eviction Act 1977 applies, the notice to quit must be given at least four weeks before the date on which the notice is to take effect.

Background

201. The length of notice that a tenant currently has to provide is set by common law rules or in the tenancy agreement subject to a minimum notice period of four weeks for most tenancies and licences by virtue of section 5 of the Protection from Eviction Act 1977. This section amends the Protection from Eviction Act 1977 to specify the length of notice that a tenant in future will need to give when ending an assured tenancy. The default period of notice required is not less than two months before the end of a period of the tenancy. This should provide sufficient notice to the landlord to relet the property as required. A shorter notice period is allowed, if all parties agree in writing – that agreement may be set out in the tenancy agreement or in a separate document.

202. A landlord under an assured tenancy who wishes to obtain possession must give notice in accordance with the requirements of the Housing Act 1988.

Section 21: Notices to quit by tenants under assured tenancies: other

Effect

203. Section 21 inserts new section 5A into the Protection from Eviction Act 1977. Subsections (1) and (2) make clear that any attempts by a landlord to specify the form of writing a notice to quit must take will have no effect.

204. Subsection (3) sets out that a notice to quit may be withdrawn before the date on which it takes effect, if agreed in writing by the tenant and landlord.

205. Subsection (4) specifies that if the tenancy is a joint tenancy, then all the tenants must agree with the landlord to the withdrawal of a notice to quit. This does not affect the validity of a notice to quit given by only one or some of the tenants.

Background

206. To end an assured periodic tenancy, tenants must give a notice to quit. Prior to this Act, tenants could be required by the tenancy agreement to provide notice to quit in a particular way. This section provides that such notice must be given in writing, but landlords cannot specify a particular form of written communication.

207. It also provides that tenants may withdraw a notice to quit under an assured tenancy if the landlord agrees, to allow flexibility for both landlord and tenants. These measures do not affect the rights of both parties to agree together to the tenant surrendering the tenancy.

Section 22: Limitation on obligation to pay removal expenses

Effect

208. Section 22 amends section 11 of the Housing Act 1988 (payment of removal expenses in certain cases) so that only relevant social landlords (as defined by ground 6) are required to pay reasonable removal expenses to tenants when the court awards possession under grounds 6 (redevelopment), ground 6A (decant) or ground 9 (suitable alternative accommodation). This requirement applies where the dwelling house that the tenant is moving from is social housing.

209. In addition, subsection (5) amends section 11 of the Housing Act 1988 so that a relevant social landlord will also be required to pay reasonable expenses likely to be incurred by the tenant in moving them from the alternative accommodation provided temporarily under case B of the "additional RSL condition" in ground 6.

Background

210. Under the Housing Act 1988, landlords of assured tenancies are currently required to pay the tenant reasonable moving expenses when they are awarded possession under ground 6 or ground 9. When the Act comes into force for social housing assured tenancies, the extended ground 6 and new ground 6A (decant ground) will become available to registered social landlords. As part of this, this provision is necessary to ensure the requirement to pay expenses is aligned with the wider definition under the new ground 6 of "relevant social landlord".

Section 23: Assured agricultural occupancies: grounds for possession

Effect

211. Section 23 makes consequential amendments to section 25 of the Housing Act 1988 reflecting the removal of fixed-term tenancies and new grounds. Landlords with an Assured Agricultural Occupancy will continue to be excluded from using the "employment" ground (now ground 5C) as well as new grounds 2ZA, 2ZB, 2ZC, 2ZD and 5A.

Background

212. An agricultural worker may qualify for an Assured Agricultural Occupancy (AAO) if they meet the agricultural worker condition set out in Schedule 3 of the Housing Act 1988. An AAO provides greater security of tenure than a standard assured tenancy as a landlord cannot end the tenancy if their employment of the tenant ends. Consequential amendments are needed to ensure tenants with AAOs continue to enjoy greater security of tenure.

Section 24: Assured agricultural occupancies: opting out etc.

Effect

213. Section 24 makes consequential changes to section 24 of the Housing Act 1988 to reflect the abolition of assured shorthold tenancies. It also inserts a new section, 24A, into the Housing Act 1988 so that landlords can "opt out" and provide assured periodic tenancies, instead of assured agricultural occupancies, to qualifying workers. It is similar to paragraph 9 of Schedule 2A of the Housing Act 1988 which is omitted by section 2, subsection (b) of the Act.

214. Section 24A(1)(a) of the Housing Act 1988 provides that landlords must inform their tenant before the tenancy starts that the tenancy will not be an assured agricultural occupancy by serving an opt-out notice on them. Section 24A(2) provides that the opt-out notice must be in a prescribed form.

Background

215. Under paragraph 9 of schedule 2A of the Housing Act 1988, landlords can "opt-out" of providing assured agricultural occupancies and issue assured shorthold tenancies instead. As the Act abolishes assured shorthold tenancies, these new provisions will allow an opt-out to continue in the new system.

Section 25: Accommodation for homeless people: duties of local authority

Effect

216. Section 25 amends Part 7 of the Housing Act 1996. Subsection (2)(a) repeals section 193(1A)(b), Part 7 of the Housing Act 1996, which disapplies the main housing duty (section 193) for anyone to whom the local housing authority has served a notice under section 193B(2) (a notice given where an applicant has deliberately and unreasonably refused to cooperate). The amendment will allow local housing authorities to serve a notice to end the relief or prevention duty under section 193B of the Housing Act 1996 with no consequence for applicants who are owed the main duty under section 193 and are in priority need.

217. Subsection (2)(b) repeals subsection 193(6)(cc), which allows local housing authorities to bring the main housing duty to an end if the applicant accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord. Sections 193(7AA) – 193(7AC) go on to set out how a local housing authority can bring the main duty to an end through a private rented sector offer.

218. Subsection (2)(c) amends section 193(7AB), Part 7 of the Housing Act 1996, to remove the requirement for local housing authorities to notify the applicant of the effects of the reapplication duty, since this duty is being repealed by subsection (4) of this section.

219. Subsection (2)(d) amends section 193(7AC), Part 7 of the Housing Act 1996, to remove the requirement that for a private rented sector offer to be suitable to end the main housing duty, it must be an assured shorthold tenancy for a period of at least 12 months and replaces it with a requirement that such an offer must be an assured tenancy.

220. Subsection (3) amends section 193C by repealing the provisions which disapply the main duty (section 193) for people who have deliberately and unreasonably refused to co-operate with the local housing authority. In place of the main duty an offer of an assured shorthold tenancy of at least six months could be offered in these circumstances. The amendments mean that a notice in relation to this section will have the sole consequence of ending any prevention or relief duty owed, with no consequence in relation to the main duty under section 193.

221. Subsection (4) repeals section 195A of the Housing Act 1996, which is the duty in homelessness legislation to offer accommodation following re-application after a private sector offer, known more commonly as "the reapplication duty". This section repeals this duty, therefore, at the point of reapplication the local housing authority will owe the applicant whichever is applicable of the prevention, relief, and main duties.

Background

222. Sections 193B and 193C of the Housing Act 1996 deal with what happens when a person, who is owed either the prevention or relief duty, deliberately and unreasonably fails to cooperate with the local housing authority. Section 193B deals with notices and section 193C deals with the consequences of serving a notice under section 193B.

223. If the local housing authority is satisfied that the applicant is homeless, eligible for assistance and has a priority need, and they are not intentionally homeless, then the applicant is still owed a duty to be accommodated but it is a lesser one than the duty under the main housing duty. The duty is to offer a fixed-term tenancy of at least six months as opposed to the period of at least 12 months which is required under the main duty, to provide a sanction, for those who deliberately and unreasonably refused to cooperate. With the repeal of fixed-term tenancies the lesser offer is redundant and is removed by this section.

224. Subsections 2(b)-(d) make further minor amendments as this Act abolishes section 21 evictions, assured shorthold tenancies and fixed-term tenancies and references to them must be removed.

225. Separately, subsection (4) removes the reapplication duty from Part 7 of the Housing Act 1996 which is a duty owed by a local housing authority to a homeless applicant who accepted a final offer of suitable accommodation in the private rented sector, and then becomes homeless again within 2 years and reapplies for accommodation. The duty applies regardless of whether the applicant has priority need.

226. The reapplication duty was introduced alongside the introduction of Private Rented Sector Offers (PRSOs) as a means to end the main housing duty, in response to concern that due to the short-term nature of assured shorthold tenancies, applicants who accepted a PRSO may become homeless again within a two-year period and, on application for assistance, would be found to no longer have priority need. The Act is repealing assured shorthold tenancies and fixed-term tenancies; therefore, in the future, all tenancies will be assured and offer greater security of tenure. This increased security of tenure and removal of section 21 evictions means the reapplication duty will no longer be required.

Section 26: Tenancy deposit requirements

Effect

227. Section 26 makes amendments to Chapter 4 of Part 6 of the Housing Act 2004. Subsections (2) to (4) make consequential amendments to the Housing Act 2004. The effect of these is to continue the requirement for deposits to be protected for new assured tenancies and tenancies that were assured shorthold tenancies immediately before the commencement date.

228. Subsection (5) substitutes section 215 of the Housing Act 2004. The effect will be to require landlords who take a deposit for an assured tenancy to have ensured it is appropriately protected in line with the requirements in section 213 of the Housing Act 2004 before a court will award possession. This will apply to all grounds for possession in Schedule 2 of the Housing Act 1988, apart from grounds relating to serious crimes and anti-social behaviour (grounds 7A and 14).

229. New section 215 sets out the conditions that must be met for a court to award possession. These are:

a. Subsection (1) requires landlords to have protected the deposit in one of the authorised tenancy deposit schemes.

b. Subsection (2) requires landlords to have complied with any requirements of the scheme that applied when the deposit was received. The landlord can comply with those requirements at any time.

c. Subsection (3) requires landlords, to have complied with the requirements to give tenants certain information in respect of the deposit under:

230. Section 213, subsection (5) of the Housing Act 2004, which states that landlords must give the tenant and any relevant person certain prescribed information about the protection of the deposit.

231. Section 213, subsection (6)(a) of the Housing Act 2004, which requires landlords to provide this in the prescribed form or in a form that is substantially to the same effect (however a failure to comply with the time limit in section 213, subsection (6)(b) for the provision of this information is not a barrier to obtaining possession).

232. New section 215, subsection (4) creates an exception for possession orders made on grounds 7A or 14, such that possession can be awarded on these grounds even if the deposit is not properly protected.

233. New section 215, subsection (5) disapplies the requirements under subsections (1) to (3) if the deposit has been returned (either in full or with agreed deductions) or where an application to the court has been made under section 214, subsection (1) and has been determined by the court, withdrawn or settled by the parties.

234. New section 215, subsection (6) prevents the granting of a possession order (on the grounds in Schedule 2 of the Housing Act 1988) by a court where a landlord has taken an unlawful deposit consisting of property other than money, until the unlawful deposit has been returned.

235. New section 215, subsection (8) maintains the current position that a deposit does not need to be protected if the relevant periodic assured shorthold tenancy was created before 6 April 2007.

Background

236. Landlords are currently required to demonstrate compliance with some tenancy deposit rules in order to proceed with a section 21 notice. This supports enforcement of deposit requirements. These provisions therefore amend the existing legislation to apply similar restrictions to most section 8 cases in future.

237. The provisions require landlords to have complied with the deposit protection requirements in order for a court to award possession, unless grounds 7A or 14 are relied upon.

Section 27: Tenant fees

Effect

238. Section 27 replaces references to an "assured shorthold tenancy" in the Tenant Fees Act 2019 with "assured tenancy" and omits its definition of a "long lease".

Background:

239. The Renters' Rights Act abolishes assured shorthold tenancies, so any references in the Tenant Fees Act 2019 must be updated in order that its various financial protections continue to be afforded to the intended cohort of renters.

240. Assured tenancies cannot be granted for periods of over seven years, so protections previously afforded to long-leaseholders of between seven and 21 years are no longer necessary.

Section 28: Liability of tenants under assured tenancies for council tax

Effect

241. Section 28 amends section 6, subsection (6) of the Local Government Finance Act 1992. This section expands the definition of material interest for the purposes of determining council tax liability, so it will include a tenancy that is, or was previously, an assured tenancy under the Housing Act 1988.

Background

242. This provides that tenants with an assured tenancy, or a tenancy that was previously an assured tenancy, will be considered to hold or to have held a material interest in the property for the purposes of being liable for council tax. This will ensure tenants are liable for council tax for the duration of the tenancy, including until the end of the notice period, where they serve notice to end the tenancy.

Section 29: Other amendments

Effect

243. Section 29 sets out that Schedule 2 of this Act contains amendments which are consequential to changes made by Chapter 1 of Part 1 of the Act.

Background

244. This is a new provision.

Section 30: Powers of Secretary of State in connection with Chapter 1

Effect

245. This section provides the Secretary of State with powers to introduce regulations adapting other legislation and private legal instruments to changes made by Part 1 Chapter 1 of the Act (Tenancy Reform: Assured Tenancies) or its associated regulations.

246. Subsections (1) and (2) provide that the Secretary of State may introduce regulations to amend existing legislation so that it continues to operate in a way that is similar or correspondent to its effect on tenancies prior to key changes the Act makes to the assured tenancy system. This applies to (i) provisions relating to fixed term tenancies and assured shorthold tenancies which section 1 converts to assured periodic tenancies, so that those provisions can be adapted to cover assured periodic tenancies in future; and (ii) provisions relating to the grounds of possession in Schedule 2 Housing Act 1988, which are altered by section 4 and Schedule 1.

247. Subsection (3) provides that regulations in relation to assured shorthold tenancies made under subsection 1(b) can include measures to ensure provisions relating to notices served under section 21 of the Housing Act 1988 continue to apply in relation to notices under section 8 of the same.

248. Subsection (4) provides that transitional provisions that may be included in regulations made under the powers in subsection (1) or (2) include provision modifying the effect of existing private legal instruments which the Secretary of State considers will not operate appropriately. Private legal instruments may include insurance contracts, leases, or mortgages. Subsection (5) clarifies that this includes where a provision made by the instrument is redundant, unclear or outdated following changes to the law, or where the Act might put a party to an existing agreement in breach of terms it currently complies with.

249. Subsection (6) ensures that, when regulations under subsection (4) change the effect of private legal instruments made before the Act's changes, the parties to those documents can agree a different result instead of the default one provided by legislation.

250. Subsection (7) provides that regulations made under subsection (4) may apply to an instrument as it had effect before the coming into force of the regulations but after the commencement date.

Proposed use of power

251. The power in this section will allow the Secretary of State to make changes to other legislation and the effect of private legal instruments to reflect changes made by Part 1 Chapter 1 of the Act. For example, some legislation only applies to assured shorthold tenancies, which the Act will abolish as a category, rather than to other forms of assured tenancy. It may not be appropriate in each case to transpose all existing rights and duties applicable to assured shorthold tenancies to all assured tenancies in the future. Private legal instruments, such as mortgages, leases or insurance contracts may also contain references to assured shorthold tenancies, or other obsolete terms, and their effect may need amending to reflect changes made by the Act.

Chapter 2: Tenancies that cannot be assured tenancies

Section 31: Long tenancies and financial services products Effect

252. Section 31 amends Schedule 1 of the Housing Act 1988 to add fixed-term tenancies of more than 21 years to the list of tenancies that are excluded from the assured tenancy system. This will apply to leases entered into before and after this section has commenced.

253. It also adds existing fixed-term tenancies that are more than seven years but 21 years or less to the list of excluded tenancies in Schedule 1. This will apply to tenancies of this length that were entered into before the 27 December 2025. It will also apply to tenancies entered into after that date pursuant to a contract signed before the 27 December 2025.

254. This section also adds regulated home purchase plans to the list of excluded tenancies in Schedule 1. These are defined by the description in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. The Secretary of State has the power to amend the definition in relation to section 31, should the 2001 Order change.

255. Subsection (3) amends section 13 of the Landlord and Tenant Act 1985 (LTA85) to preserve the current application to private registered providers of social housing. They will retain the repairing obligations set out in section 11 of the Landlord and Tenant Act 1985 for tenancies of over seven years in length that would have been assured, were it not for their exclusion under Schedule 1 of the Housing Act 1988.

256. Subsection (3) also provides for existing fixed term tenancies of seven years or more that transition across to the new system, and which were not granted by private registered providers of social housing. As assured tenancies granted for a term of exactly seven years will become periodic tenancies under this Act, this subsection ensures that the repairs obligations in section 11 of the Landlord and Tenant Act 1985 will not apply to the tenancy. This will mean the repairing obligations will continue to be governed by the tenancy agreement.

257. Subsection (4) amends Schedule 10 of the Local Government and Housing Act 1989 to prevent the accidental removal of the application of Schedule 10 to leases of dwelling-houses in England which would otherwise be assured but for being at a low rent.

258. Subsections (5) and (6) make transitional provision. Proceedings commenced in reliance of notices served under section 8 of the Housing Act 1988 before subsection (1) comes into force may continue until they are concluded. A tenancy will remain an assured tenancy until the notice expires or the proceedings conclude.

Background

259. This section excludes leases of more than 21 years from the assured tenancy system. This will allow leases over 21 years to have fixed terms, which are necessary for long leases to function. This will primarily affect shared ownership products and leasehold agreements with ground rents high enough to meet the legal threshold of an assured tenancy. It will mean landlords are no longer able to use the section 8 grounds to obtain possession of long leases which are also assured tenancies by virtue that they are not at low rent, including where a shared owner has built up arrears of rent.

260. This section will ensure that leases between seven – 21 years that were entered into before the Act are not pulled into the assured tenancy regime, given these leases were drawn up under a different legislative regime.

261. It will also ensure that regulated home purchase plans can continue to function. These enable consumers to purchase property using Islamic Finance, which does not permit the receipt and payment of interest.

Section 32: Accommodation for homeless people or students

Effect

262. Section 32 inserts section 199A of the Housing Act 1996, into the list of specified sections already set out in section 209, subsection (1) of that same Act. This will ensure that, as is the case for the sections already stated in section 209, subsection (1), a tenancy granted pursuant to section 199A cannot be an assured tenancy, other than in the circumstances allowed for in section 209, subsection (2).

263. Section 32 also amends Schedule 1 to the Housing Act 1988, paragraph 8, so that the government can make regulations ensuring that student lettings where the landlord or person managing the building or tenancy is subject to codes of practice approved under section 233 of the Housing Act 2004 will not be assured tenancies. This will bring them in line with university managed accommodation, with key tenant protections relating to those tenancies arising from the Codes themselves and the Protection from Eviction Act 1977 (preventing eviction without a prior court order).

Background

264. Local authorities have an interim duty to provide temporary accommodation under section 188, subsection (1); 190, subsection (2); 199A, subsection (2); 199A, subsection (4)(c); and 200, subsection (1) of the Housing Act 1996, where the relevant conditions are met. Section 209, subsection (1) already contains an exemption to ensure that interim temporary accommodation provided under section 188, 190 or 200 will not create an assured tenancy, other than in the specified conditions set out in section 209, subsection (2). Section 199A applies when a local authority accepts a relief duty to provide interim temporary accommodation, whilst it refers that relief duty under section 198(A1) to another local authority where the applicant is considered to have a local connection, pending its decision.

265. Section 199A was inserted into the Housing Act 1996 by the Homelessness Reduction Act 2017 and came into force on 3 April 2018. This post-dates section 209. This section inserts section 199A into section 209, subsection (1) alongside the other specified sections where local authorities have an interim duty or discretion to provide temporary accommodation.

266. The Secretary of State had an existing power under paragraph 8 of Schedule 1 to the Housing Act 1988 allowing them to name by regulations landlords of student tenancies which would not be assured tenancies. This section expands that power, to allow the exemption from the assured tenancy regime to be granted to any landlord or person managing the building or tenancy who is subject to codes of practice approved under section 233 of the Housing Act 2004.

Chapter 3: Discrimination in the rental market: England

Section 33: Discrimination relating to children

Effect

267. Section 33 prohibits discriminatory bans and restrictions on the letting of private rented sector properties on the basis that a child would live with, or visit, a person at the property, or any conduct which might otherwise effectively constitute such a restriction. This prohibition applies to all assured tenancies other than when in connection with social housing or supported accommodation, and in relation to all relevant discrimination including that which targets a specific subset of "child", such as those in fostering arrangements.

268. Subsection (1) outlines behaviours in a letting process that will be outlawed and explains that any related discriminatory provisions, criteria or practices are also prohibited.

269. Subsection (2) sets out the exemptions to these prohibited behaviours and provides that these behaviours are permissible if the conduct is a proportionate means of achieving a legitimate aim or to fulfil the conditions of an existing insurance contract.

270. Subsection (3) outlines conduct that will not breach the prohibition in subsection (1) where a person or organisation solely provides a platform to host lettings adverts or provide for landlords and tenants to communicate. This includes a delegated power under which the Secretary of State may exempt additional conduct from being prohibited via regulations.

Proposed use of power

271. Section 33, subsection (3)(b) enables the Secretary of State to exempt additional conduct from the "no children" rental discrimination prohibitions, to make sure the provisions can be adapted to changing market practices and not inadvertently make third party platforms liable for rental discrimination breaches. Regulations laid under section 33, subsection (3)(b) are subject to the affirmative procedure.

Background

272. This is a new provision.

Example: Proportionate means of achieving a legitimate aim

A letting agent is advertising a small bedroom to rent in a house in multiple occupation (HMO). The agent clearly sets out the size of the bedroom and amenities available in the advert. A prospective tenant with two teenage children comes across the advert online. Although the bedroom is clearly quite small, the tenant believes the space can be managed. During the viewing the prospective tenant mentions that she has two teenage children who would be living in the property with her. The letting agent subsequently informs her that he cannot let to her and her children because the bedroom can legally only be occupied by one adult and a small child. In this case the letting agent could argue under section 33, subsection (2)(a) that refusing to enter into a tenancy of the dwelling in order to adhere to overcrowding regulation is a proportionate means of achieving a legitimate aim and as a result the ban is lawful.

273. The Property Ombudsman ruled in March 2023 that blanket bans on renting to households with children violated the equalities rules laid out in its Code of Practice, due to their disproportionately affecting women. Section 33 makes it explicit that discrimination relating to children in the private rented sector is illegal, regardless of the sex of the parent or carer.

Section 34: Discrimination relating to benefits status

Effect

274. Section 34 prohibits discriminatory bans and restrictions against the letting of private rented sector properties to persons in receipt of benefits, as well as any practices which might otherwise effectively constitute such bans or restrictions.

275. Subsection (1) outlines behaviours in a letting process that will be prohibited and explains that any related discriminatory provisions, criteria or practices are also outlawed.

276. Subsection (2) sets out an exemption to this prohibition, that these behaviours are permissible where done so to fulfil the conditions of an existing insurance contract.

277. Subsection (3) outlines the conduct that will not breach the prohibition in subsection (1), where a person or organisation solely provides a platform to host lettings adverts or provide for landlords and tenants to communicate. This subsection also includes a delegated power under which the Secretary of State may exempt additional conduct from being prohibited via regulations.

Proposed use of power

278. Section 34, subsection (3)(b) enables the Secretary of State to exempt additional conduct from the "no benefits" rental discrimination prohibitions, to make sure the provisions can be adapted to changing market practices and not inadvertently make third party platforms liable for rental discrimination breaches. Regulations laid under section 36, subsection (3)(b) are subject to the affirmative procedure.

Background

279. This is a new provision.

280. County courts have previously ruled that such behaviours violate the Equality Act 2010, based on sex and disability status. Section 34 makes it explicit that discrimination relating to benefit status in the private rented sector, regardless of sex and disability status, is illegal.

Example: Posting a 'No DSS' Advert

A landlord asks a letting agent to post a 'No DSS' advert in relation to a property. A prospective tenant who is in receipt of benefits sees the advert during a search for a new let. The tenant reports the letting agent to the local council on the basis that the advert discriminates against benefit recipients. The local council investigates the claim and is satisfied on the balance of probabilities that the advert discriminated against benefit claimants. The letting agent informs the local council that they were instructed by the landlord to post the advert. Under these provisions the local council can take enforcement action against the letting agent, landlord, or both. In this case the local council notifies the letting agent and the landlord of the breach and takes appropriate enforcement action.

Section 35: Discriminatory terms in a tenancy relating to children or benefits status

Effect

281. Section 35 renders of no effect terms in a tenancy agreement which prohibit children from living at or visiting the property, or otherwise restrict the circumstances under which they may do so, and terms which prohibit the tenant from being a benefits claimant.

282. Subsection (1) renders of no effect such terms with regards to children. Subsection (2) provides that the restriction in subsection (1) does not apply to such terms if they are a proportionate means of achieving a legitimate aim or fulfils a term in an existing insurance contract which prohibits or restricts occupation or visit by children.

283. Subsection (3) renders of no effect such terms with regards to benefits status. Subsection (4) provides that the restriction in subsection (3) does not apply if such a term is required to fulfil a related term in an existing insurance agreement which prohibits occupation by benefits claimants.

Background

284. This is a new provision.

285. These provisions have retrospective effect and apply to all regulated tenancies entered before commencement or all relevant tenancies whether entered before, on or after commencement.

Section 36: Terms in superior leases relating to children or benefits status

Effect

286. Section 36 renders of no effect all discriminatory terms related to children and benefits status of relevant tenants in the superior lease(s) of a private rented sector property let under a relevant tenancy or regulated tenancy.

287. These provisions are laid out in subsections (1) and (3) and apply to all relevant tenancies or regulated tenancies except, in relation to children, if the term makes provision that is a proportionate means of achieving a legitimate aim as under subsection (2). Under subsections (2) and (4), such terms may also be permitted where required to avoid breach of an existing insurance contract which prohibits occupation by children or benefits claimants.

288. Subsection (5) clarifies that, in addition to the superior lease itself, section 36 applies to all other relevant documents and communication from the landlord giving or refusing consent for sub-letting.

Background

289. This is a new provision.

290. These provisions have retrospective effect and apply to all regulated tenancies entered before commencement or all relevant tenancies whether entered before, on or after commencement. These provisions prevent a potential breach of contract between landlords and their superior lessors.

Section 37: Terms in mortgages relating to children or benefits status

Effect

291. Section 37 renders of no effect all discriminatory terms related to children and benefits status of tenants in the mortgage(s) of a private rented sector property let under a relevant tenancy or regulated tenancy.

Background

292. This is a new provision.

293. These provisions have retrospective effect and apply to all relevant mortgages whether entered before, on, or after the commencement date. These provisions prevent a potential breach of mortgage contract between landlords, agents and mortgage lenders.

Section 38: Terms in insurance contracts relating to children or benefits status

Effect

294. Section 38 renders of no effect all discriminatory terms related to children and benefits status of tenants in insurance contracts of a private rented sector property let under a relevant tenancy or regulated tenancy.

295. These provisions are laid out in subsections (1) and (2) although, as clarified in subsection (3), they do not have retrospective effect and apply only to relevant insurance contracts entered into or renewed on or after the commencement date.

Background

296. This is a new provision.

297. These provisions do not have retrospective effect and apply only to relevant insurance contracts entered into or renewed on or after the commencement date. These provisions prevent a potential breach of contract between landlords, agents and insurers.

Section 39: Power of the Secretary of State to protect others

Effect

298. Section 39 enables the Secretary of State, by way of regulations subject to the affirmative procedure, to extend the protections from rental discrimination given to renters with children or in receipt of benefits in this chapter, to additional cohorts.

299. Subsection (1) provides that before making regulations, the Secretary of State must be satisfied that there is "discriminatory rental practice" against that additional cohort which means that they are significantly less likely to enter into a tenancy than other people.

300. Subsection (2) sets out what "discriminatory rental practice" means and it is defined in the same way as provided by sections 33 and 34. Subsection (3) defines what being a victim of a discriminatory rental practice means, and regulations made under subsection (1) will set out the detail.

301. Subsection (4) provides that regulations under subsection (1) are limited to the "discriminatory rental practice" and describing the new additional cohort being protected.

302. Subsection (6) provides that before making regulations under subsection (1), the Secretary of State must consult, as they consider appropriate, persons from a list of relevant sector stakeholders.

Proposed use of power

303. This is a new provision.

304. To enable the Secretary of State to make regulations extending rental discrimination provisions to additional groups in England in future, if deemed necessary, for example to care leavers or prison leavers and those with a history of offending.

305. Regulations made under this section would describe the group to be protected under the chapter's existing anti-discrimination framework and whether there would be an exception for conduct which is a proportionate means of achieving a legitimate aim.

Background

306. Alongside the commitment to legislate on rental discrimination against renters with children and in receipt of benefits, this power facilitates future extensions to additional cohorts if needed.

Section 40: Financial penalties for breach of anti-discrimination provisions

Effect

307. Section 40 provides that a local housing authority may impose a financial penalty on a person if, on the balance of probabilities, it is satisfied that there has been a breach of a rental discrimination measure in Chapter 3 (Prohibition of discrimination relating to children and benefit status).

308. Subsection (2) describes the circumstances in which more than one financial penalty may be imposed by the local housing authority for the same conduct, namely if the conduct continues 28 days after either the final notice for the previous penalty was received or any appeal against the local housing authority's decision was determined, withdrawn, or abandoned. A local housing authority may impose an additional penalty if a fine under the same section was previously issued within the preceding five years (subsection (4)).

309. Subsection (3) provides that a single discriminatory provision, criterion or practice applied multiple times in relation to the same property constitutes the same conduct. Multiple persons may be found jointly and severally liable for the same offence, as under subsection (7).

310. Subsection (5) sets out the maximum fine amount, which will be £7,000.

311. Subsection (6) states that subsections (2) and (4) do not allow a penalty to be imposed for an offence if a final notice has already been withdrawn or quashed on appeal.

312. Subsections (8) and (9) give the Secretary of State power to produce guidance which local housing authorities must have regard to when exercising their functions in relation to financial penalties.

313. Subsection (10) confers upon the Secretary of State the power to amend the maximum financial penalties as set out in subsection (5) to reflect inflation. The regulations are subject to the negative resolution procedure.

Proposed use of power

314. To enable the Secretary of State to give statutory guidance that local authorities must have regard to when exercising their functions in relation to financial penalties and make regulations, subject to the negative resolution procedure, which amend the maximum financial penalties in line with inflation.

Background

315. This is a new provision.

316. This Section gives local housing authorities the power to impose financial penalties on persons who breach the prohibition on discrimination against private renters with children, those in receipt of benefits or any additional cohort (as provided by regulations made under section 39, subsection (1). To do so, the local housing authority must be satisfied on a balance of probabilities that the person breached the requirements.

Section 41: No prohibition on taking income into account

Effect

317. Section 41 clarifies that no provision of Chapter 3 prevents landlords or anyone acting on their behalf from considering the income of a prospective tenant when undertaking affordability checks before letting a property under a relevant tenancy.

Background

318. This is a new provision.

319. Section 41 confirms that income can be considered by landlords or anyone acting on their behalf, to avoid the risk that any such thresholds may constitute a prohibited criterion under rental discrimination measures.

Section 42: Interpretation of Chapter 3

Effect

320. Section 42 provides essential definitions for terminology used in rental discrimination measures for England (Chapter 3), such as "relevant person", "relevant tenancy", "child" and "benefits claimant".

Background

321. This is a new provision.

Chapter 4: Discrimination relating to children or benefits status: Wales

Section 43: Discrimination relating to children or benefits status: Welsh language

Effect

322. Section 43 amends the Welsh language text of the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019 and is the Welsh language version of section 44.

Section 44: Discrimination relating to children or benefits status: English language

Effect

323. Section 44 prohibits discriminatory bans and restrictions in relation to a dwelling that is to be the subject of an occupation contract on the basis that a child would or may live with or visit a person at the dwelling, or on the basis that a person is or may be a benefits claimant.
Section 44 amends the English language text of the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019 ("The 2019 Act") and inserts new Part 2A into the 2019 Act which includes sections 8A to 8J. This is achieved via the section's creation of new criminal offences and a person found guilty of an offence under section 8A, subsection (1) and 8B, subsection (1) is liable on summary conviction to a fine.

324. Subsection (3) inserts new sections 8A to 8J into the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019, as follows:

a. Section 8A is broadly equivalent to section 33. It contains new provision which creates an offence in relation to a dwelling that is to be the subject of an occupation contract. A relevant person may not discriminate on the basis that a child would live with or visit a person at the dwelling nor prevent the person from engaging in any conduct listed in Paragraphs (a)(i)-(iv). There are two defences in section 8A, detailed in subsections (2) and (3). These are that otherwise prohibited conduct may be permitted if it is a proportionate means of achieving a legitimate aim or to fulfil a term in an existing insurance contract. Persons found guilty of an offence under subsection (1) are liable on summary conviction to a fine.

b. Section 8B is broadly equivalent to section 34. It contains new provision which creates an offence for a relevant person, in relation to a dwelling that is to be the subject of an occupation contract from discriminating on the basis that a person is or may be a benefits claimant. There is no defence for legitimate aim as in section 8A, subsection (2) but subsection (2) does allow otherwise prohibited conduct if it is in order to fulfil a term in an existing insurance contract.

c. Section 8C can be considered the Welsh equivalent to subsection (3) of section 33 and subsection (3) of section 34. It contains provision excepting conduct from constituting an offence under section 8A, subsection (1) or section 8B, subsection (1) if it consists of the things mentioned in subsection (a) or described in regulations under subsection (b). This provision prevents platforms which host lettings adverts, or provide for landlords and contract-holders to communicate, from breaching the discriminatory prohibitions of Chapter 4. The Welsh Ministers may also, by regulations, add additional exceptions.

d. Section 8D is broadly equivalent to subsection (2) of section 40 where there is a continuing breach of prohibition after fixed penalty. It contains provision for an additional offence where there is a continued breach of the rental discrimination prohibitions under section 8A or 8B.

e. Section 8E is broadly equivalent to subsection (4) of section 40. It contains provision allowing for an additional offence for a repeated breach of the rental discrimination prohibitions within the period of 5 years beginning with the date the notice under section 13 of the 2019 Act was given. Persons found guilty of an offence under subsection (1) are liable on summary conviction to a fine.

f. Sections 8F, 8G and 8H are the Welsh equivalents of Sections 36, 37 and 38. They contain provision rendering any term in a superior lease, mortgage or insurance contract which would prohibit the contract-holder from having a child live with or visit them at the dwelling by a child or prohibit a contract-holder from being a benefits claimant not binding.

325. These provisions retrospectively bind mortgages and superior leases entered before commencement of Chapter 4 of Part 1 of the Act. Insurance contracts, however, are only bound if entered into, or the duration of the contract was extended, on or after the commencement of section 8H. There are exceptions in subsection (2) of section 8F for superior leases where otherwise prohibited conduct is permitted if the requirement is a proportionate means of achieving a legitimate aim or where a requirement in the lease is a means of preventing the insured from breaching an existing insurance contract. Subsection (4) of section 8F provides an exception for superior leases, where otherwise prohibited conduct against benefits claimants is permitted if it is in order to fulfil the same term in an existing insurance contract.

326. Section 8I can be considered the Welsh equivalent of Section 41. It contains provision clarifying that landlords can continue to consider a person's income when assessing the affordability of rent payable under an occupation contract without breaching any rental discrimination prohibitions. 8J can be considered the Welsh equivalent of new section 42. It contains definitions of the terminology used in new Part 2A.

Proposed use of power

327. To enable the Welsh Ministers to exempt additional conduct from the rental discrimination prohibitions, to make sure the provisions can adapt to changing market practices and not inadvertently make third party platforms liable for rental discrimination breaches. Regulations made via this power are subject to the affirmative procedure.

Background

328. This is a new provision.

329. Chapter 4 inserts the substantive rental discrimination provisions for Wales directly into the Renting Homes (Fees etc.) (Wales) Act 2019 and Renting Homes (Wales) Act 2016 to align with the existing Welsh housing legislative framework.

Section 45: Amendment of short title of the Renting Homes (Fees etc.) (Wales) Act 2019

Effect

330. Section 45 updates the short title of the Renting Homes (Fees etc.) (Wales) Act 2019 to the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019, reflecting its increased scope.

331. Subsections (1), (3) and (5)(a) amend the short title of the Welsh language text version of the 2019 Act, as well as references to it in other Welsh language legislation passed by the Senedd Cymru.

332. Subsections (2) (4) and (5)(b) amend the short title of the English language text version of the 2019 Act, as well as references to it in other English language legislation passed by the Senedd Cymru.

Background

333. This is a new provision.

334. Chapter 4 inserts the substantial provisions for Wales directly into the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019 and Renting Homes (Wales) Act 2016 to align with the existing Welsh housing legislative framework.

Section 46: Amendments of the Renting Homes (Wales) Act 2016 regarding discrimination

Effect

335. Section 46 amends the Renting Homes (Wales) Act 2016 regarding new requirements on landlords to include additional fundamental terms in occupation contracts. Subsections (1)–(4) amend the Welsh language text of the 2016 Act and subsections (5)–(8) amend the English language text of the 2016 Act.

336. Subsections (2) and (6) amend the "Overview" in section 30 in both languages of the 2016 Act to include the prohibition of discrimination against persons with children or claiming benefits as applying to all occupation contracts under the 2016 Act.

337. Subsection (3) and (7) insert new Chapter 6A into the 2016 Act in both languages, comprising the right for children to live at or visit the dwelling as new section 54A and the right to claim benefits as new section 54B. Under both sections, landlords must not interfere with or restrict the exercise of the contract-holder's right under subsection (1) which states the contact holder under an occupation contract may permit a person who has not reached the age of 18 to live in or visit the dwelling. Similarly, new section 54B provides that the landlord under an occupation contract must not prohibit the contract-holder from being a benefits claimant within the meaning given by section 8J of the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019.

338. Subsections (4) and (8) amend the Tables in Schedule 1 to the 2016 Act in both languages to reflect new sections 54A and 54B which are fundamental provisions of all occupation contracts.

Background

339. This is a new provision.

340. Section 46 is in relation to the Renting Homes (Wales) Act 2016 which, among other provision, outlines a contract-holders rights and requires landlords to include fundamental terms in all occupation contracts.

Section 47: Power of Welsh Ministers to protect others

Effect

341. Section 47 enables the Welsh Ministers, by way of regulations subject to the affirmative procedure, to extend the protections from discrimination given to renters with children or in receipt of benefits in this chapter to additional cohorts.

342. Subsection (1) provides that before making regulations, the Welsh Ministers must be satisfied that a discriminatory rental practice exists against that cohort and, because of that practice, they are significantly less likely to obtain the grant, renewal or continuance of an occupation contract than other people.

343. Subsection (2) defines a discriminatory rental practice in same way as sections 8A, subsection (1) and 8B, subsection (1) of the Renting Homes (Fees etc) (Wales) Act 2019 as amended in both languages by sections 43 and 44. Subsection (3) defines what being a "victim" of a discriminatory rental practice means.

344. Subsections (4) and (5) limit the power to creating new provision which directly corresponds to that for renters with children or receiving benefits. Subsection (6) provides that making regulations is contingent upon prior consultation with such relevant sector stakeholders as the Welsh Ministers consider appropriate.

345. Under subsection (8), this power may amend existing rental discrimination legislation in order that, for example, regulations may make insertions into the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019 alongside other relevant provision.

Proposed use of power

346. To enable the Welsh Ministers to make regulations extending rental discrimination provisions to additional groups in Wales in future, if deemed necessary, for example care leavers or prison leavers and those with a history of offending.

347. Regulations made under this section would describe the group to be protected under the Chapter's existing anti-discrimination framework and whether there would be an exception for conduct which is a proportionate means of achieving a legitimate aim.

Background

348. This is a new provision.

349. Alongside the commitment to legislate on rental discrimination against renters with children and in receipt of benefits, this power facilitates future extensions to additional cohorts if needed.

Section 48: Power of Secretary of State to protect others

Effect

350. Section 48 grants the Secretary of State the same power as Welsh Ministers in section 47, though only in cases where provision would relate to reserved matters and fall outside of the legislative competence of the Senedd Cymru.

Proposed use of power

351. To enable the Secretary of State to make regulations extending rental discrimination provisions to additional groups in Wales, where provision would fall outside of the legislative competence of Senedd Cymru, if deemed necessary in future. Regulations laid under section 48 are subject to the affirmative procedure. and may amend existing legislation in order that, for example, regulations may make insertions into the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019 alongside other relevant provision.

Background

352. This is a new provision.

353. Sections 48 grants the Secretary of State the same power as Welsh Ministers in section 47, though only in cases where provision would relate to reserved matters and fall outside of the legislative competence of the Senedd Cymru.

Section 49: Regulations

Effect

354. Section 49 limits the exercise of new section 8C (inserted by the Act into the Renting Homes (Fees, Discrimination etc.) (Wales) Act or section 47 of this Act) to making provision within the legislative competence of the Senedd Cymru.

355. This amendment explicitly confirms that the regulation-making power can only make provision within the legislative competence of the Senedd Cymru.

Background

356. This is a new provision.

Chapter 5: Discrimination relating to children or benefits status: Scotland

Section 50: Discrimination relating to children or benefits status

Effect

357. Section 50 prohibits discriminatory bans on, and restrictions against, the letting of private rented sector properties on the basis that a child would live with or visit a person at the property, or that a person would claim benefits. This applies to the letting of properties which may give rise to a private residential tenancy. A dwelling must be a person's only or main home in order to constitute a private residential tenancy, and it is recognised that it will not be known for certain at the time of advertising whether a person who responds to the advert wants the property for that purpose. This prohibition is accomplished via insertions to the Private Housing (Tenancies) (Scotland) Act 2016, to mirror those in the Act itself regarding England. However, enforcement differs from England as, like the equivalent Welsh provisions in the Act, new criminal offences are created. This is in line with the approach taken in various pieces of Scottish housing legislation.

358. Subsection (2) inserts new sections into the Private Housing (Tenancies) (Scotland) Act 2016 as follows:

a. Section 6A can be considered the Scottish equivalent of section 33. It contains new provision which covers discrimination against prospective tenants with children. It creates a new offence in subsection (1) of taking certain actions (essentially, actions which would prevent or restrict the letting of properties to such persons) on the basis that the property would be used by children. Two defences to this are detailed in subsection (2): namely, that otherwise prohibited conduct is permitted if it is in proportionate pursuit of a legitimate aim, or if it is done to fulfil a term in an existing insurance agreement for the property. Provision is also made carving out from the offence parties who engage solely in one or more of the functions listed at subsection (3)(a) or described in future regulations made under subsection (3)(b). This provision prevents platforms which are not involved in the transaction beyond hosting lettings adverts or allowing prospective landlords and prospective tenants to communicate from committing the offence. The Scottish Ministers may also, by regulations, add additional conduct to this exemption.

b. Section 6B can be considered the Scottish equivalent of section 34. It contains new provision regarding discrimination against prospective tenants who receive benefits. It creates a new offence in subsection (1) of taking certain actions (which would essentially prevent or restrict the letting of properties to persons who receive benefits). Unlike section 6A, there is no defence for legitimate aim but subsection (2) does allow otherwise prohibited conduct if it is done in order to fulfil a term in an existing insurance contract for the property. As with section 6A, provision is made carving out from the offence action which is taken by platforms which are only involved to a limited extent, and there is a power for the Scottish Ministers to, by regulations, add to this exemption.

c. Section 6C can be considered the Scottish equivalent of section 35. It renders of no effect terms in a private residential tenancy agreement which outright prohibit children from living at or visiting the property (or otherwise restrict the circumstances under which they may do so), or which outright prohibit the tenant from claiming, or seeking to claim, state benefits. Under subsection (2), subsection (1) as it relates to the rule about children does not apply to such terms which are applied in proportionate pursuit of a legitimate aim or to fulfil a term in an existing insurance agreement which prohibits or restricts occupation or visit by children. In addition, subsection (1) as it relates to the rule about benefits does not apply to such terms if such a term is required to fulfil a related term in an existing insurance agreement which prohibits occupation by benefits claimants.

d. Section 6D can be considered the Scottish equivalent of section 41. It contains provision which clarifies that landlords can continue to consider a prospective tenant's income when assessing the affordability of a tenancy without breaching any rental discrimination prohibitions.

e. Section 6E can be considered the Scottish equivalent of section 42. It contains definitions of the terminology used such as "relevant person", "child" and "benefits claimant".

359. Subsection (3) inserts a further new section (section 75A) into the Private Housing (Tenancies) (Scotland) Act 2016, as a consequential amendment. This provides that the criminal offences inserted at sections 6A and 6B do not apply to the Crown. Subsection (4) is another consequential amendment and makes provision for the level of procedure that is to apply to the powers inserted at sections 6A, subsection (3)(b) and 6B, subsection (3)(b), both of which are subject to the negative procedure.

360. Section 50 also, at subsections (6) and (8), makes insertions to the Housing (Scotland) Act 1988 and the Rent (Scotland) Act 1984 respectively, to mirror provision made in the Renters' Rights Act itself regarding England. Specifically, the equivalent of new section 6C of the Private Housing (Tenancies) (Scotland) Act 2016 (as explained above) is inserted in each of those Acts. This is in line with sections 33-34 of the Renters' Rights Act, under which the English provisions cover not just the tenancy type which is created when a new private rented sector tenancy is granted but also continuing types of older private rented sector tenancies. This means that the rule about tenancy terms in relation to children and benefits will apply to older ongoing tenancies as well as new ones.

Proposed use of powers

361. Inserted sections 6A, subsection (3)(b) and 6B, subsection (3)(b): To allow the Scottish Ministers to exempt additional conduct from the "no children" or "no benefits" rental discrimination prohibitions, to make sure the provisions can adapt to changing market practices and not inadvertently make third party platforms liable for rental discrimination breaches. Statutory instruments laid under these sections are subject to the negative procedure.

Background

362. This is a new provision.

363. Section 50 inserts the provisions for Scotland, which would fall within the competence of the Scottish Parliament, directly into the relevant Scottish legislation to align with the existing Scottish housing legislative framework and aid accessibility. Provisions which would touch on reserved matters will remain in this Act.

364. The provision made in relation to tenancy terms has retrospective effect and will apply to all specified tenancies whether entered before, on or after commencement.

Section 51: Terms in standard securities relating to children or benefits status

Effect

365. Section 51 can be considered the Scottish equivalent of section 37. It contains provision rendering of no effect any term in a mortgage deed (known in Scotland as a 'standard security") which would prohibit or restrict the occupation of, or visit to, a dwelling by a child or which would prohibit occupation by a benefits claimant. It applies to private residential tenancies, assured tenancies and protected and statutory tenancies.

Background

366. This is a new provision.

367. These provisions have retrospective effect and apply to all relevant mortgages whether entered before, on or after the commencement date. These provisions prevent a potential breach of contract between landlords, agents and mortgage lenders.

Section 52: Terms in insurance contracts relating to children or benefits status

Effect

368. Section 52 can be considered the Scottish equivalent of section 38. It contains provision rendering of no effect any term in an insurance contract which would prohibit or restrict the occupation of, or visit to, a dwelling by a child or which would prohibit occupation by a benefits claimant. It applies to private residential tenancies, assured tenancies and protected and statutory tenancies. However, this provision only applies if the contract is entered into or renewed on or after commencement.

Background

369. This is a new provision.

370. This provision does not have retrospective effect and applies only to relevant insurance agreements entered or renewed on or after the commencement date. These provisions prevent a potential breach of contract between landlords, agents and insurers.

Section 53: Power of the Scottish Ministers to protect others

Effect

371. Section 53 enables the Scottish Ministers, by regulations subject to the affirmative procedure, to extend the protections from discrimination given to renters with children or in receipt of benefits in this chapter to additional cohorts.

372. The power is limited to creating new provision which directly corresponds to that for renters with children or receiving benefits and is contingent upon consultation with relevant sector stakeholders.

373. This power may be used to amend existing legislation in relation to relevant tenancies. A relevant tenancy is defined in the Act and includes a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016, an assured tenancy under the Housing (Scotland) Act 1988 and a protected or statutory tenancy under the Rent (Scotland) Act 1984.

374. This power is limited in that the Scottish Ministers may only make provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.

Proposed use of power

375. To allow the Scottish Ministers to make regulations extending rental discrimination provisions to additional groups in Scotland in future, if deemed necessary, for example care leavers or prison leavers and those with a history of offending.

376. Regulations made under this section would describe the group to be protected under the chapter's existing anti-discrimination framework and whether there would be an exception for conduct which is a proportionate means of achieving a legitimate aim.

Background

377. Alongside the commitment to legislate on rental discrimination against renters with children and in receipt of benefits, this power facilitates future extensions to additional cohorts if needed.

Section 54: Power of Secretary of State to protect others

Effect

378. Section 54 grants the Secretary of State the same power as Scottish Ministers in section 53, though only in cases where provision would relate to reserved matters and fall outside of the legislative competence of the Scottish Parliament.

Proposed use of power:

379. To enable the Secretary of State to make regulations extending rental discrimination provisions to additional groups in Scotland, where provision would fall outside the legislative competence of the Scottish Parliament, if deemed necessary in future.

380. Regulations laid under section 54 are subject to the affirmative procedure and may amend primary legislation, in order that insertions can be made into the Private Housing (Tenancies) (Scotland) Act 2016 alongside other rental discrimination provision.

Background

381. New provision made under the power in Section 53 must be within the legislative competence of the Scottish Parliament; this Section allows provision outside the legislative competence of the Scottish Parliament to be made in tandem by the Secretary of State.

Section 55: Interpretation of Chapter 5

Effect

382. Section 55 can be considered the Scottish equivalent of section 42. It provides essential definitions for terminology used in rental discrimination measures for Scotland (Chapter 5), such as "relevant tenancy", "child" and "benefits claimant".

Background

383. This is a new provision.

Chapter 6: Stating the proposed rent and rental bidding

Section 56: Requirement to state rent and avoid rental bidding

Effect

384. Section 56 requires that a relevant person must include in the advertisement or offer the specific amount of rent that is to be payable under the letting ("the proposed rent"). The section also prohibits a relevant person from inviting, encouraging or accepting any offer of rent which exceeds the proposed rent. This requirement and prohibition apply to all assured tenancies other than assured tenancies of social housing or supported accommodation.

385. Subsection (1) outlines the definition of a proposed letting. The provision applies in circumstances where a dwelling is to be let on an agreement which may give rise to an assured tenancy – other than assured tenancies of social housing or supported accommodation.

386. Subsection (2) outlines the circumstances by which a relevant person must publish the rental price of the proposed letting. A specific amount of rent that is to be payable under the letting must be included in any written advertisement or offer for the proposed letting.

387. Subsection (3)(a) prohibits a person from inviting or encouraging any person to offer to pay an amount of rent that exceeds the proposed rent in the advertisement or offer for that proposed letting.

388. Subsection (3)(b) prohibits a person from accepting, from any person, an offer of rent that exceeds the proposed rent in the advertisement or offer of that proposed letting.

389. Subsection (4) provides the definition of a stated rent for the purposes of subsections (3a) and (3b).

390. Subsection (5) sets out exemptions to the requirement for a relevant person to publish the advertised price: that this does not apply to a sign displayed at the dwelling, which merely advertises that the dwelling is to let.

391. Subsection (6) provides that a breach of subsections (2) and (3), that is the requirement to publish a specific amount of rent and not to invite, encourage, or accept offers of rent above this, does not affect the validity of the letting. It also sets out the definitions of what is meant by a "relevant person". A "relevant person" (who would be subject to the requirement and prohibition explained above) is the prospective landlord or a person acting or purporting to act on the prospective landlord's behalf, such as a letting agent.

Background

392. Section 56 provides tenants clarity with respect of expected rent costs during the letting process by requiring a landlord, or person acting on behalf of the landlord, to state a specific and proposed rental amount in any written advertisement or written offer for a proposed letting. Subsection (3)(a) prohibits a landlord, or person acting on their behalf, from asking or encouraging a prospective tenant to offer an amount of rent above that which is stated in the written advertisement or written offer for the proposed letting. This will prevent landlords or letting agents from running auctions or encouraging prospective tenants to bid against each other to set the final price. Subsection (3)(b) prohibits a landlord, or person acting on their behalf from accepting an offer of rent above that which the landlord or letting agent has stated in a written advertisement or written offer.

Section 57: Financial Penalties Effect

Effect

393. Section 57 allows a Local Housing Authority (or a Weights and Measures Authority) to impose a financial penalty on a person if satisfied that the person has breached the requirement in section 56. That is to include a specific rent amount in a written advert or offer for the tenancy or the prohibition against inviting, encouraging or accepting higher offers for the rent amount from prospective tenants.

394. Subsection (2) states that a local housing authority may impose additional financial penalties in cases of a repeated breach of the requirements imposed by section 56 if such breaches were to happen within 5 years of a previous financial penalty being imposed. Multiple persons may be found jointly and severally liable for the same offence, as under subsection (5).

395. Subsection (3) sets out the maximum fine amount, which will be £7,000 at commencement.

396. Subsection (4) states that subsection (2) does not allow a penalty to be imposed for an offence if a final notice has already been withdrawn or quashed on appeal.

397. Subsection (6) gives the Secretary of State power to produce guidance which local housing authorities must have regard to when exercising their functions in relation to financial penalties.

398. Subsection (7) sets out that local authorities must have regard to any guidance given under subsection (6)

399. Subsection (8) confers upon the Secretary of State the power to amend the maximum financial penalties under this section to reflect inflation. The regulations are subject to the negative resolution procedure.

Proposed use of powers

400. To allow the Secretary of State to set out guidance that local housing authorities must have regard to when exercising their functions in relation to financial penalties and make regulations, subject to the negative resolution procedure, which amend the maximum financial penalties in line with inflation.

Background

401. Section 57 gives local housing authorities and Weights and Measures Authorities the power to impose financial penalties on persons who breach the requirement set out in section 56 for a specific amount of rent to be included in a written advert or offer for a tenancy and the prohibition against inviting, encouraging or accepting any offer of rent which exceeds the proposed rent.

402. These sections provide that the Secretary of State can provide guidance to local housing authorities which they must have regard to when exercising their powers to impose financial penalties.

Chapter 7: Miscellaneous

Section 58: Penalties for unlawful eviction or harassment of occupier

Effect

403. Section 58 amends the Protection from Eviction Act 1977.

404. Subsection (2) inserts section 1 of the Protection from Eviction Act 1977, new subsection (7), which provides that a person cannot be convicted of an offence under section 1 for any conduct if a financial penalty has been imposed (under section 1A) in respect of that conduct.

405. Subsection (3) inserts a new section 1A (Financial penalty for offence under section 1) into the Protection from Eviction Act 1977. It gives local housing authorities the ability to issue a financial penalty if satisfied beyond reasonable doubt that the person has committed an offence under section 1 of the Protection from Eviction Act 1977 in relation to premises in England. The maximum financial penalty that a local housing authority can impose is £40,000.

406. New section 1A, subsections (4) and (5) enable the Secretary of State to provide guidance on fines that local authorities must have regard to when they are exercising their functions under this section.

407. New Schedule A1 makes provision about procedures, appeals, enforcement and proceeds of financial penalties. Schedule A1 is inserted into the Protection from Eviction Act 1977 by section 60, subsection (4).

408. New section 1A, subsections (7), (8) and (9) gives the Secretary of State powers to amend the maximum penalty amount via regulations in line with inflation. Such regulations are subject to the negative procedure.

409. New section 1A(10) defines "local housing authority" for the purposes of new section 1A and Schedule A1.

Proposed use of power

410. New section 1A(4) and (5) allows the Secretary of State to issue guidance on the use of financial penalties that local housing authorities must have due regard to and to ensure the maximum penalty amount keeps pace with inflation. Regulations laid under this section are subject to the negative procedure.

Background

411. This section adds new provision to the Protection from Eviction Act 1977 to enable local housing authorities to issue financial 1 penalties of up to £40,000 in lieu of prosecution for an offence under section 1 of that Act.

Section 59: Abandoned premises under assured shorthold tenancies

Effect

412. Section 59 repeals Part 3 of the Housing and Planning Act 2016, which permits a landlord to recover abandoned premises let under an assured shorthold tenancy without a court order. Landlords will need to seek possession using one of the grounds listed in Schedule 2 of the Housing Act 1988.

Background

413. Part 3 of the Housing and Planning Act 2016 has never been brought into force. Section 2 of this Act removes assured shorthold tenancies and so the Part 3 provisions are no longer relevant.

Section 60: Remedying of hazards occurring in dwellings in England

Effect

414. Section 60 amends the Landlord and Tenant Act 1985 to bring certain private rented sector tenancies in England within the scope of sections 10A and 10B, principally tenancies for a term of less than seven years (including periodic tenancies). The amendments will have the effect of implying a new term into any tenancy relating to the remedying of hazards and extends the Secretary of State's duty in section 10A to prescribe the detail of those requirements for remedying hazards to any tenancy that is covered by amended section 10A(1).

Proposed use of power

415. Under section 10A (remedying of hazards occurring in dwellings let on social housing leases) of the Landlord and Tenant Act 1985, the Secretary of State must make regulations to require registered providers of social housing to take action in relation to prescribed hazards which affect, or may affect, a relevant property within a time period (or periods) specified in the regulations.

416. Section 60 broadens that power by removing the reference to social housing leases to allow for regulations to be made in relation to all relevant tenancies of accommodation. This will allow requirements to be set in regulations specifying how landlords of privately rented accommodation must deal with hazards in their properties. Section 10B, subsection (5)(b) of the Landlord and Tenant Act 1985 provides for divergence in the requirements set in regulations for accommodation within the private and social rented sectors. This will allow, if required, requirements to differ to reflect the differences between the two tenure types of housing.

Background

417. The Social Housing (Regulation) Act 2023 introduced "Awaab's Law" into the social rented sector. It amended the Landlord and Tenant Act 1985 to require the Secretary of State to make regulations that will set time limits in which landlords must take action in relation to prescribed hazards. It also implied into leases a covenant by the landlord that the landlord must comply with all prescribed requirements set out in the regulations that are applicable to the lease. The covenant implied forms part of the tenancy agreement and is enforceable by tenants through the courts.

Section 61: Remedying of hazards occurring in accommodation in England occupied under licence

Effect

418. Section 61 inserts new sections 10C (Remedying of hazards occurring in accommodation in England occupied under licence) and 10D (Regulations under section 10C: supplementary provision) into the Landlord and Tenant Act 1985. These new sections imply a term in specified licences to occupy residential accommodation that the licensor will comply with requirements set out in regulations in respect of hazards. They also provide for three new powers - one to prescribe the requirements, one to prescribe what descriptions of licence will contain a term requiring the licensor to meet these requirements, and one to make provision in relation to the implied term corresponding to any provision made in relation to the implied covenant relating to fitness for human habitation by section 9A, subsections (4) to (8) of the Landlord and Tenant Act 1985. Section 61, subsection (2) ensures that the "residential premises" to which the powers in section 10C apply includes temporary accommodation for the homeless before, as well as after section 101, subsection (3) comes into force.

Proposed use of powers

419. Section 61 allows regulations to be made requiring the licensors of residential premises to take action in relation to prescribed hazards which affect, or may affect, those premises within a time period (or periods) specified in the regulations. It also allows the Secretary of State to prescribe which licensors under licences to occupy residential premises must meet the requirements, and make provision corresponding to any provision made under section 9A, subsections (4) to (8) of the Landlord and Tenant Act 1985 (to prevent contracting out of the term implied by section 10C, subsection (2), facilitate an order for specific performance for breach, bring common parts within scope of that implied term and allow inspection by the lessor on reasonable notice).

Background

420. The Social Housing (Regulation) Act 2023 introduced "Awaab's Law" for properties let under tenancies in the social rented sector and section 60 extends this to properties let under tenancies in the private rented sector. Section 61 allows Awaab's Law to also be applied to accommodation occupied under licence.

421. Licences to occupy are used rather than tenancies for residential accommodation in specific circumstances, notably when there is no right to exclusive occupation or the occupation is not for a defined period of time.

Section 62: Student accommodation that is not an HMO

Effect

422. Section 62 amends Schedule 14 to the Housing Act 2004 (buildings which are not HMOs) by inserting a new paragraph 3A (buildings occupied by students: England). In particular, the new paragraph gives the Secretary of State a power to specify educational establishments exempt from HMO licensing by reference to their membership of an approved code of practice, and the power can be exercised in the same way for private purpose-built student accommodation (PBSA) in future.

423. Specifying an exemption by reference to an approved code negates the need to lay regulations to add or remove specified bodies to a list and prevents unnecessary delays in exemptions being granted or removed. The power will allow for the scope of the exemption to be narrowed to certain groups of building or manager within the membership, if required.

424. The amendment will also remove a dependency so that if a private provider has been granted an exemption from HMO licensing, they will not lose their exemption from licensing if an educational establishment loses their specified status.

Background

425. Schedule 14 of the Housing Act 2004 excludes certain types of building from the description of a House in Multiple Occupation for most purposes of that Act (except Part 1). In particular, this is relevant due to the requirement under that Act for HMOs to be licensed. Schedule 14 already makes provision for buildings which are occupied by persons studying at a specified educational establishment and where the building is managed by that educational establishment or another specified person. Whilst the power allows for educational establishments and other persons managing the building to be specified in secondary legislation (with the effect being that those buildings are not HMOs for licensing purposes), it does not currently allow for that specification to be made with regards to whether the educational establishment or other person is a member of a housing management code of practice approved under section 233 of the Housing Act 2004.

Part 2: Residential landlord

Chapter 1: Meaning of "Residential Landlord"

Section 63: Meaning of "residential landlord"

Effect

426. Section 63 sets out the meanings of private "residential landlord", "relevant tenancy" and "dwelling" for the purpose of defining which tenancies fall within scope of the landlord redress schemes and the private rented sector database in Chapters 2 and 3. It also sets out how and to what extent these definitions may be changed through regulations.

427. Subsections (1) and (2) outline that, for the purpose of this Act, a "residential landlord" must have a "relevant tenancy" in place in England which, as defined in subsection (3), is either an assured tenancy under the Housing Act 1988 or a regulated tenancy under the Rent Act 1977. Subsections (1) and (2) further clarify that, to be considered as a "residential landlord", a relevant tenancy must relate to a "dwelling", being any building or part of a building occupied or intended to be occupied as a separate home. This excludes non-buildings like

caravans, tents, houseboats and park homes which do not fit this definition. Subsections (1) and (2) also exclude "social landlords", as defined in Part 2 of the Housing and Regeneration Act 2008, from the definition of "residential landlord" for the purposes of the landlord redress schemes and the private rented sector database.

428. Subsection (4) confers a regulation-making power on the Secretary of State to change the meaning of terms used in this Chapter to include or exclude superior landlords from the definition of "residential landlord". The power allows for superior landlords to be included under the definition of "residential landlord" in addition to, or instead of, immediate landlords. The power in section 63, subsection (4)(b)(ii) can be exercised to change the meaning of relevant tenancy so as to include licences. As such, it will allow Part 2 to cover superior landlords under rent-to-rent arrangements where the occupier is a licensee as well as where the occupier is a tenant. Subsection (4) also confers a regulation-making power on the Secretary of State to expand or restrict the scope of a "relevant tenancy" and to expand or restrict the meaning of "dwelling". The powers allow for the meaning of dwelling to be changed to include shared accommodation, and to include other structures such as vessels or vehicles if they are occupied under a relevant tenancy.

429. Subsection (5) clarifies that the Secretary of State can make regulations to add or remove kinds of tenancies or licences by reference to any matters connected directly or indirectly to a tenancy or licence. This could include the circumstances or characteristics of persons connected to a tenancy or licence, such as the landlord or tenant. For example, a tenancy granted by a landlord of a specified description could be added to the definition of "relevant tenancy".

430. Subsection (6) clarifies that the power to add or remove tenancies that are periodic or granted for a term of less than 21 years or licences to occupy under subsection (4)(b) includes dwellings occupied for the purposes of either House of Parliament. This means that such tenancies or licences may be brought into scope of the landlord redress schemes or private rented sector database via regulations, but the landlord will be excluded from criminal liability.

431. Subsections (7) and (8) clarify further information about the Secretary of State's power to change the meaning of a "residential landlord", "relevant tenancy" or "dwelling", including to allow for divergence between the private rented sector database and landlord redress scheme provisions.

Proposed use of powers

432. The government intends to lay regulations via the affirmative procedure in both Houses of Parliament under subsection (4) to further define the scope of the private rented sector database and landlord redress scheme provisions. The intent is to use these regulations to clarify the position of superior landlords in certain arrangements known as rent-to-rent, and to include, exclude or make special arrangements for niche tenures such as purpose-built student accommodation, temporary accommodation and supported housing.

433. These regulations may also be used again in the future should Government decide to expand or reduce those tenancies required to register with a landlord redress scheme and/or the private rented sector database.

Background

434. This is a new provision.

Chapter 2: Landlord Redress Schemes

Section 64: Landlord redress schemes

Effect

435. Subsection (1) gives the Secretary of State power, by regulations, to require residential landlords as defined in Section 63 to join a landlord redress scheme. Subsection (2)(b) defines such a scheme as one that is created and administered by a third party and approved by the Secretary of State, or administered by or on behalf of the Secretary of State and designated by the Secretary of State as a landlord redress scheme.

436. Subsection (2)(a) sets out that an approved or designated scheme must provide for the independent investigation and determination of complaints by prospective, current, and former tenants of residential landlords, or their representatives. Subsection (3) provides that a landlord redress scheme must not be approved or designated unless the scheme meets the conditions set out in regulations made under section 65, subsection (1).

437. Subsection (4) defines a prospective residential tenant as someone who requests information about a home being marketed as a private rented sector property; visits, or requests to visit, a marketed property; or who makes an offer to rent a marketed property. Simply viewing information about a marketed property – e.g., online – is not sufficient for a person to be considered a prospective residential tenant.

438. To allow for eligible tenants to raise their complaints – as defined under subsection (2)(a) – subsection (5)(a) outlines that regulations made under subsection (1) can require residential landlords to be members of a scheme from the point that they market their property to prospective tenants. Subsection (5)(b) also allows for regulations which may prohibit someone – which may be a letting agent or another person – from marketing a property where the intention is to create a relevant tenancy, but the landlord is not a member of an approved or designated redress scheme. What constitutes marketing a property for the purpose of creating a residential tenancy is defined in section 99. Subsection (5)(c) sets out that the length of time that former residential landlords must remain members of an approved scheme must be in regulations.

439. Subsections (6) and (7) enable the Secretary of State to make regulations setting out what information landlords (including prospective landlords) must provide when signing up to the Ombudsman. Regulations may also require landlords to update this information on an ongoing basis.

440. Subsection (8) makes clear that prior to making regulations requiring residential landlords (as defined in section 63) to be members of an approved or designated redress scheme, the Secretary of State must make sure that residential landlords are eligible to join the scheme. This is so the requirement to be a member would only be triggered by regulation once the relevant redress scheme was established.

441. Subsections (9) and (10) clarify and define what activities an approved or designated redress scheme can undertake beyond providing mandatory redress for prospective, current, and former tenants of residential landlords as defined under section 63 This includes being able to offer redress to consumers and tenants of those who voluntarily join the scheme but have no legal obligation to do so. These subsections also allow for the scheme to specify types of complaints it will not investigate or determine. It also allows for an approved scheme to offer a mediation service so that the scheme can act as mediator to work toward mutual resolution of disagreements that residential landlords may have with their tenants. This mediation

service would be different to redress in that tenants would have to voluntarily take part, and the scheme would not seek to, nor could it, issue a binding decision which a tenant would have to adhere to.

Background

442. This is a new provision. There is no previous legislative provision for private residential tenants specifically to complain to an Ombudsman or redress scheme about their landlord. In relation to housing, legislative provision for redress schemes already exists for property management, private rental letting and estate agency work, freeholders of leasehold properties, new homes, and for social housing residents.

Section 65: Approval and designation of landlord redress schemes

Effect

443. Subsection (1) requires the Secretary of State to make regulations setting out the conditions that a scheme must meet before being approved or designated under section 64, subsection (2)(b).

444. Subsections (2)(a) and (b) provide for, in accordance with regulations, the appointment of an independent individual to be in charge of investigating and determining complaints under a scheme, their terms and conditions and the termination of their appointment. While the sections make no explicit reference to an "Ombudsman" or "Head of Redress", the intent is that subsection (2)(a) will allow for this or for a similar post to be created and appointed by the Secretary of State or scheme administrator depending on the redress delivery model.

445. Subsection (2)(c) requires the scheme to make provision about the types of complaints that may be made under a scheme, including complaints about the failure to comply with any code of practice approved or issued by the Secretary of State.

446. Subsections (2)(d) and (e) require the scheme to include provision about the length of time a landlord will be allowed to resolve their tenant's complaint in the first instance before the tenant can escalate to the scheme, and the circumstances in which a scheme might reject a complaint.

447. Subsections (2)(f) and (g) make provision about co-operation with other organisations involved in complaint handling or enforcement bodies when handling tenants' complaints, including provision for joint investigations where appropriate, and for the sharing of information with the Secretary of State and the other bodies referred to in subsection (2)(f).

448. Subsections (2)(h) and (i) require the scheme to say if members need to pay a fee for the mandatory redress service and, if so, to make provision about the amount or amounts of those fees. Where there are voluntary aspects of the scheme, fee information must also be provided about those aspects.

449. Subsection (2)(j) enables the redress scheme to compel a landlord to award redress to tenants, including, but not limited to, requiring a landlord to issue an apology or explanation, and/or pay compensation to a tenant, and/or take or cease taking an action.

450. Subsections (2)(k), (l), (m) and (n) provide for a scheme to take action against landlords who do not adhere to their redress membership conditions – to include failing to adhere to an approved scheme's decision. Regulations must specify the circumstances under which the scheme can expel a member which may include barring a landlord from joining any approved scheme unless they take the steps and meet the conditions set out in regulations. Meeting such conditions will then allow a landlord to either rejoin the scheme from which they were

expelled, or to join another scheme if their original scheme has ceased to operate. Regulations must also require a scheme to take steps to ensure compliance before considering expulsion, and make provision for decisions to expel to be reviewed by an independent person prior to the expulsion taking effect. Expelled landlords will be in breach of the requirement to be a member of an approved scheme, and therefore at risk of enforcement action under sections 66 and 67 if they continue to meet the criteria for mandatory membership under section 64.

451. Subsections (2)(o) and (p) make provision for the transfer of scheme administration to another body, and the closure of an approved scheme. Subsection (6) allows for regulations to be made for the administration of a scheme to be transferred to the Secretary of State or a body acting on behalf of the Secretary of State. Any scheme transferred in this way may become a designated, rather than an approved, scheme.

452. Subsection (3) clarifies that regulations made under subsection (1) can impose conditions which require an approved or designated redress scheme to continuously meet certain conditions of approval while in operation.

453. Subsection (4)(a) allows the Secretary of State to set out in regulations how the redress scheme will be able to set compulsory fees with reference to "scheme costs" as defined in section 65, subsection (10). It clarifies that "voluntary aspects" of the scheme, as defined in 65, subsection (10), may also be funded through the compulsory fee. Subsection (4)(b) provides that fees for any voluntary aspects of the redress scheme must be calculated based on the costs of running those aspects and be sufficient to meet those costs.

454. Subsection (7) clarifies that the conditions listed under subsection (2) to (6) are non-exhaustive, meaning the Secretary of State has discretion to add more conditions in regulations.

455. Subsection (8) allows the Secretary of State to make regulations to determine the number of approved or designated landlord redress schemes, the process for making applications for approval, the time that approval or designation will remain valid once granted, and the conditions and process for approval or designation to be withdrawn or revoked.

456. Subsection (9) provides that regulations made under section 65 may confer functions on the Secretary of State or authorise or require a scheme to do so. It also provides for the delegation of such functions.

457. Subsection (10) defines terms for the purposes of distinguishing between compulsory and voluntary aspects of the scheme and between compulsory and voluntary membership. It also clarifies that the "scheme costs" may include: the establishment and administration of a redress scheme; the performance of other functions provided for by the redress sections in Chapter 2 of Part 2 of this Act; and the performance of any other functions under the scheme. Such costs may include those incurred by the administrator or head of redress in connection with enforcement, but not the costs of the enforcement authorities themselves.

Proposed use of power

458. Regulations under section 65 will be introduced before the Secretary of State approves or designates a redress scheme for private residential landlords, and include all of the details and conditions of approval required under this Section. Expulsion will be a last resort following repeated or serious non-compliance with membership obligations. Regulations will be subject to the affirmative procedure.

459. The government intends to use regulations made under section 65, subsection (4)(a) to allow the establishment costs of the Private Rented Sector Landlord Ombudsman to be recouped through private landlord membership fees.

Background

460. This is a new provision. Similar provision exists in relation to other redress schemes, for instance, paragraphs 2 and 3 of Schedule 2 to the Housing Act 1996 establishing the Housing Ombudsman service for social landlords.

461. In relation to housing, legislative provision for redress schemes already exists for management, lettings and estate agency work in the private residential sector, freeholders of leasehold properties, new homes, and for social housing residents.

Section 66: Financial penalties

Effect

462. Subsections (1)(a) and (2)(a) provide that a local housing authority may impose a financial penalty of up to £7,000 on a person if it is satisfied beyond reasonable doubt that the person has breached the requirement in section 64 to be a member of an approved or designated redress scheme, or the person (e.g., letting agent or other) has marketed a property where the landlord is not yet a member of a landlord redress scheme.

463. Subsections (1)(b) and (2)(b) provide that a local housing authority may impose a financial penalty of up to £40,000 on a person as an alternative to prosecution, if it is satisfied beyond reasonable doubt that an offence under section 67 has been committed.

464. Subsections (3) and (4) provide that more than one penalty may only be imposed for the same conduct if that conduct continues for a minimum of 28 days after a final notice is issued and no appeal is made – e.g., not signing up to a landlord redress scheme but continuing to meet the definition of "residential landlord". "Final notice" – as noted in subsection (9)(b) – is defined in paragraph 6 of Schedule 5. Should a successful appeal be made, no financial penalty can be imposed. Should it be unsuccessful, the 28-day period will commence from the day on which the appeal is determined, withdrawn, or abandoned after which another financial penalty may be imposed.

465. Subsection (5) clarifies that a local housing authority may not impose a financial penalty if criminal proceedings against the person in respect of the same offence are ongoing, or have concluded with a conviction or acquittal.

466. Subsections (6) and (7) provide for the Secretary of State to issue guidance for local housing authorities on how to exercise the powers provided in this section and require local housing authorities to have regard to such guidance.

467. Subsection (8) provides for the Secretary of State to change the maximum amounts of financial penalties specified in this Section to account for inflation.

468. Subsection (9) clarifies that, for the purposes of sections 66 and 67, a financial penalty is imposed on the date specified in the final notice as the date on which the notice is given, and that "final notice" is defined in paragraph 6 of Schedule 5.

Background

469. This is a new provision. The imposition of financial penalties for first and subsequent breaches of the requirement for landlords to be members of a redress scheme reflects the approaches taken in section 8 of the Tenant Fees Act 2019 and section 87 of the Consumer Rights Act 2015. Amending the maximum financial penalty to account for inflation will ensure that penalties continue to be an effective and proportionate deterrent.

Example: Where a landlord is not a member of an approved or designated scheme

A tenant of a private residential landlord raises a complaint with the only approved redress scheme – the Ombudsman scheme – and it is found that the landlord is not a member. The scheme takes reasonable steps to contact the landlord, informs them of the requirement to comply and the consequences of non-compliance. The landlord still fails to sign up, and the scheme then refers the case to the local housing authority in whose area the dwelling is. The local housing authority investigates the breach and determines, beyond reasonable doubt, that the landlord has not signed up to an approved redress scheme. The local housing authority subsequently issues a civil penalty of up to £7,000. The landlord pays the civil penalty and joins the Ombudsman scheme – no further action is taken by the local housing authority, and the Ombudsman will be able to investigate the original complaint made by the tenant if the issue remains ongoing.

Section 67: Offences

Effect

470. Section 67 sets out the offences which may be committed where a person persistently or repeatedly fails to comply with the requirement to be a member of a landlord redress scheme or the prohibition on marketing a dwelling where the landlord is not a member of such a scheme, for which financial penalties, as specified in section 66, may be imposed as an alternative to prosecution.

471. Under subsection (1), a person who has received a financial penalty under section 66 commits the offence if the conduct in respect of which the penalty was imposed continues for longer than the specified period thereafter.

472. Under subsection (2), a person who has received a financial penalty for breach of regulations under section 64 commits the offence if they commit a different breach within the next five years.

473. Subsection (3) provides that a person who has been previously convicted of the offence, or received a financial penalty in lieu of prosecution, commits the offence if they breach regulations under section 64 again within five years of the previous conviction, or within five years of receiving the financial penalty in lieu of prosecution.

474. Subsection (4) clarifies that for the purposes of the offences a "relevant penalty" is one where: an appeal has not been launched within the permitted period provided for in paragraph 10 of Schedule 5; an appeal has been withdrawn or abandoned; or a penalty was confirmed or amended on appeal.

475. Subsection (5) provides that a person cannot be convicted of an offence if a financial penalty has already been imposed in respect of the same conduct, unless that conduct constitutes a continuing breach to which subsection (1) applies.

476. A person found guilty of the offence is liable on summary conviction to a fine as stated in subsection (6).

477. Subsections (7) and (8) provide that when an officer or member of a body corporate, which may include private and public companies or charitable organisations, consents to or colludes in the commission of an offence by the body corporate, both the officer or member and the body corporate have committed an offence and are liable to penalties as specified in section 66, as well as prosecution.

Background

478. This is a new provision. Section 67 provides for when a landlord has committed a breach of regulations or an offence for which financial penalties, as specified in section 66, can be imposed. The definition of the offence mirrors section 12 of the Tenant Fees Act 2019.

Example: Landlord is not a member of a scheme – repeat offence

A private tenant has found that their landlord is not a member of the Ombudsman scheme, as required by law. The tenant reports this to the Ombudsman, who in turn refers the case to the local housing authority for enforcement action. Upon investigation, the local housing authority finds that the landlord has committed an offence because a fine for a similar breach has been imposed within the last five years and has not been appealed. As this is a repeat offence, the local authority issues the landlord with a penalty of up to £40,000.

Section 68: Decision under a landlord redress scheme may be made enforceable as if it were a court order

Effect

479. Regulations under subsection (1) will allow a scheme administrator to apply to the relevant court or tribunal for decisions made under the scheme to be enforced as if they were a court order. This measure is intended to be one of last resort to ensure compliance with the decisions of an approved or designated redress scheme, should the threat of expulsion by the scheme provided for under section 65 prove insufficient. Before introducing regulations under subsection (1), subsection (2) outlines that the Secretary of State must consult with one or more bodies representing landlords and tenants, as well as having discretion to also consult other relevant people.

Background

480. This is a new provision, although similar to that provided for in other sectors, including the social housing sector under paragraph 7D of Schedule 2 to the Housing Act 1996, and the legal sector under section 141 of the Legal Services Act 2007.

Section 69: Landlord redress schemes: no Crown status

Effect

481. Section 69 clarifies that people exercising functions under a landlord redress scheme do not have Crown status.

Background

482. Section 65, subsections (2)(a) and (b) give scope to determine, in regulations, how the individual responsible for overseeing and monitoring the determination of complaints – "the Ombudsman" – will be appointed. Section 69 makes clear, no matter how the individual is appointed under these regulations, that this individual, or any person exercising functions under the scheme, does not have Crown status. This is consistent with the existing Ombudsman for social housing, who does not have Crown status, as specified in the Housing Act 1996.

Section 70: Guidance for scheme administrator and local housing authority

Effect

483. Section 70 allows for an approved or designated redress scheme to be able to investigate complaints from tenants where their landlord fails to address their complaint appropriately or in a timely manner and, where appropriate, compel a landlord to take action to put things right or provide compensation.

484. Where the complaint from a tenant concerns the breach of a regulatory threshold, local housing authorities may take enforcement action to bring the landlord or property into compliance with the regulations, and, using its discretion, to sanction landlords. In these circumstances, tenants will be able to complain to either the local housing authority or an approved redress scheme. To address both the regulatory breach and redress needs of the tenant, the local housing authority and redress scheme each have complementary but separate roles.

485. Subsection (1) allows for official guidance on how local authorities and any approved or designated redress scheme will work together to resolve complaints where both parties have a jurisdictional interest. Approved or designated redress schemes and local housing authorities will need consistent ways of resolving these issues as quickly and efficiently as possible, while ensuring tenants receive redress and non-compliant landlords are sanctioned where necessary. The government intends for local housing authorities to take into account the guidance and, by regulations under section 65, to require an approved or designated scheme to also take into account this guidance, as outlined in subsection (3).

Background

486. This is a new provision.

Section 71: Interpretation of Chapter 2

Effect

487. This provides essential definitions for words and phrases used in Chapter 2, namely for "landlord redress scheme" defined under section 64, subsections (2), "residential premises" defined under section 1, subsection (4) of the Housing Act 2004, and "residential landlord", "residential tenancy" and "residential tenant" defined under Section 63.

Background

488. This is a new provision.

Section 72: Housing activities under social rented sector scheme

Effect

489. Section 72 amends Schedule 2 of the Housing Act 1996 to prevent residential landlords within the meaning of section 63 from being voluntary members of a government-approved social landlord redress scheme in relation to their private rented sector activities. It also stops social landlords who let property in the private rented sector from being required to be members of a social redress scheme in respect of their private rented sector housing activities and prevents such a scheme from dealing with complaints about private rented sector activities unless permitted by the Secretary of State. "Private rented sector activities" are defined as activities carried on by a person as a residential landlord within the meaning given by section 63 of the Act. Any approved social landlord redress scheme would still be able to accept persons in respect of non-private rented sector activities as voluntary members, and deal with complaints about these members.

490. Subsection (3)(a) allows for complaints in relation to social landlords' private rented sector activities to be considered under an approved social landlord redress scheme if agreed in writing by the Secretary of State.

491. Section 72 also contains an update to paragraph 10 in Schedule 2 of the Housing Act 1996. Updated paragraphs 10, subparagraph (1) and (2) make the Secretary of State responsible by default for appointing the Ombudsman for social housing where the scheme is administered by a body corporate, as well as deciding their terms of appointment. Some or all of these functions may be delegated to the body corporate under paragraph 10, subparagraph (5), with the Secretary of State specifying the extent to which functions are delegated and any conditions to which it is subject under paragraph 10, subparagraph (6).

492. Where the approved scheme employs the Housing Ombudsman, paragraph 10, subparagraph (3) makes clear that the terms of employment must be consistent with any terms of appointment set by the Secretary of State, and that the Secretary of State may remove them from post and instruct the body corporate to cease their employment as the Housing Ombudsman. Existing provisions for the Housing Ombudsman Service to be set up as a corporation sole remain unaffected under subsection (4).

493. Subsection (3)(b) adds a new paragraph 7A to specify that a scheme must provide for enforcement of directions under paragraph 10(3) of the same schedule. This means that, where a Secretary of State has removed the Ombudsman, the scheme administrator must cease to employ them as the Ombudsman, if directed by the Secretary of State to do so.

Background

494. The Housing Ombudsman Service currently administers the only approved redress scheme handling complaints from tenants of social housing providers. The service is provided for under section 51 of, and Schedule 2 to, the Housing Act 1996. The private housing activities of some social housing providers who also let properties in the private rented sector currently fall within the scheme's mandatory jurisdiction. Residential landlords in the private rented sector can also voluntarily join the Housing Ombudsman Service.

495. The government does not intend to bring section 72 into force before the new private rented sector Ombudsman service is established. The provisions in section 72 can be brought into force separately, at different times, if this is deemed necessary.

496. It is the government's intention to ensure that all private tenants have equal access to redress and that the new Ombudsman has oversight of the whole private rented sector. To enable this, section 72 makes provision (by amending Schedule 2 to the Housing Act 1996) to remove the jurisdiction of any approved social landlord redress scheme over private residential landlords and the private rented sector housing activities of social housing providers. This is so that the private rental activities of these landlords will be covered instead under a private rented sector scheme approved under the Renters' Rights Act.

497. The updated paragraph 10 makes the Secretary of State responsible by default for appointing the Ombudsman for social housing under a body corporate model. Although the Secretary of State may delegate this function, they will remain the appointing authority and can revoke delegation at any time. This seeks to ensure that Ombudsmen, while independent of government, are suitably accountable to the department regardless of the corporate structure of the scheme administrator.

Section 73: Other amendments in connection with landlord redress schemes

Effect

498. Section 73 introduces Schedule 3.

Background

499. This is a new provision.

Section 74: Local Commissioners' investigation of complaints by persons who are not tenants

Effect

500. Section 74 amends section 26 of the Local Government Act 1974. Section 26, subsection (8) prohibits the Commission for Local Administration in England from investigating complaints about the matters set out in Schedule 5 to that Act. This amendment provides a targeted exemption to section 26, subsection (8), allowing the Commission to investigate complaints about decisions taken by local authorities in their capacity as registered providers of social housing but where the complainant has no right to make a complaint against that registered provider under a redress scheme approved under Schedule 2 to the Housing Act 1996 (the Housing Ombudsman Service).

Background

501. The Commission for Local Administration in England investigates complaints from members of the public about local authorities and social care providers. The Commission is also known as the Local Government and Social Care Ombudsman. The Housing Ombudsman Service is currently the only scheme approved under Schedule 2 to the Housing Act 1996, and the Service investigates complaints made against its member landlords by those member landlords' tenants, shared owners and leaseholders.

Chapter 3: The Private Rented Sector Database

Section 75: The database

Effect

502. Subsection (1) sets out that the database established by the operator must contain entries regarding (a) existing or prospective residential landlords, (b) dwellings which are, or intend to be, let under a residential tenancy, and (c) residential landlords that i) have received a banning order or ii) received a conviction or financial penalty in relation to a relevant banning order offence or iii) received a conviction or regulatory action as specified in regulations. This may include, for example, breaches introduced as part of this Act, or regulatory action such as improvement notices.

503. Subsection (2) provides definitions for different terms used to describe entries in the database as defined in this chapter.

504. Subsection (3) signposts the relevant sections in this chapter that explain when a landlord or dwelling entry in the database is active and inactive, namely sections 77, subsection (4), and 79.

Background

505. This is a new provision. Section 75 places a duty on the database operator to establish and run a database which contains entries of existing residential landlords, prospective residential landlords and dwellings which are, or intend to be, let under residential tenancies. This new database will provide the basis for the future PRS Database service.

506. The database should also contain entries in respect of persons who are subject to banning orders, who have been convicted of other offences, who have been financially penalised for other specified breaches, or are subject to other regulatory action, as specified in regulations. This is to replace functions relating to private landlords under the existing Database of Rogue Landlords and Property Agents and provisions under the Housing and Planning Act 2016.

Section 76: The database operator

Effect

507. Subsection (1) sets out the definition of the database operator in this chapter, meaning (a) the Secretary of State or (b) a person the Secretary of State arranges to be the database operator.

508. Subsection (2) outlines that the arrangements with the database operator may include (a) provision for payments by the Secretary of State and (b) stipulations about bringing the arrangements to an end.

509. Subsection (3)(a) sets out that the Secretary of State may pass regulations which make the database operator responsible for ensuring that the database works in the way that the regulations require. Subsection (3)(b) allows the database operator to enter into contracts and other agreements in order to implement their role. Subsection (3)(c) allows for functions related to the operation of the database to be discharged by other parties, which may include local housing authorities or a lead enforcement authority, either in place of or alongside the database operator. This may include activities related to the verification or correction of entries, or support for users of the database.

510. Subsection (3)(d) enables the Secretary of State to make arrangements necessary to facilitate a smooth transfer from one database operator to another. This may include the continuation of the database's functions in the interim before a new operator takes over, such as the maintenance of database entries. It could also include provisions about how regulations do not apply during this time. Any such arrangements would only be made on a temporary basis until a new operator is fully operational.

511. Subsection (4) adds that the regulations mentioned in subsection (3)(d) may be in relation to a specific change of database operator or to changes that happen from time to time.

Proposed use of power

512. The intended use of the powers under section 76 is to provide further technical detail as to the duties of the operator, local housing authorities and lead enforcement authorities, and to enable the smooth transition where there is a change of database operator.

513. The government intends to make regulations for section 76 via the negative procedure.

Background

514. This is a new provision. Section 76 sets out a definition of the database operator and the arrangements the Secretary of State may make with a person that they appoint as the database operator.

Example: Transferring data between organisations operating the database

Organisation A was the database operator and Organisation B is going to take over. The Secretary of State is able to make transitional provision as to how the law is to operate during the period of A giving up the function and B taking it over. This could detail matters such as the transfer of data from Organisation A to Organisation B and at what point Organisation A ceases its functions and Organisation B takes over those functions. The Secretary of State could also detail any regulations which do not apply during this period.

Section 77: Making entries in the database

Effect

515. Subsection (1) gives the Secretary of State the power to make regulations with regard to making entries on the database.

516. Subsection (2) sets out what these regulations may specify. The regulations may outline (a) how registrations on the database are created and which person is required to make that registration and (b) what information and supporting documentation needs to be included as part of the registration. Subsection (2)(c) allows the Secretary of State to specify other requirements, including requiring the payment of a fee for registering on the database. Subsection (2)(d) explains that the regulations may state the time by which requirements must be complied with and indicates that regulations may allow for entries to be made without certain conditions being met, as long as those conditions are subsequently met before the end of a specified grace period.

517. Subsection (3) stipulates that any such grace period provided for by regulations cannot exceed 28 days from the day on which the entry is made.

518. Subsection (4) outlines that entries that meet the requirements as set out in regulations will be considered active. This means that they will be considered "live" and valid entries for the purposes of advertising, marketing or letting property – unless or until they become inactive according to the regulations laid out in section 79.

519. Subsection (5) indicates that information about a landlord and a property contained on the database may be made public according to the regulations contained in section 86.

Proposed use of power

520. These regulations will allow the Secretary of State to set out the process and requirements for creating entries on the database. Regulations will be needed from time to time over the life of the database to accommodate changes in property standards and safety requirements, as well as advances in technology, which may also necessitate small tweaks to policy. As well as personal information about the landlord and dwelling, prescribed information will include the details of any other persons involved in the ownership or management of the property, as well as information and evidence relating to property standards. In the immediate term, the government expects this will include documents such as gas safety certificates and Electrical Installation Condition Reports.

521. The government intends to make regulations for section 77 via the affirmative procedure.

Background

522. This is a new provision. The section outlines that the Secretary of State may pass regulations that will outline how, and by whom, landlord and dwelling entries may be made and will prescribe the criteria which will need to be met for a landlord or dwelling entry on the database to be recognised as "active", or live. These will include the prescribed form a landlord is required to complete, either online or on paper, the prescribed information required and the prescribed fee to be paid, as well as the time by which these requirements must be complied with. The power also extends to the provision for a grace period not exceeding 28 days for compliance with a requirement specified in regulations following the making of an entry.

Example: 28-day grace period

A landlord registers a dwelling but indicates that they will provide certain prescribed information within a 28-day grace period. This could be a gas safety certificate where an appointment to inspect the property has been scheduled but not yet taken place. Subject to regulations, this could, for instance, allow a landlord to market the property while some areas of requirements are still in the process of being met.

Section 78: Requirement to keep active entries up-to-date

Effect

523. Subsection (1) states that the regulations, made by the Secretary of State, will require that active entries in the database are kept up-to-date.

524. Subsection (2) clarifies that the regulations may make further specifications about how entries must be updated, including (a) who can make updates to entries, (b) information that must be kept up-to-date, (c) any other requirements that must be met and (d) the time period within which updates must be made.

525. Subsection (3) explains that no fee would be chargeable for keeping entries on the database up-to-date.

Proposed use of power

526. Section 78 explains that the Secretary of State will provide regulations that require active entries in the database to be kept up-to-date.

527. The government intends to make regulations for section 78 via the negative procedure.

Background

528. This is a new provision. Section 78 introduces a requirement for entries to be kept up-to-date so as to ensure that entries in the database are accurate, contain valid information and that evidence relating to housing standards can be consistently monitored.

Example: Keeping entries up to date

The regulations may cover a scenario in which a landlord with an active dwelling entry on the database receives a new gas safety certificate for that dwelling. The gas safety certificate currently on the database is now out of date and must be replaced with the new certificate in order for the landlord to keep the dwelling entry up-to-date. The landlord would be required to upload the new certificate and can do so free of charge.

Section 79: Circumstances in which active entries become inactive and vice versa

Effect

529. Subsection (1) states that the regulations, made by the Secretary of State, will set out when an active landlord or dwelling entry may become inactive and vice versa.

530. Subsection (2)(a) outlines that the regulations may set out that active landlord or dwelling entries may become inactive – or in effect, expire – after a period of time if requirements specified in the regulations are not met. For example, if a landlord does not renew the entry and pay the re-registration fee after a specified registration period has ended and they have exceeded the 28-day grace period. Subsection (2)(b) outlines that regulations may provide for active entries to be made inactive – for example, if the landlord has sold the property or if it is no longer being let. Subsection (2)(c) outlines that the regulations may specify requirements that must be met for inactive entries to become active entries again.

531. Subsection (3) stipulates that regulations under this section may require a fee for renewal of entries.

Proposed use of power

532. Section 79 sets out that the Secretary of State will provide regulations about when an active landlord or dwelling entry may become inactive and vice versa. This covers, for example, late renewals.

533. The government can make regulations for section 79 via the negative procedure.

Background

534. This is a new provision. Section 79 outlines the power that the Secretary of State will hold to make regulations which will specify circumstances in which an entry may become "inactive" or vice versa. An entry may become "inactive" and no longer publicly viewable if it expires without renewal, or, under certain circumstances, if a landlord makes a request – for example, if they have sold the property. Once an entry is inactive, either at the landlord's request or because it has expired, the respective dwelling cannot be marketed, advertised or let unless it is made active again. Inactive entries will be archived for five years, after which they will be deleted from the database. Regulations will determine the process for renewals and the procedure applicable to late renewals.

Example: Failing to re-register before the specified deadline

A landlord has failed to re-register on the database before the specified deadline and they have received a letter warning them that they must re-register within the 28-day grace period. The landlord fails to re-register within the 28-day grace period and therefore their database entry is made inactive. For this entry to become active again, the landlord would need to pay a late fee as well as the re-registration fee.

Section 80: Verification, correction and removal of entries

Effect

535. Subsection (1) outlines that the Secretary of State can make regulations (a) concerning the verification of information provided to the database and (b) the process by which incorrect entries can be rectified. Subsection (1)(c) allows for the removal of entries that do not meet the criteria for entry onto the database.

536. Subsection (2) sets out the areas that these regulations will cover. This may include verification of identity, or of property standards documentation. Subsection (2)(a) indicates that regulations may outline the process for verification of entries, by local housing authorities or other persons, such as the operator. Subsection 2(b) states that the regulations can make provision about how the authentication of entries required by that subsection is carried out. Subsection (2)(c) permits the correction of errors within landlord and dwelling entries by specified persons. Subsection (2)(d) permits the removal by specified persons of landlord or dwelling entries that do not meet the requirements set out in this Chapter.

Proposed use of power

537. The operating model for the database is designed around an assumption that certain processes can be automated. This means that some of the duties the government expects the database operator, local housing authorities and users of the database to carry out will be dependent on successful testing of the technology, and on applying learnings as the database is rolled out. A regulation-making power that covers verifying, correcting and removing entries means that duties can be tailored to the technological abilities or limitations of the database. For example, spot checks on gas and electrical safety certificates may be necessary if it is found that this cannot be done accurately in a digital format.

538. The government will make regulations for section 80 via the negative procedure.

Background

539. This is a new provision. Section 80 empowers the Secretary of State to make regulations that detail how information collected on the database will be authenticated and outline a process for editing or removing incorrect entries. The power would extend to making provision about how and by whom verifications and corrections may be carried out, including requiring local housing authorities or other bodies such as the operator to undertake these functions. The intent is for a quota of information collected by the database to undergo a form of verification to check whether it is valid, and for corrections to be made where this is not the case. This may be partially automated, but a proportion of triaged applications will likely require follow up by those carrying out these functions.

Example: Removal of landlord entry made in error

A local housing authority identifies a dwelling entry for a houseboat. The owner of the houseboat has misunderstood their obligations and has mistakenly made a dwelling entry for the houseboat. This entry is invalid, as it does not meet the definition of "dwelling" as set out in section 99. The local housing authority removes the dwelling entry, in line with regulations made under this section. The active landlord entry is retained, as the residential landlord also lets out three other properties which meet the requirements under this chapter.

Section 81: Fees for landlord and dwelling entries

Effect

540. Subsection (1) provides that this section applies where regulations are made under sections 77 or 79 requiring the payment of a fee for the creation or renewal of "landlord entries" and "dwelling entries".

541. Subsection (2) provides that such regulations must (a) specify the amounts of any fees, or (b) if the regulations state that fees are to be determined by the database operator, the regulations may specify which of "relevant costs" the fees must be calculated by reference to. There may be different fee amounts for different landlords/circumstances. Subsection (3) provides that fee amounts specified in regulations (as permitted under subsection (2)(a)) are to be calculated by reference to the "relevant costs".

542. What is meant by "relevant costs" is set out in subsection (4). These are costs incurred in or associated with, or likely to be incurred or associated with (a) the establishment and operation of the database, such as setting up the database, testing and integration, the maintenance of technology and the provision of administrative support to users; (b) the enforcement of requirements in respect of the database under this chapter; (c) the performance of other functions of the database operator under this chapter, like the provision of guidance to residential landlords; and (d) the enforcement of any other requirements imposed under this Act or otherwise "in relation to the private rented sector". Fees can be set at a level that covers relevant costs not directly connected to services provided to the particular fee-payer.

543. Subsection (5) provides that the fee charged for a database entry to become active again after becoming inactive under section 79, subsections (2)(a) and (b) may be higher than the fee that would have been charged had the entry remained active, this being the sum of the re-registration fee and an additional late fee.

544. Subsection (6) provides that regulations may be used to set out that fees are to be paid to the database operator by persons and circumstances stipulated in the regulations.

545. Under subsection (7) the Secretary of State may direct the database operator to pay all, or part, of the amount it receives in fees to local housing authorities or into the Consolidated Fund.

546. Subsection (8) makes provisions about the situation where the Secretary of State is the database operator. Namely, subsection (7) does not apply if the Secretary of State is the database operator and that the Secretary of State may pass onto local housing authorities monies collected through fees.

547. Subsection (9) sets out important definitions used in this section, including what is meant by "in relation to private rented sector".

Proposed use of power

548. The powers within section 81, will be used to set fees, with fee amounts determined by reference to "relevant costs" which include the establishment, operation and enforcement of the database and wider private rented sector enforcement.

549. Regulations made under section 81 will be subject to the negative procedure.

Background

550. This is a new provision. The government intends to charge a fee to landlords for registration on the database. This includes an enabling power to set fee amounts by reference to "relevant costs". The "relevant costs" are the costs that can be recovered via database fees. These costs can include the cost of setting up and running the database and wider enforcement costs arising in the private rented sector.

> ### Example: Charging an additional late fee
> A landlord has failed to re-register on the database before the specified deadline and they have received a letter warning them that they must re-register within the 28-day grace period. The landlord does not re-register within the 28-day grace period and is therefore eligible to be charged an additional late fee as well as the re-registration fee as stated in section 81, subsection (5).

Section 82: Restrictions on marketing, advertising and letting dwellings

Effect

551. Subsection (1) sets out that anybody who is marketing a property as available for rent must not do so unless there is an active entry on the database, both (a) for the landlord or prospective landlord of that property, and (b) for the property that is being marketed. Section 99 defines what is meant by "marketing a dwelling" and provides a definition of letting agency work for the purposes of these restrictions.

552. Subsection (2) adds that any written advertisement for a property as available for rent must include the unique identifiers which are allocated to the landlord and property upon registration as set out in section 84.

553. Subsection (3) establishes that all properties being privately let by a residential landlord must be registered on the database. Subparagraphs (a) and (b) put a duty on residential landlords to ensure that there are active entries both for themselves as landlord and for each dwelling they are letting out, and that the entries meet the requirements imposed by regulations made under section 78.

554. Subsection (4)(a) gives the Secretary of State the power to make regulations which specify circumstances in which the duty under subsection (3) can apply to specified persons other than the landlord, and in which (4)(b) a landlord may be relieved of the duty in general or for a period specified in accordance with regulations.

555. Subsection (5) makes clear that any breaches in relation to this section have no impact on the validity or enforceability of a residential tenancy or other contracts where other laws would render them invalid or unenforceable for reasons of illegality.

Proposed use of power

556. Subsection (4) allows the duty set out by subsection (3) to be imposed on someone other than the landlord in certain circumstances.

557. The regulations are subject to the affirmative procedure.

Background

558. This is a new provision. This section introduces a requirement for dwellings and the associated private landlords to be registered on the database before they can be let, or before they are advertised or marketed for let. Existing landlords must ensure that they have an active landlord and dwelling entry and comply with any requirements relating to those entries imposed by regulations made under section 78. These restrictions will apply to landlords, letting agents and to anybody who advertises a dwelling as available to let. The effect of these restrictions is that prospective tenants will be able to view and confirm whether a dwelling they are considering renting is registered before they make a decision on renting.

> Example: Marketing a property that is not registered on the database
> A letting agent has listed a property on their website as available for let. The letting agent also calls a prospective tenant to let them know that the property is available for rent. However, neither the property nor the landlord has an active entry on the database, and the listing does not contain unique identifiers. The letting agent is in breach of requirements under section 82 (subsections (1) and (2)) and could be subject to a penalty under section 91.

Section 83: Entries in the database relating to banning orders, offences, financial penalties, etc.

Effect

559. Subsection (1) places local housing authorities under a duty to make entries on the database for a person that has (a) received a relevant banning order from the local authority, (b) been convicted of a relevant banning order offence following proceedings instituted by the local authority or (c) has received a financial penalty from the local authority in relation to a relevant banning order offence.

560. Subsection (2) grants local housing authorities a power to make entries on the database if a person has (a) been convicted of, or (b) received a financial penalty in relation to, a banning order offence where proceedings were instituted by a person other than a local authority.

561. Subsection (3) places a duty on the person that instituted the criminal proceedings or imposed the financial penalty to provide local housing authorities with any information they request in relation to offences under subsection (2).

562. Subsection (4) grants the Secretary of the State the power to make regulations which impose a duty on local housing authorities to make entries under subsection (2), in circumstances specified in the regulations.

563. Subsection (5) sets out that the duty in subsection (1) and power in subsection (2) only applies if (a) the period for the person to appeal a banning order, conviction or fine has ended or (b) any appeal has been concluded, withdrawn or abandoned.

564. Subsection (6) grants the Secretary of State the power to make regulations that place local housing authorities under a duty, or grant them a power, to make entries on the database where a person has committed an offence, has received a financial penalty, or is subject to regulatory action described in the regulations, provided that the offence or regulatory action relates to conduct which occurred when they were a residential landlord or when they were marketing a property for let in the private rented sector.

565. Subsection (7) sets out what may form part of regulations made under subsection (6) in relation to an offence (such as the nature of the offence, the circumstances and court details etc.) and also permits the regulations to contain provisions for local housing authorities to request information from others to make an entry.

566. Subsection (8) requires entries made under the section to include certain information, such as the name of the person it relates to, and, in relation to banning orders, the date a banning order starts and finishes. Subsection (8)(c) provides a regulation-making power for the Secretary of State to request further information that must be contained in an entry.

567. Subsection (9) sets out that regulations made under subsection (8)(c) may require entries to include a person's name and address, details of any dwellings for which they are a residential landlord and details of the offences, financial penalty or regulatory action.

568. Subsection (10) places local housing authorities under a duty to take reasonable steps to confirm that entries made under the section are correct and up-to-date.

569. Subsection (11) refers to the regulation-making power in section 86 which will enable entries under this section to be made available to the public.

570. Subsection (12) defines a "relevant banning order" and "relevant banning order offence". For the purposes of the Chapter.

Proposed use of power

571. Subsection (4) sets out a power for the Secretary of State to make regulations which require local housing authorities to make entries in relation to banning order offences instituted, or financial penalties imposed, by persons other than local authorities. The government may make regulations for section 83, subsection (4) using the negative procedure.

572. Subsection (6) provides that the Secretary of State may make regulations that grant local housing authorities a power, or place them under a duty, to make entries on the database in relation to convictions or regulatory action, provided they relate to conduct which occurred when the person was a residential landlord. The government may make regulations for this power using the affirmative procedure.

573. Subsection (8)(c) prescribes that the Secretary of State may make regulations which determine what information must be included in an entry made under section 83. The government may make regulations for this power using the negative procedure.

Background

574. Section 83 places local housing authorities under a duty to make an entry in the database in respect of a) a relevant banning order, b) a relevant banning order offence, or c) a financial penalty in relation to a relevant banning order offence imposed by that authority. This duty only applies if the period for appealing against any order, conviction, or penalty has expired and any such appeal has been finally determined, withdrawn or abandoned. This is to replace the similar function on the existing Database of Rogue Landlords and Property Agents, under the HPA 2016. A further power is given to local housing authorities to make entries in respect of a person who has received a conviction or financial penalty in relation to a relevant banning order offence imposed by person other than a local housing authority.

575. The section also grants the Secretary of State the power to make regulations which impose a duty on local housing authorities to make entries in respect of persons that have received a financial penalty or a conviction where proceedings were commenced by a person other than a local authority. This provides for banning order offence entries to be made on the database in respect of offences a local housing authority does not themselves enforce. The regulations may also require local housing authorities to request information from other persons to

facilitate the making of an entry. This section also gives the Secretary of State the power to make regulations which would permit or require database entries in respect of other offences or regulatory action and the offence occurred when the person was a residential landlord or marketing a property with the intention of creating a residential tenancy.

576. Detail is also provided, within the section, on the information that must and may form part of an entry in the database made under this section.

> ### Example: Banning order offence information
> A local housing authority contacts a relevant agency which enforces banning order offences. The relevant agency provides the local housing authority with offence information about residential landlords who have been convicted or received a financial penalty for a banning order offence. The local housing authority then makes entries on the database in relation to the banning order offence information it has received from the other agency, including all the information required as set out by regulations.

Section 84: Allocation of unique identifiers

Effect

577. Subsection (1) requires the database operator to allocate a unique identifier to each person and dwelling with an entry on the database.

578. Subsection (2) outlines that the unique identifier must be made up of a sequence of letters and/or numbers that allows entries to be distinguishable from one another.

579. Subsection (3) clarifies that the database operator is not required to allocate a unique identifier to a person or dwelling that already has a unique identifier on the database.

Background

580. This is a new provision. This section requires the database operator to allocate a unique identifier – a sequence of letters and/or numbers – to each landlord and dwelling with an entry on the database. The purpose of utilising unique identifiers is to enable ease of navigation for local housing authorities within the database and provide a way of distinguishing different entries on the database.

> ### Example: Registering multiple properties
> A landlord may create a registration entry for themselves and then make 50 registration entries for each property in their portfolio. The landlord would have their unique landlord identifier and 50 unique dwelling identifiers, each distinguishable from one another and other entries on the database.

Section 85: Other duties

Effect

581. Subsection (1) places the following duties on the operator: they must (a) make available alternative methods of registration for persons who are unable or do not wish to register online; (b) ensure that local housing authorities are able to edit the database in the ways required of them by this Chapter; (c) make available a means by which persons can report breaches imposed by section 82 to the database operator and ensure these reports are accessible to local housing authorities who will be able to investigate or enforce them; and (d) provide guidance for residential landlords and tenants about their rights and obligations regarding the database.

582. Subsection (2) requires that the database operator must report to the Secretary of State on the performance of the database, including on trends related to the database, and subsection (3) allows for the Secretary of State to agree or direct reporting intervals and criteria.

583. Subsection (4) clarifies that subsection (2) does not apply if the Secretary of State is the database operator.

Background

584. This is a new provision. This section sets out the general duties of the database operator to enable the effective running of the database. These are in addition to those established throughout the chapter.

> ### Example: A tenant identifying a property that is not registered on the database
> A tenant living in the private rented sector hears about the PRS Database and reviews it to search for their landlord. However, they cannot find an entry for their landlord or for the dwelling they are renting. They report this on the database via a form made available by the database operator. The relevant local housing authority receives a notification about this and is able to follow up with the tenant and with the landlord to edit the database accordingly, and to take enforcement action if they deem appropriate.

Section 86: Access to the database

Effect

585. Subsection (1)(a) indicates that regulations may require the operator to make certain information contained in active entries, and in entries related to banning orders, offences, financial penalties, or regulatory action, available to the public.

586. Subsection (1)(b) states that regulations may require that entries relating to offences, penalties or regulatory action must be linked to corresponding landlord entries. This is to enable someone searching the publicly available information on the database to see which landlord entries are associated with offences and/or financial penalties or regulatory action, and to avoid any confusion where there may be landlords with similar names.

587. Subsection (1)(c)(i) clarifies that regulations may be introduced that set out when an entry made under section 83 must be accessible to the public, which must not be before 21 days after the initial entry was created. Subsection 1(c)(ii) provides that the regulations may require local authorities to notify the landlord that such an entry has been made in order to give the landlord an opportunity to make the local housing authority aware of any errors in the entry within the 21 day period, before it is made public. Subsection (1)(c)(iii) indicates that regulations may also specify when such entries will no longer be able to be viewed by the public. Subsection (d) states that regulations may specify the form in which information must be made available by the database operator.

588. Subsection (1)(d) indicates that regulations may stipulate the manner and form in which database information must be made available to the public.

589. Subsection (2) requires the database operator to grant database access to all lead enforcement authorities, local housing authorities, local weights and measures authorities in England, mayoral combined authorities (as defined by section 107A(8) of the Local Democracy, Economic Development and Construction Act 2009) and the Greater London Authority.

590. Subsection (3) requires the database operator to grant access to database information to the Secretary of State, where the Secretary of State is not themselves the operator.

Proposed use of power

591. Regulations will be made to enable certain information contained in active entries, and in entries made under section 83, to be made available to the public. This will be limited to information that is necessary and proportionate for the tenant or prospective tenant to make an informed decision about renting. It is expected that this will include the landlord name, details of others involved in the ownership or management of the property, details of any relevant unspent offences, financial penalties or regulatory notices or decisions held by the landlord, and details relating to the dwelling, including the address and information relating to property standards.

592. The government may make regulations for section 86 via the affirmative procedure.

Background

593. This is a new provision. The section indicates that the Secretary of State may by regulations specify that certain information contained in active landlord and dwelling entries must be made public, that entries pertaining to offences must be linked to that person's entry and the timescale for this information to be made publicly available.

> ### Example: Banning order offence
> A local housing authority's application for a banning order against a landlord in their area has been approved, and the local housing authority subsequently makes an entry on the database for this particular landlord and associated offence. The local housing authority also links this entry to the active entry on the database for the same landlord. Certain details, specified in the regulations, about these entries are then made publicly viewable after 21 days to make sure that renters and prospective renters have access to accurate information to help them in deciding where to rent and from whom.

Section 87: Disclosure by database operator etc

Effect

594. Subsection (1) states that the database operator must not divulge restricted information collected for the database unless in accordance with section 86, subsections (2) or (3) or if authorised by regulations under this section.

595. Subsection (2) indicates that the Secretary of State may introduce regulations which allow for disclosure of restricted information from the database to third parties if that information is required (a) to enable or facilitate compliance with a statutory requirement, (b) to enable or facilitate compliance with a requirement under a rule of law or (c) to facilitate the exercise of a statutory function, specified in the regulations.

596. Subsection (3) outlines that the regulations may (a) specify the manner and form in which the information may be shared and (b) outline restrictions as to how the information disclosed is used and as to the further disclosure of information shared under the regulations.

597. Subsection (4) clarifies that a disclosure sanctioned within the regulations will not (a) breach an obligation of confidence owed by the database operator or (b) breach any other prohibition on sharing information collected on the database.

598. Subsection (5) states that nothing in this section or within the regulations allows disclosures which would breach data protection legislation, having had regard for the powers conferred by this section and any regulations laid under it.

599. Subsection (6) states that it is an offence to knowingly or recklessly disclose restricted information on the database, either in contravention of subsection (1) or in associated regulations.

600. Subsection (7) indicates that the penalty for a person convicted of such an offence is a fine.

601. Subsection (8) clarifies that data protection legislation is defined within section (3) of the Data Protection Act 2018 and defines "restricted information" for this section.

602. Subsection (9) clarifies that for subsection (8) the information would identify a particular person if the identity of that person is specified in the information, can be deduced from the information or can be deduced when taken together with any other information.

Proposed use of power

603. This section allows the Secretary of State to create regulations which specify how information on the database can be shared with third parties that are not local housing authorities or lead enforcement authorities, and the restrictions that are to be placed on why and how this information is released as well as its further use.

604. The government may make regulations for section 87, subsection (2) via the affirmative procedure.

Background

605. This is a new provision. This section outlines under what circumstances information on the database can be shared with third parties other than local housing authorities and lead enforcement authorities and specifies that regulations may be made that clarify what private information can or cannot be disclosed. The intent of this section is to enable the Secretary of State to make regulations which will govern how data collected by the database can be shared or circumstances in which access to this data is limited.

Example: Fire safety investigation

A fire service has been alerted to an obstructed fire escape at a block of four flats. The flats are occupied by private renters, each with a different landlord, and it is not clear who is responsible – landlord(s), freeholder or managing agent(s) (or if responsibility is shared) – for the non-domestic parts of the premises. To determine who is responsible and must comply with duties under The Regulatory Reform (Fire Safety) Order 2005, the fire service must contact the landlord. To facilitate situations like this, the database regulations may stipulate that the disclosure of private information is necessary for fire services to exercise their statutory functions. The regulations may also specify that landlord addresses may only be shared with fire services under specific data sharing agreements that prohibit the further disclosure of the information.

Section 88: Use of information from the database

Effect

606. Subsection (1) limits the use of the database by a lead enforcement authority to activities related to the functions given to them under the relevant landlord legislation.

607. Subsection (2) stipulates that local housing authorities may use the information contained in the database for activities related to their general functions connected to housing, residential landlords and tenancies.

608. Subsection (3) limits the use of the database by weights and measures authorities to activities related to their enforcement of housing standards.

609. Subsection (4) limits the use of data by mayoral combined authorities and the Greater London Authority, who may only use information in connection to their housing-related functions.

Background

610. This is a new provision.

Section 89: Removal of entries from database

Effect

611. Subsection (1) states that entries for landlords or dwellings that have been dormant for five years must be removed from the database.

612. Subsection (2) explains that entries under section 83 must be removed from the database 10 years after being made.

613. Subsection (3) clarifies that if the relevant banning order continues after the period mentioned in subsection (2), subsection (2) does not apply, and the database operator must remove the entry when the ban expires.

Background

614. This is a new provision. Section 89 provides an explanation of when entries on the database should be removed entirely from the database. This section provides protection to personal data by ensuring that data is only retained for the period that it is useful and necessary.

Section 90: Restriction on gaining possession

Effect

615. Section 90 inserts new subsection 5ZA into section 7 of the Housing Act 1988. This will prevent the court from granting a possession order in circumstances where the residential landlord has failed to comply with the duty under section 82, subsection (3)(a) to ensure there is an active entry in the private rented sector database in respect of both the landlord and the dwelling. This does not apply if the ground under which possession is sought is Ground 7A or Ground 14 (tenant anti-social behaviour).

616. Subsection (2) clarifies that regulations may make changes to the persons whom or circumstances in which a breach of section 82, subsection (3)(a) prevents the making of an order for possession.

Proposed use of power

617. The power in this section will allow the Secretary of State to make changes to section 7 of the Housing Act 1988. Through regulations, the Secretary of State will be able to amend the persons to whom or the circumstances in which the restriction on granting a possession order applies.

618. The government may make regulations for section 90, subsection (2) using the affirmative procedure.

Background

619. This is a new provision. Section 90 introduces a restriction on the ability of the court to grant an order for possession of a dwelling-house if the residential landlord does not have an active landlord and dwelling registration in the database. The aim of this section is to encourage landlords to register on the database by restricting possession for non-compliance.

Section 91: Financial penalties

Effect

620. Subsection (1) provides that a local authority can impose a financial penalty on a person who has breached a requirement imposed by section 82 (restrictions on marketing, advertising and letting dwellings) or committed an offence under section 92. Subsection (2) sets out the maximum fine amounts.

621. Subsection (3) describes the circumstances in which more than one financial penalty may be imposed for the same conduct, namely, if (a) the conduct continues after 28 days starting the day after the final notice for the previous penalty was given to the person, unless the person appeals against the notice within that period, or if (b) the person appeals within the 28 day period, the conduct continues after 28 days starting from the day after the appeal was finally determined, withdrawn or abandoned.

622. Subsection (4) states that subsection (3) does not allow a penalty to be imposed after the final notice for the previous penalty has been withdrawn or quashed on appeal.

623. Subsection (5) sets out that no financial penalty can be imposed in relation to an offence under section 92 if the person has already been convicted of an offence in relation to the relevant behaviour, criminal proceedings have started for the offence but have not finished or criminal proceedings have finished in relation to the offence and the person has not been convicted.

624. Subsections (6) and (7) give the Secretary of State power to produce guidance which local housing authorities must have regard to when exercising their functions in relation to financial penalties.

625. Subsection (8) notes that the Secretary of State may use regulations to amend the amounts in subsection (2) to reflect changes to the value of money.

626. Subsection (9) clarifies that, for the purposes of sections 91 and 92, a financial penalty is imposed on the date specified in the final notice as the date on which the notice is given, and that "final notice" is defined in paragraph 6 of Schedule 5.

Proposed use of power

627. This power enables the Secretary of State to provide guidance that local authorities must have regard to when exercising their functions in relation to financial penalties and make regulations which amend the maximum financial penalties under subsection (2) in line with changes in the value of money.

Background

628. Section 91 gives local housing authorities the power to impose financial penalties on people that do not meet the requirements of the Private Rented Sector Database (the database), as set out in section 82, or commit an offence related to the database, as set out in section 92.

Example: Failure to register a property on the database

A landlord fails to register a property on the database but advertises the property for let within the private rented sector. The local authority becomes aware that the property is being advertised to let. The local housing authority determines that the responsible landlord has not been penalised for this offence previously and that no proceedings are underway to penalise them for the offence. The local housing authority then decides to issue a notice of intent, followed by a financial penalty, on the responsible landlord for the property, due to a breach of the requirements relating to the database.

Section 92: Offences

Effect

629. Subsection (1) states that it is an offence to knowingly or recklessly provide false or misleading information which falsely indicates compliance with requirements imposed by regulations made under the Chapter.

630. Under subsection (2) a person who has received a financial penalty for a breach of a requirement imposed by section 82, subsections (1), (2) or (3) (restrictions on marketing, advertising and letting dwellings), or in lieu of prosecution for any offence under this section, commits an offence if the conduct in respect of which the penalty was imposed continues for longer than the specified period thereafter, as long as the final notice imposing the penalty has not been withdrawn.

631. Under subsection (3) a person who has received a financial penalty for breach of a requirement imposed by section 82, subsections (1), (2) or (3) commits an offence if they commit a different breach within the next five years.

632. Subsection (4) provides that a person who has been previously convicted of an offence under this section, and received a financial penalty, commits an offence if they breach a requirement imposed by section 82, subsections (1), (2) or (3) again within five years of the previous conviction, or receiving the financial penalty.

633. Subsection (5) describes what is meant by a relevant penalty in subsections (2) to (4).

634. Subsection (6) provides that a person cannot be convicted of an offence under this section if the conduct which resulted in the offence has already been penalised by way of a financial penalty.

635. Subsection (7) notes that a person convicted of an offence under this section is liable to a fine.

636. Subsection (8) states that if a body corporate commits an offence under this section and it can be proved to have been committed with the consent or connivance of, or is attributable to the neglect, of one of its officers, then the officer has also committed the offence and is liable to punishment.

637. Subsection (9) clarifies that, where a body corporate is managed by its members, subsection (8) applies to the conduct of members in relation to the functions of management, as if they were an officer.

Background

638. Section 92 defines the offences of continuing and repeat breaches of requirements imposed by section 82, subsections (1), (2) or (3) and of knowingly or recklessly providing false or misleading information in relation to meeting a requirement relating to the database.

Example: Failure to register a property on the database – offence

A landlord is found to have let a property whilst it is unregistered on the database. The enforcing local housing authority finds evidence that the same landlord was convicted for knowingly or recklessly providing false information three years earlier. The previous offence was not appealed by the landlord. The local housing authority then prosecutes the landlord for a repeated breach of the database's requirements and serves the landlord with a civil penalty notice of up to £40,000.

Section 93: Power to direct database operator and local housing authorities

Effect

639. Subsection (1) states that the Secretary of State may give directions (a) to the database operator and (b) to local housing authorities about how to carry out their functions.

640. Subsection (2) sets out that directions given by the Secretary of State may provide that a function can only be exercised (a) after consulting with the Secretary of State or (b) with the consent of the Secretary of State.

641. Subsection (3) explains that subsection (1)(a) does not apply if the Secretary of State is the database operator.

Proposed use of power

642. A power to allow the Secretary of State to direct the database operator and local housing authorities on how to carry out functions imposed on them by the Act.

Background

643. This is a new provision. Section 93 provides that the Secretary of State may give directions to the database operator and local housing authorities about the exercise of their functions.

Section 94: Entries under section 83: minor and consequential amendments

Effect

644. Section 94 amends the Housing and Planning Act 2016 (HPA 2016).

645. Subsection (2) inserts a new subsection into section 28 of the HPA 2016 and refers to the database to be established under section 75 of this Act.

646. Subsection (3) inserts new subsections (3) and (4) into section 29 of the HPA 2016 which defines "a banning order" for the purposes of section 29. The effect of this means that a local housing authority in England is only under a duty to make an entry onto the Database of Rogue Landlords and Property Agents for banning orders made before the Renters' Rights Act comes into force, or banning orders made on or after the date the Renters' Rights Act comes into force where the order does not ban a person from letting a house in England. Furthermore, a local housing authority in England is only under a duty to make an entry onto the Database of Rogue Landlords and Property Agents where the order relates to an offence which was committed by a person who, at the time, was neither a residential landlord nor were they marketing a dwelling for the purpose of creating a residential tenancy (as defined in Part 2 of the Renters' Rights Act).

647. Subsection (4) inserts a new subsection (8) and (9) into section 30 of the HPA 2016 which defines a banning order offence for the purposes of section 30.

Background

648. Section 94 sets out amendments made to the HPA 2016, that relate to entries made under section 83. Functions relating to residential landlords are carried across to the new Private Rented Sector Database established under this chapter. Entries relating to property agents and others will remain on the Database of Rogue Landlords and Property Agents.

Section 95: Different provisions for different purposes: joint landlords

Effect

649. Section 95 clarifies that regulations made under Chapter 3 may include different provision for joint landlords, and provides an example that provision may be made to allow for a single landlord entry in respect of joint landlords.

Background

650. Section 95 clarifies that specific provisions may be made for joint landlords.

Section 96: Interpretation of Chapter 3

Effect

651. The meaning of "database" is the database established under section 75.

652. The definition of "lead enforcement authority" is taken from section 111, subsection (5), and the definition of "the landlord legislation" is taken from section 107, subsection (5).

653. The definition of "relevant banning order" is derived from Chapter 2 of Part 2 of the Housing and Planning Act 2016. The definition of "relevant banning order offence" is derived from Chapter 2 of Part 2 of the Housing and Planning Act 2016.

654. The meaning of "unique identifier" is given in section 84, subsection (1).

655. Subsection (2) provides that, the lead enforcement authority is "responsible" for the provisions of the landlord legislation for the purposes of this Chapter and the application of Part 4 of this Act.

Background

656. Section 96 provides a definition of "database", "lead enforcement authority", "the landlord legislation", "relevant banning order", "relevant banning order offence" and "unique identifier" for the purposes of Chapter 3 (The Private Rented Sector Database).

Chapter 4 – Part 2: Supplementary Provision

Section 97: Financial assistance by Secretary of State

Effect

657. Section 97 enables the Secretary of State to provide financial assistance to a person exercising functions under Part 2 of the Act.

658. This provision is intended to be used, only if necessary, to support the setup of an approved redress scheme by providing funding to an approved scheme administrator, or in the event of an emergency or other unforeseen circumstances where intervention is needed for the continued or effective operation of the scheme. As standard practice, the intent is for any approved redress scheme to be self-funding through membership fees.

Background

659. This is a new provision. Similar provisions exist in relation to other redress schemes.

Section 98: Rent repayment orders for offences under the Housing Act 1988 and sections 67 and 92 of this Act

Effect

660. Section 98 amends sections of Chapter 4 of Part 2 of the Housing and Planning Act 2016 ("the 2016 Act") which make provision for rent repayment orders.

661. Subsection (2) lists the offences committed by a landlord that may be subject to a rent repayment order.

662. Subsection (3)(a) extends the period in which a tenant can apply for a rent repayment order from 12 months to two years beginning with the date the offence was committed.

663. Subsection (4) extends the period in which local authorities can send a notice of intended proceedings to a landlord for a rent repayment order from 12 months to two years beginning with the date the offence was committed. The purpose of these provisions is to widen eligibility and ensure fewer tenants and local authorities are timed out.

664. Subsection (3)(b) provides that where a tenant is seeking a rent repayment order for an offence under section 16J, subsections (1) or (2) of the HA 1988, the property does not have to have been let to the tenant when the offence occurred.

665. Subsections (5)(a)(i) and (6)(a)(i) provide that the rent repayment order amount for the new, "one-off" offences must relate to the rent – or Housing Benefit or Universal Credit in respect of rent – paid for the period of two years ending with the date of the offence. Subsections (5)(a)(ii) and (6)(a)(ii) provide that the rent repayment order amount for the new, "continuous" offences must relate to the period of up to two years in which the landlord was committing the offence and in respect of which rent was paid – or Housing Benefit or Universal Credit in respect of rent. Subsections (5)(b) and (6)(b) provide that, where a rent repayment order is made in relation to an offence under 16J, subsection (2) of the Housing Act 1988, the amount of the order is to be calculated by reference to the rent paid in respect of the two years prior to either the date of the offence or, if the tenancy ends before that date, the date on which it ends.

666. Subsections (5)(c) and (6)(c) provide that, when determining the amount of the award under section 44 or 45 of the 2016 Act, in addition to convictions, the Tribunal must now take into account whether the landlord has at any time received a financial penalty for any of the offences to which Chapter 4 of the Act applies and whether the landlord has at any time had a rent repayment order made against them.

667. The combined effect of subsection (7)(a) and the deletion of the previous Condition 2 in section 46, subsection (3) of the 2016 Act is that, where a landlord has been convicted of or received a financial penalty for any offence to which Chapter 4 of the Act applies, the Tribunal must award the maximum amount. The purpose is to ensure that the deterrent effect of rent repayment orders is equally strong across all offences to which the rent repayment order regime applies, and to increase the deterrent effect for the offences to which this provision did not previously apply.

668. Subsection (7)(b) creates a new Condition 2 in section 46, subsection (3) of the 2016 Act. New Condition 2 provides that where a rent repayment order is made against a landlord for an offence ("the relevant offence") and the landlord has at any time been convicted of, received a financial penalty for or had a rent repayment order made against them in respect of another

offence, the Tribunal must award the maximum amount that can be awarded, provided the two offences are the same. The intention is to ensure that the deterrent effect is increased against landlords who repeat the criminal behaviour that they have previously been subject to enforcement action for.

669. Subsection (7)(c) provides that the two offences relating to failure to hold the correct licence for a property are treated as the same offence for the purpose of section 46, subsection (3) of the 2016 Act.

Background

670. The Housing Act 2004 introduced rent repayment orders for licensing offences under that Act. The Housing and Planning Act 2016 extended rent repayment orders to cover: violence for securing entry; eviction or harassment of occupiers; failure to comply with an improvement notice or prohibition under the Housing Act 2004; and breach of a banning order. These provisions further extend the list of offences for which a rent repayment order can be sought and extend the period in which a rent repayment order can be sought after the offence. The provisions also include measures to increase the deterrent effect of rent repayment orders and to treat instances of repeat offending more harshly.

Section 99: Interpretation of Part 2

Effect

671. Subsection (1) defines what a "dwelling" is for the purposes of Part 2.

672. Subsection (2) clarifies that "residential landlord", "residential tenancy" and "dwelling" are defined in section 63, subsections (1) and (2).

673. Subsection (3) provides an explanation for the activities which can be considered as marketing a property with the intention of creating a residential tenancy. A person who (a) advertises a property for rent under a residential tenancy as defined by section 64, or (b) informs another person that a property is available to let under a residential tenancy in the course of letting agency work, will be considered to be marketing a residential property.

674. Subsection (4) explains that subsection (3)(a) will not apply to a person who facilitates an advertisement regarding letting a residential property as part of that business if the business does not involve lettings agency work and the advert was supplied by another person. This is to avoid businesses or third parties that are not conducting letting agency activities being held responsible for disseminating adverts for residential lets that are not registered on the database.

675. Subsection (5) defines "lettings agency work".

676. Subsection (6) provides examples of activities that should not be considered lettings agency work.

677. Subsection (7) confirms that lettings agency work does not include things of a description, or things done by a person of a description specified in regulations made by the Secretary of State.

Proposed use of power

678. Section 99 clarifies how certain definitions contained in Part 2 of the Act are to be interpreted.

Background

679. Subsections (5), (6) and (7) of this section outlining the definition of lettings agency work echo the legislation laid out in section 83, subsections (7), (8) and (9) of the Enterprise and Regulatory Reform Act 2013.

Example: Marketing a property that is not registered

Letting agents will be expected to check if a landlord and property are correctly registered on the database before they market a property for let. Property agents will face penalties if they advertise or market residential properties for rent which are not registered. A newspaper or an online platform, which are not letting agents, disseminate an advert provided by another person and/or provide methods for tenants and landlords to communicate regarding a residential let that is not registered on the database. As it is unreasonable for these information providers to ascertain if a property is registered on the database, they are not penalised for disseminating information or providing communication about letting residential properties nor are they considered to be engaging in lettings agency work.

Part 3: Decent Homes Standard

Section 100: Decent Homes Standard

Effect

680. Subsection (2) amends section 1 (new system for assessing housing conditions and enforcing housing standards) of the Housing Act 2004 to specify that Part 1 of the 2004 Act allows Decent Homes Standard (DHS) requirements to be set and enforced.

681. Subsection (3) amends the definition of "residential premises" in section 1 of the Housing Act 2004 to include temporary accommodation for the homeless of a description specified in regulations made by the Secretary of State. In conjunction with the definition of "qualifying residential premises" in section 2B of the 2004 Act (inserted by subsection (5)), this will allow the Secretary of State to make regulations that can bring either all privately rented temporary accommodation, or a specified subset of the sector, into scope of the DHS requirements.

682. Subsection (4) provides that, before introducing regulations under subsection (3), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

683. Subsection (5) inserts two new sections, 2A (power to set standards for qualifying residential premises) and 2B (qualifying residential premises), into the Housing Act 2004:

684. Section 2A(1) gives the Secretary of State a power to make regulations specifying DHS requirements that must be met by qualifying residential premises. Section 2A(2) sets out a non-exhaustive list of matters that these requirements may include. Section 2A(3) allows the requirements to be split into two categories: Type 1 requirements that a local housing authority has a duty to enforce; and Type 2 requirements that a local housing authority has a power to enforce. This power allows for either category to be empty. Section 2A(4) allows the regulations made under the power in 2A(1) to include exceptions from the requirements.

685. Section 2B(1) defines the "qualifying residential premises" that are subject to DHS requirements. This will bring the majority of the private rented sector into scope of the DHS by covering dwellings and HMOs (and buildings or parts of buildings constructed or adapted for use as HMOs that are occupied by single households) let under assured or regulated tenancies, and supported housing let under a tenancy or occupied under licence. Social housing properties let by landlords registered with the Regulator for Social Housing are

excluded. Section 2B(2) defines terms used in 2B(1). Section 2B(3) allows the Secretary of State to make regulations applying and disapplying the requirements to residential premises let under particular kinds of tenancy or licence. Section 2B(4) provides that, before making regulations under section 2B(3), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

Proposed use of powers

686. The provision in subsection (3) allows the Secretary of State to specify in regulations what types of temporary accommodation for the homeless are covered by the definition of "residential premises" in Part 1 of the Housing 2004 and within scope of application of the DHS. This will allow, following an assessment of impacts, for the DHS to be applied to all, or a subset of, privately rented temporary accommodation. The regulations will be subject to the negative procedure. The government must also consult such persons as the Secretary of State considers appropriate before exercising this power.

687. The insertion of section 2A into the Housing Act 2004 by subsection (5) will allow DHS requirements to be set in regulations and, if required, for changes to be made thereafter to ensure that the DHS remains up to date and fit for purpose. The regulations will be subject to the affirmative procedure.

688. The inclusion of subsection 2B(3) in the provision inserted into the Housing Act 2004 by subsection (5) enables the Secretary of State to bring into scope of the DHS, and subsequently remove, some types of tenancy and licence to occupy. This will allow the scope of application of the DHS to be adjusted, if necessary, to take account of the future use of different types of tenancies and licences. The regulations will be made via the affirmative procedure. The government must also consult such persons as the Secretary of State considers appropriate before using this power.

Background

689. Section 100 amends Part 1 of the Housing Act 2004, which provides for the existing housing hazards regime, to allow for DHS requirements to be set in regulations and enforced by local housing authorities. This aims to allow a legally binding DHS, comprising clear minimum standards of safety and decency, to be introduced for private rented sector homes in England.

690. These requirements will apply to the majority of the private rented sector. Social housing let by providers registered with the Regulator of Social Housing (RSH) is excluded from scope, as such properties are already required to meet the DHS, with compliance overseen by the RSH. However, these provisions will apply to the small number of homes let at sub-market rent that may be considered social housing but are let by providers that are not registered with the RSH. These properties are not in scope of the regulatory standards, including compliance with the DHS, set by the RSH.

Section 101: The standard of MOD accommodation

Effect

691. Section 101 requires the Secretary of State to lay before Parliament annual reports on the standard of Ministry of Defence Service Family Accommodation (SFA). These reports must set out both the extent to which SFA meets the Decent Homes Standard (DHS) published by the government in 2006, and work to maintain or improve standards carried out in the year being reported upon or planned for subsequent years.

692. These reports must address the quality of SFA in England, but it is possible for this duty to be met by including this information in a report on the standard of SFA in England and other parts of the United Kingdom. The assessment of standards set out in these reports must either be made by or evaluated by a person who is independent of government and not involved in the provision of SFA.

693. Subsection (8) allows the Secretary of State to amend by way of regulations the standard against which SFA must be assessed.

694. Subsection (9) specifies that this power can be used only when the Secretary of State considers the 2006 DHS is no longer the appropriate standard for this assessment.

Proposed use of power

695. The power in subsection (8) allows the Secretary of State to make regulations to update the standard used to assess SFA if the 2006 DHS is no longer appropriate. This will allow the reporting requirement to be updated to reflect wider policy changes in quality standards for residential accommodation – for example, if a new, updated DHS is introduced. The regulations will be subject to the affirmative procedure.

Background

696. SFA refers to housing provided by the MOD for eligible Service personnel and their families. It is designed to support military families by offering suitable, affordable, and well-maintained housing close to their duty station or within a reasonable commuting distance. SFA plays a vital role in supporting the operational effectiveness and well-being of Service personnel by providing stable and secure living arrangements.

Part 4: Enforcement

Chapter 1 – Sanctions

Section 102: Financial penalties

Effect

697. Section 102 applies the procedure for imposing, appealing and recovering a financial penalty set out under Schedule 5 to financial penalties imposed under sections 40, 57, 66 and 91.

Background

698. This is a new provision.

Section 103: Rent repayment orders: liability of landlords and superior landlords

Effect

699. Section 103 amends sections of Chapter 4 of Part 2 of the Housing and Planning Act 2016 ("HPA 2016") which makes provision for rent repayment orders.

700. Subsection (2) replaces section 40, subsections (1) and (2) of the HPA 2016 to provide that the Tribunal has power to make a rent repayment order against a landlord for certain offences (which was already the case under section 40) and also any superior landlord, under the tenancy in question (which is new). Rent repayment orders can take into account rent paid on behalf of the tenant as well as rent paid by the tenant. Subsection (2) clarifies that a rent

repayment order can be made against a landlord or any superior landlord in favour of a tenant regardless of who the tenant, or the person paying rent on behalf of the tenant, paid the rent to. Rent repayment orders can also be awarded to local housing authorities in respect of a relevant award of Universal Credit made by the authority.

701. Subsection (2) inserts new subsection (2A) into section 40 of the HPA 2016. This ensures that references to the "landlord" in Chapter 4 of the HPA 2016 are in appropriate cases to be read as references to the "superior landlord".

702. Subsection (3) provides that "person" is to be replaced with "landlord" in section 41 (application for rent repayment order) to ensure that a rent repayment order is available against both landlords and superior landlords.

703. Subsection (4) inserts new section 46A into the list of provisions in accordance with which the decision on the amount of the rent repayment order must be determined.

704. Subsections (5) and (6) amend sections 44 (amount of order: tenants) and 45 (amount of order: local housing authorities) of the HPA 2016 which relate, respectively, to the amount of the order when this is sought by a tenant for rent paid and by a local housing authority where rent has been met through Universal Credit. The amendments provide that:

a. the value to be paid can take into account rent paid in respect of the period of the tenancy (so, for example, payments in advance) as well as paid during the tenancy;

b. the maximum amount payable is doubled from 12 months to two years rent;

c. the amount to be paid does not have to have been paid directly to the landlord against whom the rent repayment order is sought.

705. The amount the landlord is ordered to pay can relate to rent paid by the tenant and rent paid on behalf of the tenant in respect of the relevant period.

706. Subsection (7) inserts new section 46A into the HPA 2016. Section 46A, subsection (1) provides that, where a rent repayment order is made against more than one landlord, those landlords must be held jointly and severally liable for the amount due under that order. Section 46A, subsection (2) provides that, where a rent repayment order is made under a tenancy and then a subsequent rent repayment order is made in respect of the same tenancy, the new order may not require payment to be made in respect of any period for which the original order was made.

707. Section 44, subsection (4) of the HPA 2016 lists the factors which must in particular be taken into account by the First-tier Tribunal when determining the amount of a rent repayment order sought by a tenant. Section 103, subsection (5) provides that, in addition to those factors already listed, the First-tier Tribunal must also take into account any rent received by the tenant in respect of the period covered by the order in relation to the housing let to the tenant. The purpose of this is to ensure that where a tenant is letting all or part of a property to subtenants (and therefore acting as a landlord), the First-tier Tribunal must take into account the rent they have received from their subtenants.

Background

708. Tenants and local authorities (where the rent has been paid by universal credit) can apply to the Tribunal for a rent repayment order against the landlord if the landlord has committed certain offences specified in section 40 of the HPA 2016. The Supreme Court in *Rakusen v Jepsen [2023] UKSC 9* held that a rent repayment order cannot be made against a superior landlord. The amendments in this section mean that superior as well as immediate landlords

can be liable for a rent repayment order if the superior landlord committed the offence. The maximum amount payable is doubled from 12 months to two years' rent to account for longer periods of non-compliance and to ensure that rent repayment orders have a stronger deterrent effect. The amendments in this section ensure that rent paid in advance and paid on behalf of the tenant can be included in the Tribunal's assessment of the amount due under the rent repayment order.

Example: Rent repayment order against a superior landlord

The owner of a property (O) enters into an agreement to let their property to a company (C) for £2,000 a month. C in turn lets the property to tenants (T), from whom it receives £3,000 a month. After 18 months, following complaints by T to the landlord C about the condition of the property, O sends a series of messages and then makes doorstep appearances demanding that T leave and threatening violence if T do not. T leave the property and seek a rent repayment order against O in relation to an offence under the Protection from Eviction Act 1977. The Tribunal makes a rent repayment order in favour of T for the full 18 months' rent they have paid.

Section 104: Rent repayment orders: liability of directors etc

Effect

709. Section 104 inserts a new section into Chapter 4 of Part 2 of the Housing and Planning Act 2016 which makes provision for rent repayment orders.

710. Subsections (1) and (2) provide that where an offence is committed by a landlord which is a body corporate and the offence is committed with the consent or connivance of a relevant person, or is a specified offence attributable to any neglect by that person, they, as well the body corporate, is treated as having committed the offence and consequently may be subject to a rent repayment order.

711. Subsection (4) defines "specified offence" and "relevant person". By subsection (3) a relevant person who is treated as having committed a rent repayment order offence will be included within the definition of "landlord" for the purposes of rent repayment orders.

Background

712. Individual officers of landlord companies can be prosecuted or, with the exception of offences under section 32, subsection (1) of the Housing Act 2004 and section 6, subsection (1) of the Criminal Law Act 1977, subject to a civil penalty for the offences to which rent repayment orders apply. This new section ensures that individual officers of landlord companies may also be subject to rent repayment orders for those offences.

Section 105: Unlicensed HMOs and houses: offences

Effect

713. Section 105 amends sections 72 (offences in relation to licensing of HMOs) and 95 (offences in relation to licensing of houses under Part 3) of the Housing Act 2004 which, respectively, concern offences in relation to the licensing of Houses in Multiple Occupation (HMOs) and properties subject to selective licensing.

714. Subsection (2) replaces section 72, subsection (1) of the Housing Act 2004. In addition to persons having control or managing the HMO, it prescribes that where an HMO is not licensed but is required to be, an offence is also committed by the immediate landlord or licensor of the tenants and any superior landlord or licensor.

715. Subsection (3) adds new subsections (4A) and (4B) into section 72 of the Housing Act 2004. Subsection (4A) provides that where proceedings are commenced against a person for having control of or managing an HMO that is required to be licensed but is not, or for being an immediate landlord or licensor of such an HMO, it is a defence for them to prove that they had a reasonable excuse for managing or having control of an unlicensed HMO, or for being an immediate landlord or licensor of a person occupying an unlicensed HMO. Subsection (4B) provides that, in relation to superior landlords and licensors, defences are that: they did not know and had a reasonable excuse for not knowing that the building was an HMO; that they took all reasonably practicable steps to ensure that the HMO was licensed; or had some other reasonable excuse for failing to ensure that it was licensed.

716. New subsection (4C) provides that a term in a tenancy agreement between a superior and an immediate landlord relating to the occupation of the building or part of the building as an HMO will not by itself establish any of the defences listed in subsection (4B). The purpose is to ensure that the First-tier Tribunal does not refuse a rent repayment order application against a superior landlord solely based on the existence of a term in their tenancy agreement with the immediate landlord, and instead considers the wider circumstances – for example, whether the superior landlord has taken proactive steps to make sure the term in the agreement has been complied with.

717. Subsection (4) makes a consequential amendment to subsection (5) of section 72 of the Housing Act 2004 to reflect that defences for failing to licence an HMO are now set out in new subsections (4A) and (4B). The defences in subsection (4) also continue to apply.

718. Subsections (5) to (8) mirror subsections (1) to (4) for properties subject to selective licensing.

Background

719. Persons having control of or managing a property that requires a licence but is not so licensed commit an offence. The way that "persons having control" is defined (in section 263 of the Housing Act 2004) and has been interpreted by the judiciary means that in practice superior landlords are unlikely to be caught, even if they are closely involved with the property. Immediate landlords may too, exceptionally, not fall within the definition of a person managing or having control of the property. This new section ensures that superior and immediate landlords and licensors, as well as persons having control or managing a property, fall within the scope of the offence.

Section 106: Service of improvement notices on landlords and licensors

Effect

720. Section 106 amends paragraph 2 of Schedule 1 to the Housing Act 2004. This section will, for certain property types, give local housing authorities the ability to serve improvement notices for hazards on a landlord, licensor, superior landlord or superior licensor if they consider that such a person ought to take the action specified in the notice.

Background

721. The current provisions in the Housing Act 2004 require local housing authorities, for properties that are neither flats nor subject to HMO or selective licensing, to serve improvement notices for hazards on the "person having control" of or the "person managing" the property. As a result, it may not always be possible to serve such notices on certain people with an interest in the property – for example, superior landlords in rent-to-rent arrangements. The intention of this section is to allow local housing authorities to serve improvement notices on the person best placed to ensure remedial action is taken in respect of the hazard.

Chapter 2 – Enforcement Authorities

Section 107: Enforcement by local housing authorities: general duty

Effect

722. Subsection (1) of section 107 creates a duty on every local housing authority to enforce the landlord legislation in its area. "The landlord legislation" is defined under subsection (5) and "local housing authority" is defined in Section 137 (interpretation).

723. Subsection (6) sets out the types of activity that constitute enforcement action.

724. Subsection (3) specifies the other provisions that this duty is subject to.

725. Subsection (2) provides that this duty does not prevent a local housing authority from taking enforcement action for breaches or offences that occur outside its area.

726. Subsection (5) defines "the landlord legislation" as Chapter 3 of Part 1 of this Act, Part 2 of this Act, sections 1 and 1A of the Protection from Eviction Act 1977, and Chapter 1 of Part 1 of the Housing Act 1988.

Background

727. This is a new provision.

728. This section provides that enforcement of the prohibitions contained in the landlord legislation will be the duty of local housing authorities in England.

Section 108: Enforcement by local housing authorities: duty to notify

Effect

729. Subsection (1) creates a duty for a local housing authority that proposes to take enforcement action for a breach of, or an offence under, the landlord legislation that has occurred in a different local housing authority's area to notify that local housing authority that it intends to do so.

730. Subsection (2) requires a local housing authority that has given a notification under subsection (1) and subsequently does not take the action specified to notify the relevant local housing authority of that fact.

731. Subsection (3) provides that if a local housing authority receives a notification under subsection (1), it is relieved of its duty in relation to that breach or offence. The duty is reinstated if a notification is received under subsection (2).

732. Subsections (5) and (7) require a local housing authority that has imposed a financial penalty or secured conviction against a person for a breach or offence that has occurred in a different local housing authority's area to notify that local housing authority as soon as is reasonably practicable.

733. Subsections (4) and (6) specify the circumstances when such notifications must be made.

Background

734. This section makes provision for the notification requirements on a local housing authority when it plans to take enforcement action in a different local housing authority's geographical area.

Section 109: Enforcement by county councils: duty to notify

Effect

735. Section 109 replicates the notification requirements that Section 108 places on local housing authorities for county councils which are not local housing authorities when they propose to take action in respect of a breach or offence under the landlord legislation.

Background

736. Section 107 places a power (though not a duty) on county councils which are not local housing authorities to take enforcement action. Where they decide to do so, this section ensures that any local housing authority covering the same or a different area is notified to avoid duplication.

Section 110: Duty to report

Effect

737. Section 110 creates a new duty on local housing authorities (and county councils, which are not local housing authorities) to provide reports to the Secretary of State on their enforcement of the landlord legislation as defined in the Act. The Secretary of State will decide the manner, timing and content of such reports.

Background

738. "The landlord legislation" is defined in section 107 subsection (5).

Section 111: Lead enforcement authority

Effect

739. Subsection (1) of section 111 provides that the Secretary of State can make arrangements for a "relevant person" to be the lead enforcement authority for the purposes of any provisions of "the landlord legislation".

740. Subsection (2) provides that the arrangements made by the Secretary of State can include funding the lead enforcement authority and winding it up.

741. Subsections (3) and (4) give the Secretary of State the power, by regulations, to make transitional or saving provisions when there is a change in a lead enforcement authority.

742. Subsections (5) and (6) define various terms used in the lead enforcement authority provisions including "relevant person" which is defined in subsection (5) as a combined authority, the Greater London Authority, or a local housing authority. "The landlord legislation" is defined in section 107, subsection (5).

Background

743. This section gives the Secretary of State the power to appoint a lead enforcement authority, for the purposes of any provisions of the landlord legislation, which is defined in section 107, subsection (5). Only a "relevant person" can be appointed a lead enforcement authority.

744. The approach is similar to that taken in existing estate and letting agent legislation. The Estate Agents Act 1979 (EAA 1979) and the Tenant Fees Act 2019 (TFA 2019) each provide the Secretary of State with a power to act as or appoint a lead enforcement authority for the purposes of the EAA 1979 and the relevant letting agency legislation (as defined in section 24 of the TFA 2019) respectively. Powys Council was appointed the lead enforcement authority under the EAA 1979 (across the UK), and Bristol City Council was appointed the lead enforcement authority under the TFA 2019 (which applies to England only).

Section 112: General duties and powers of lead enforcement authority

Effect

745. Subsection (1) of section 112 gives a lead enforcement authority the duty to oversee the operation of the landlord provisions for which it is responsible.

746. Subsection (2) gives a lead enforcement authority the duty to provide information and advice to local housing authorities and the public about the operation of the provisions for which it is responsible.

747. Subsection (3) gives a lead enforcement authority power to share information with relevant authorities so they can consider whether there has been a breach of, or an offence under, the provisions for which it is responsible.

748. Subsection (4) gives a lead enforcement authority the power to issue guidance to local housing authorities about the exercise of their functions under the provisions for which it is responsible.

749. Subsection (5) provides that local housing authorities must have regard to that guidance.

750. Subsection (6) gives a lead enforcement authority the duty to keep under review and, as necessary, advise the Secretary of State about the operation of the provisions for which it is responsible and market developments related to tenancies and licences to occupy if they are relevant to those provisions. A lead enforcement authority's advisory remit does not extend to social housing.

751. Subsections (7) and (8) give the Secretary of State the power to direct a lead enforcement authority on how it uses its functions.

752. Subsection (9) defines "relevant local authority", "social housing" and "tenancies" for the purpose of this section.

Background

753. This section sets out the duties and powers of a lead enforcement authority.

754. Nearly 300 local housing authorities will be responsible for enforcing the new measures in the Act, requiring rapid familiarisation with the law. A lead enforcement authority's functions include issuing guidance, information and advice to local housing authorities in order to help local authorities enforce the measures in a consistent way.

Section 113: Enforcement by the lead enforcement authority

Effect

755. Subsection (1) of section 113 gives a lead enforcement authority the power to enforce the provisions for which it is responsible where necessary or expedient to do so. If such action is taken, a lead enforcement authority may exercise the same powers as a local housing authority.

756. Subsection (7) clarifies that those powers include the investigatory powers in this Act.

757. Subsection (8) sets out how the special authorisation process that is required for entry without warrant into residential premises under section 126 (suspected residential tenancy: entry without warrant) applies for a lead enforcement authority.

758. Subsection (2) gives a lead enforcement authority the duty to notify a local housing authority where it proposes to take enforcement action in that local housing authority's area.

759. Subsection (3) requires a lead enforcement authority that has given a notification under subsection (2) and subsequently does not take the action specified to notify the relevant local housing authority of that fact.

760. Subsection (4) provides that if a local housing authority receives a notification under subsection (2), it is relieved of its duty in relation to that breach. The duty is reinstated if a notification is received under subsection (3).

761. Subsection (5) provides that the relevant local housing authority must assist a lead enforcement authority in taking the steps referred to in subsection (1) if the lead enforcement authority requires such assistance.

762. Subsection (6) provides that a relevant local authority must report on the exercise of its relevant functions to a lead enforcement authority when, in the form and with such particulars as the lead enforcement authority requires.

Background

763. This section gives a lead enforcement authority the power to enforce the provisions for which it is responsible, establishes in what circumstances it should do so and sets out the process it must follow. It also sets out the duties of local housing authorities in relation to this process.

764. Some local housing authorities may lack the capacity and capability to enforce these measures in particularly complex cases. A lead enforcement authority may provide an opportunity to create a centre of expertise on the relevant legislation and can act as a backstop for enforcement.

Chapter 3 – Investigatory Powers

Section 114: Power of local housing authority to require information from relevant person

Effect

765. Section 114 gives a local housing authority the power to require certain people (defined as a "relevant person" in subsection (2)) to provide information to the local housing authority for the purposes set out in the section. This power will apply in respect of specific people, including landlords, licensors and letting agents connected with the accommodation in question.

766. The local housing authority must request the information by written notice and the notice must set out the potential consequences of not providing the information requested. A person will not be required to provide information which they could refuse to produce on grounds of legal professional privilege in proceedings before the High Court.

Background

767. This power enables local housing authorities to require information from relevant persons, such as landlords, for the purpose of gathering information in relation to the functions listed in the section. This could include gathering evidence for enforcement of certain private rented sector offences. This is a similar power to that provided under section 235 of the Housing Act 2004.

Section 115: Power of local housing authority to require information from any person

Effect

768. Section 115 provides a power for local housing authority officers to give written notice requiring information from any person. The officer must reasonably suspect that a breach or offence has been committed under the "rented accommodation legislation", defined in subsection (3). The information can only be required for the purposes of investigating whether there has been a breach or offence under the "rented accommodation legislation" or determining the amount of penalty under the legislation.

769. Subsections (5) to (7) specify the form and content which the notice must or may contain.

770. Subsection (6) provides requirements that a notice may include, such as the creation of specified documents.

771. The "rented accommodation legislation" defined in subsection (3) covers unlawful eviction and harassment (Protection from Eviction Act 1977), assured tenancies (Housing Act 1988), housing conditions, management orders, overcrowding property licensing and fine setting (Housing Act 2004), redress for letting and management agents, banning order offences (Housing and Planning Act 2016), discrimination relating to children or benefits status, landlords redress, the Private Rented Sector Database and its operator (this Act).

Background

772. This power will enable local housing authorities to receive information from persons such as the landlord's bank, accountant and client money protection scheme when investigating suspected non-compliance with the "rented accommodation legislation." Such information, which in some cases may be withheld by "relevant persons", such as landlords and letting agents as defined in section 114, may be an important element of an investigation into whether non-compliance has occurred and for setting appropriate penalties. These provisions are similar to those in Part 3 (powers in relation to the production of information) of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015.

Example: Imposing a financial penalty on a landlord for unlawful eviction

A local authority is satisfied beyond reasonable doubt that a landlord has unlawfully evicted a tenant and issues the landlord with a civil penalty notice of £25,000. The landlord appeals the amount of the fine to the Tribunal on the basis that he has insufficient funds and asks for the fine to be reduced. The final penalty is suspended while the Tribunal considers the appeal. The local authority uses its power to require information from any person under section 115 to serve a notice on the landlord's bank, requesting information about the landlord's rental income and financial position. The information the bank provides demonstrates that the landlord receives market rent for nine other properties. The local authority presents this information to the Tribunal, which is then satisfied that the initial fine amount is reasonable and that the landlord has the means to pay it. The Tribunal confirms the final notice and the local authority is then able to proceed with the original penalty amount of £25,000.

Section 116: Enforcement of power to require information from any person

Effect

773. Section 116 provides for enforcement by the local housing authority if a person fails to comply with a notice to provide information under section 115. Subsection (1) provides that an application may be made to the court.

774. Subsection (2) provides that the court may make an order where it is satisfied that there has been non-compliance.

775. A court order operates to compel a person to do what it considers is reasonable in order to provide the local housing authority with the information requested (subsection (3)). The court has the power to require the person against whom the order is made to meet the costs of the court application (subsection (4)). Where the person against whom the order is made is a company, the court can order an official who is responsible for the failure to comply with the notice, to meet the costs.

Background

776. This enforcement mechanism is similar to that provided in paragraph 16 (enforcement of a power to require production of information) of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015.

Section 117: Limitation on use of information provided under section 115

Effect

777. Section 117 introduces limitations on the use of information obtained under section 115. Subsection (1) provides that where information has been provided by a person , it cannot be used against them in any criminal proceedings.

778. Subsections (2) and (3) provide that this protection does not apply if the information is brought up by or on behalf of the person, or if the proceedings are for an offence under section 5 of the Perjury Act 1911 (false statutory declarations and other false statements without oath).

Background

779. These provisions are similar to those under paragraph 17 (limitations on the use of information provided in response to a notice to provide information) of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015.

Section 118: Business premises: entry without warrant

Effect

780. Section 118 provides that local housing authorities can enter without a warrant, at any reasonable time, premises reasonably believed to be occupied by a relevant person for the purposes of a "rental sector business" (as defined in subsection (9)). Entry must also be necessary to require the production of documents or to seize documents for purposes connected to the "rented accommodation legislation" (defined in section 115, subsection (3)).

781. This power cannot be used in respect of premises that are used wholly or mainly as residential accommodation (subsection (2)).

782. For routine inspections, written notice will need to be given to an occupier at least 24 hours in advance of entry. An occupier may waive the notice requirement. Notice need not be given where the inspection cannot be classified as routine, for example, where it is believed that the giving of notice would defeat the reason for entry or it is not reasonably practicable to give notice.

783. An officer may be accompanied by other persons and take necessary equipment with them. Whilst on the premises the officer may make recordings and take photographs.

Background

784. This power enables local housing authorities to enter business premises of landlords at any reasonable time without a warrant. This will help with gathering evidence of suspected non-compliance, such as tenancy agreements, bank statements or letters, which are often held on a landlord's business premises. This is a similar power to that provided in paragraph 23 (power to enter premises without warrant) of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015, which is available for estate and letting agent legislation and other consumer protection legislation.

Example: Overcrowding in unlicensed HMO

A local authority receives a report of overcrowding by a neighbour of a property. The local authority checks its HMO database and finds that there is no licence for the property. The local authority reasonably suspects the property is being illegally let as an HMO.

The local authority tries to build a case with a view of prosecuting the landlord if they find their initial suspicion was correct. The local authority attempts to get information from the tenants demonstrating the property is being let as an HMO. However, the tenants do not cooperate through fear of retaliation from the landlord.

The local authority therefore considers it appropriate to use its new power to enter landlord's business premises without a warrant to require production of or to seize relevant documents. An officer of the local authority enters after giving appropriate notice of the entry to the landlord and finds copies of tenancy agreements demonstrating that the property is being let as an HMO.

The local authority uses this evidence as part of its case to prosecute the landlord for the offence of letting an HMO without a licence.

Section 119: Duties where occupiers are on business premises entered without warrant

Effect

785. Section 119 imposes duties on officers of local housing authorities that apply if one or more occupiers are found when entering business premises without a warrant.

786. The officer must produce evidence of their identity and authority to at least one of the occupiers (subsection (1)(a)). Further, under subsection (1)(b) where entry is by way of a non-routine inspection, meaning no prior notice of entry has been given, the officer must provide a document to at least one of the occupiers setting out why the entry is necessary. The document required under section 119, subsection (1)(b) must also set out the offences under section 131, subsections (1) and (2) which include obstructing an officer and providing false or misleading information.

787. An officer does not need to comply with the requirements under subsection (1) if it is not reasonably practicable to do so. If an officer does not comply with the duties under section 119 any proceedings arising out of the local housing authority's entry without warrant under section 118 will not be invalidated by reason of that failure alone.

Background

788. The duties are similar to those provided for by the power of entry under paragraph 23 of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015, which is available for estate and letting agent legislation and other consumer protection legislation.

Section 120: Business premises: warrant authorising entry

Effect

789. Section 120 gives justices of the peace the power to issue a warrant authorising an officer of a local housing authority to enter business premises that are specified in the warrant.

790. To issue a warrant to an officer, the justice of the peace must be satisfied by written information provided on oath by that officer that certain criteria are met. This includes being satisfied that there are reasonable grounds for believing that there are documents on the premises that the officer could require a person to produce under section 122 or could seize under section 123, the premises are occupied by a relevant person for the purposes of a rental sector business, and the premises are not wholly or mainly residential.

791. Before a warrant is granted the justice of the peace must also be satisfied that one of three conditions set out in subsections (2), (3) and (4) are met.

Background

792. This power is similar to that provided in paragraph 32 (power to enter premises with warrant) of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015.

Section 121: Business premises: entry under warrant

Effect

793. Section 121 contains provisions relating to the warrant of entry issued under section 120. Under subsection (1) the officer named in the warrant may enter premises specified in the warrant at any reasonable time and, if needed, using reasonable force.

794. Under subsection (2) a warrant issued under section 120 does not permit entry into premises that are used wholly or mainly as residential accommodation.

795. Subsection (3) provides that the warrant stops being effective at the end of the period of one month, starting from the day it was issued.

796. Subsection (4) enables the officer to be accompanied by other persons and take equipment onto the premises as necessary.

797. Subsection (5) allows the officer to take photographs or make recordings.

798. Subsection (6) provides that if upon entry the officer finds one or more occupiers on the premises the officer must produce the warrant for inspection to at least one of the occupiers.

799. Subsections (7) and (8) set out what the officer must do if there are no occupiers present when the premises are entered.

Background

800. This section makes provision about what a warrant issued under section 120 authorises the named officer to do while exercising the warrant and how long the warrant is valid for. This provision is similar to paragraph 33 (entry to premises under warrant) Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015, which is available for estate and letting agent legislation and other consumer protection legislation.

Section 122: Power to require production of documents following entry

Effect

801. The powers under section 122 are available to an officer of a local housing authority who has entered business premises either without a warrant under section 118, subsection (1) or with a warrant under Section 120. It enables the officer at any reasonable time following entry whilst at the premises to require the production of documents relating to the relevant business. Subsection (1)(b) enables the officer to take copies of such documents.

802. A request can be made to a relevant person, such as a landlord, or anyone on the premises acting on their behalf.

803. Subsection (2) sets out the purposes for which this power can be used. These are to check whether there has been compliance with the "rented accommodation legislation" where the officer reasonably suspects a breach of or offence under that legislation has occurred; and to ascertain whether these documents may be required as evidence in proceedings for such a breach or offence.

804. Subsection (7) prevents an officer from requiring the production of documents that the person could assert legal professional privilege over in proceedings before the High Court.

Background

805. This section gives a power to an officer of a local housing authority who has entered premises without a warrant under section 118, subsection (1) or under a warrant issued under section 120 to require the production of documents relating to the business for which the premises are occupied. This is a similar power to paragraph 27 (power to require the production of documents) of Schedule 5 to the Consumer Rights Act 2015, which is available for estate and letting agent legislation and other consumer protection legislation.

Section 123: Power to seize documents following entry

Effect

806. Section 123 gives an officer of a local housing authority the power to seize and detain documents after entering a property under section 118 (power to enter business premises without a warrant) and section 120 (power to enter business premises with a warrant). In order to exercise this power the officer must reasonably suspect that such documents may be required as evidence in proceedings relating to a breach of, or an offence under, the "rented accommodation legislation".

807. Where occupiers are on the premises, before seizing documents, the officer must produce evidence of their identity and authority unless it is not reasonably practicable to do so.

808. Subsection (4) provides that an officer seizing documents must take reasonable steps to inform the person from whom the documents are seized that they have been seized and give them a written record of what has been seized.

809. Subsection (6) prevents an officer from seizing any document which the person would be entitled to refuse to produce in proceedings in the High Court on the grounds of legal professional privilege.

810. Subsection (8) limits the length of time that seized documents can be detained for.

Background

811. This section provides officers of local housing authorities with the power to seize documents after exercising either of the powers of entry under section 118 and section 120. This is a similar power to that provided in the paragraph 29 (power to seize documents required as evidence) to Schedule 5 (Investigatory Powers) of the Consumer Rights Act 2015.

Section 124: Access to seized documents

Effect

812. Section 124 sets out how and by whom documents seized and detained under Chapter 3 (Investigatory Powers) can be accessed.

813. Subsection (2) provides that a person must be granted access to a detained document under the supervision of an officer if that person makes a request for access and had custody or control of it immediately before it was seized.

814. Subsections (3) and (4) set out what the local housing authority must do if a request is made for a photograph or copy of a seized document.

815. Subsection (5) provides that a local housing authority need not permit access to, or a photograph or copy to be made of, seized documents if it reasonably believes that doing so would prejudice the purpose for which the document had been seized.

816. Subsection (7) makes provision so that a person's representative can also request access to and copies of seized documents.

Background

817. This section provides for access to documents seized and detained by an officer of a local housing authority to persons who had custody or control of the document(s) immediately before seizure, or their representative. This is a similar provision to that under paragraph 38 (access to seized goods and documents) to Schedule 5 (Investigatory Powers) of the Consumer Rights Act 2015.

Section 125: Appeal against detention of documents

Effect

818. Section 125 allows a person who has an interest in documents that have been detained under Chapter 3 (Investigatory powers) to apply for an order for their release.

819. Subsection (2) sets out to which magistrates' court such an application is to be made. Subsection (2)(a) provides that where there are ongoing proceedings in relation to an offence following an investigation in which documents were seized, such an application may be made to the same magistrates' court. Subsection 2(b) provides that where there are no ongoing proceedings an application may be made to any magistrates' court.

820. Subsection (3) provides that the court may only make an order if condition A or B is met.

821. Subsections (4) and (5) set out these conditions.

822. Further to subsection (6), persons who are aggrieved by the court's order or decision may appeal the decision to the Crown Court.

823. Further to subsection (7) the magistrates' court may delay the effect of an order pending the making or determination of any appeal.

Background

824. This section provides an appeal mechanism against the detention of documents seized under section 123. This means persons with an interest in documents seized under section 123 can apply to appeal the detention of documents in the magistrates' court. These provisions are similar to paragraph 40 (appeals against detention of goods and documents) to Schedule 5 (Investigatory Powers) of the Consumer Rights Act 2015.

Section 126: Suspected residential tenancy: entry without warrant

Effect

825. Section 126 provides a power of entry without a warrant at any reasonable time, by notice, by a specially authorised officer of a local housing authority into suspected residential tenancies.

826. Subsection (1)(a) provides that the officer may enter a premises if the officer reasonably suspects the premises is subject to a "residential tenancy" (as defined by section 63); subsection (1)(b) provides that the officer must consider entry to the premises necessary for the purpose of investigating whether a breach or offence has occurred under the listed legislation; subsection (1)(c) provides that notice must be given to specified persons in accordance with subsection (2), unless subsection (3) or (4) apply.

827. Subsection (2) sets out the notice requirements, including that at least 24 hours' prior notice of entry is provided.

828. Subsection (3) provides that a notice need not be given to a person who has waived their right to notice.

829. Subsection (4) provides that a residential landlord need not be given any prior notice, but subsection (5) requires that if no prior notice has been given, an officer of the local housing authority must give notice in writing to the landlord within a reasonable time after the power of entry has been exercised.

830. Subsection (6) sets out the requirements for that notice.

831. Subsection (7) enables the officer to be accompanied by other persons and take equipment onto the premises as necessary.

832. Subsection (8) allows the officer to take photographs or make recordings.

833. Subsection (9) provides that the officer must produce the officer's special authorisation for inspection if a person to whom notice was required to be given so requests this.

834. Subsection (10) sets out the meaning of "specially authorised" for the purpose of this section.

Background

835. This section enables specially authorised officers of local housing authorities to enter premises without a warrant. The officer must reasonably suspect the premises are subject to residential tenancies and consider it necessary to enter in order to inspect for the purpose of investigating whether a breach or offence has occurred in relation to the Private Rented Sector Database or under section 1 of the Protection from Eviction Act 1977 (unlawful eviction and harassment).

836. This is a similar power to that provided in section 239 (powers of entry) (as amended by the Renters' Rights Act 2025) of the Housing Act 2004, which is available for provisions relating to property conditions and licensing.

Section 127: Duties where occupiers are on residential premises entered without warrant

Effect

837. Section 127 sets out the requirements when exercising the power of entry without warrant to suspected residential tenancies under section 126 when there are occupiers on the premises.

838. Subsection (1) provides that the officer must produce evidence of their identity and special authorisation to the occupier or (if there are more than one) at least one of the occupiers on the premises unless it is not reasonably practicable to do so (subsection (2)).

839. Subsection (3) provides that proceedings resulting from the use of the power under section 126, subsection (1) do not become invalid solely because an officer failed to produce evidence of their identity and special authorisation to an occupier.

840. Subsection (4) provides that "special authorisation" has the same meaning as in section 126.

Background

841. The requirements set out under this section are similar to some of those provided for by the power of entry under paragraph 23 (power to enter premises without warrant) of Schedule 5 (Investigatory Powers) to the Consumer Rights Act 2015. The main distinction is that these requirements relate to a power of entry to premises suspected of being subject to residential tenancies, as opposed to business premises as is the case in the Consumer Rights Act 2015.

Section 128: Suspected residential tenancy: warrant authorising entry

Effect

842. Section 128 gives justices of the peace the power to issue a warrant authorising entry by an officer of a local housing authority, named in the warrant, into suspected residential tenancies also named in the warrant.

843. A justice of the peace may only issue such a warrant to an officer if they are satisfied, on written information provided on oath by that officer, that in entering the premises the officer would be acting on behalf of the local housing authority or in the course of employment; there are reasonable grounds for believing that the premises are subject to a residential tenancy (as defined by section 63); and it is necessary for the officer to inspect the premises for the purpose of investigating whether a breach or offence of the legislation listed in section 126, subsection (1)(b) has occurred.

844. In addition, before issuing a warrant the justice of the peace must be satisfied that one of the following apply: admission to the premises has been sought without a warrant under section 126, subsection (1) but refused, no occupier is present and waiting for their return may defeat the purpose of the entry, or applying for admission would defeat the purpose of the entry.

Background

845. The power provided to justices of the peace in this section is similar to that provided in section 240 (warrant to authorise entry) of the Housing Act 2004. A warrant authorising entry into suspected residential tenancies can only be obtained for the purposes of investigating whether there has been a breach or offence in relation to the Private Rented Sector Database or section 1 of the Protection from Eviction Act 1977 (unlawful eviction and harassment).

Section 129: Suspected residential tenancy: entry under warrant

Effect

846. Section 129 sets out that the officer named in the warrant issued under section 128 is authorised to enter the premises specified in the warrant at any reasonable time and, if needed, using reasonable force.

847. Subsection (2) provides that the warrant stops being effective once the inspection of the premises has been completed.

848. Subsection (3) enables the officer to be accompanied by other persons and take equipment onto the premises as necessary.

849. Subsection (4) allows the officer to take photographs or make recordings.

850. Subsection (5) provides that if upon entry the officer finds one or more occupiers on the premises the officer must produce the warrant for that inspection to the occupier or (if there are more than one) at least one of the occupiers.

851. Subsections (6) and (7) provide what an officer must do if there are no occupiers present when the premises are entered.

Background

852. The requirements set out under this section are similar to some of those provided for the power of entry in section 240 (warrant to authorise entry) of the Housing Act 2004.

Section 130: Powers of accompanying persons

Effect

853. Section 130 provides that a person who accompanies an officer of a local housing authority when entering a premises either with or without a warrant under Chapter 3 (Investigatory Powers) has the same powers as the officer in relation to the premises. These powers can only be used in the officer's company and under the officer's supervision.

Background

854. This section sets out the nature of the powers of persons accompanying officers when exercising any of the powers of entry under this Chapter.

Section 131: Offences

Effect

855. Section 131 creates new offences in relation to the new investigatory powers in Chapter 3 of this Act and provides the penalties for those offences.

856. Subsections (1) and (2) set out the offences of obstructing an officer, failing to comply with requirements properly imposed by an officer, failing to provide other information or assistance if reasonably required by the officer for the purposes of exercising the investigatory powers in Chapter 3 and knowingly or recklessly providing false or misleading information. The offences created under subsection (1) will not apply to section 115 (power of local housing authority to require information from any person).

857. Subsection (4) provides that the penalty on summary conviction for offences under subsection (1) and (2) is a fine that must not exceed £1,000 (level 3 on the standard scale).

858. Subsections (3) and (5) set an offence with an unlimited fine for anyone falsely purporting to be an officer of a local housing authority under Chapter 3 (Investigatory Powers).

859. Subsection (6) sets out that a person will not commit an offence if they refuse to answer any question or give any information that might incriminate them.

Background

860. This section sets new offences which aim to ensure that use of the investigatory powers in Chapter 3 are effective by penalising uncooperative or misleading behaviour. It also sets the penalty for the offences, which is a fine not exceeding £1,000 (level 3 on the standard scale), except for the more severe offence of falsely purporting to be a housing officer, for which the fine is unlimited.

Section 132: Investigatory powers: interpretation

Effect

861. Section 132 provides essential definitions for words and key terms used in the investigatory powers Chapter.

862. Subsection (1) defines "document", "give", "occupier", "premises", "relevant person" and "the rented accommodation legislation".

863. Subsection (2) and (3) describe what is meant by references to an officer and the functions of a local housing authority by virtue of particular legislation respectively.

864. Subsection (4) relates to the processing of information and provides that any such processing under Chapter 3 (Investigatory powers) must comply with data protection legislation (as defined in section 3 of the Data Protection Act 2018). Subsection (4) expressly provides that nothing in Chapter 3 authorises the processing of information which contravenes data protection legislation or relevant parts of the Investigatory Powers Act 2016.

865. Subsection (5) defines "the data protection legislation".

Background

866. This section contains definitions and other interpretive provisions in relation to the sections in Chapter 3 that create new investigatory powers for local housing authorities.

Section 133: Additional powers of seizure under Criminal Justice and Police Act 2001

Effect

867. Section 133 adds the powers that provide for copies of documents to be taken and for seizure of documents following entry into business premises with and without a warrant (section 122, subsection (1)(b) and section 123 of the Renters' Rights Act) to Part 1 of Schedule 1 (powers of seizure, powers to which section 50 applies) to the Criminal Justice and Police Act 2001. By adding these sections to Part 1 of Schedule 1 of that Act an officer of a local housing authority exercising powers under sections 122, subsection (1)(b) and 123 will be able to exercise the additional powers of seizure from premises provided for by section 50 of the Criminal Justice and Police Act 2001.

Background

868. Part 1 of Schedule 1 (powers of seizure, powers to which section 50 applies) to the Criminal Justice and Police Act 2001 applies section 50 of that Act to the listed legislative provisions which provides additional powers of seizure from premises. The powers are to seize anything which a person who is lawfully on a premises reasonably needs to seize in order to determine whether it may be or may contain something the officer is lawfully entitled to seize, and to seize property where it cannot reasonably be separated from something that they are entitled to seize. Adding sections 122, subsection (1)(b) and 123 to Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001, means these additional powers of seizure will apply to officers of local housing authorities who are taking copies of documents or seizing documents when entering business premises under the Renters' Rights Act 2025. The absence of this power would significantly limit officers' powers to seize evidence upon entry into business premises.

Section 134: Use by local housing authority of certain information

Effect

869. Section 134 amends the sections 212A (tenancy deposit schemes: provision of information to local authorities) and 237 (use of information obtained for certain other statutory purposes) of the Housing Act 2004 to enable local housing authorities to use the information they already hold, or have access to, for the additional purposes listed in subsections (2) and (5).

Background

870. This section extends two existing powers in the Housing Act 2004 which allow local housing authorities to use council tax, housing benefit and tenancy deposit scheme information for purposes connected with exercising their functions under the listed legislation and for the purposes of investigating whether certain housing offences have been committed under the same listed legislation.

871. The provisions that are brought into scope include rental discrimination, landlord redress schemes, the Private Rented Sector Database, unlawful eviction and harassment, assured tenancies, redress schemes for letting and property management agents, banning orders, rent repayment orders and client money protection schemes.

872. This information can be used to build local housing authorities' evidence when investigating suspected breaches and offences in relation to the listed legislative provisions.

Section 135: Investigatory powers under the Housing Act 2004

Effect

873. Section 135 amends sections 235 (power to require documents to be produced) and 239 (powers of entry) of the Housing Act 2004.

874. Amendments to section 235 of the Housing Act 2004 provide that documents can now be also sought from a relevant person for purposes connected with functions under Part 7 (supplementary and final provisions) of that Act in relation to "qualifying residential premises" as defined in new section 2B of that Act.

875. Amendments to section 239 of the Housing Act 2004 provide that the required notice when exercising a power of entry under that section can be waived by any occupier to whom notice is otherwise due in relation to qualifying residential premises. The amendments also remove the requirement in section 239 of the Housing Act 2004 for local housing authorities to provide prior notice of entry to owners of rented properties where the local authority officer

considers it is necessary to inspect the premises in connection with the authority's responsibilities in respect of housing standards under that Act. The officer of the local housing authority who is authorised to enter must give the owner notice of the entry to the property within a reasonable period after the power has been exercised. The notice must explain when the property was entered and why.

Background

876. The amendments to section 235 of the Housing Act 2004 will enable local authorities to require documents from a relevant person, for example bank statements or tenancy agreements, for the purposes of setting fines under Part 7 of that Act in relation to qualifying residential tenancies. This will support local housing authorities to impose appropriate fines by allowing them to get more information after a breach under Parts 1 to 4 of the Housing Act 2004 has been proved. Parts 1 to 4 of the Housing Act 2004 include housing conditions, private rented sector licensing, final and interim orders, and overcrowding. Part 1 of the 2004 Act is being amended by this Act to introduce a Decent Homes Standard into the private rented sector.

877. The amendments to section 239 of the Housing Act 2004 will enable tenants to provide a waiver for the otherwise required 24 hours' notice prior to a property inspection under that section – should it be convenient for them to waive the notice. The amendments also mean that local housing authorities will not need to give prior notice to any owner of the property where the property is a qualifying residential property. Notice must still be given to the owner within a reasonable period after the power of entry has been exercised.

Section 136: Client Money Protection schemes: investigatory powers of local authorities

Effect

878. Section 136 gives local authorities powers under Schedule 5 (Investigatory powers) to the Consumer Rights Act 2015 to investigate certain breaches of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019. These investigatory powers will be exercised in relation to the local authorities' existing duty to enforce requirements on property agents to be members of a client money protection scheme for protecting money they hold in connection with letting or managing rented homes.

Background

879. Local authorities are responsible for the enforcement of the client money protection schemes regulations. This section extends the set of investigatory powers that are already available to local authorities in relation to the Tenant Fees Act 2019 and agent redress requirements so that they can be used to investigate breaches of particular client money protection regulations. These powers include the power to require information from any person, the power to enter business premises, the power to require the production of documents and the power to seize documents. It is important that local authorities have access to these powers as, without them, they have no ability to investigate breaches of these requirements and therefore cannot effectively enforce them.

Part 5: General

Section 137: Interpretation

Effect

880. Section 137 provides definitions of key terms used in this Act, including "local housing authority" and "the 1988 Act".

Section 138: Crown application

Effect

881. Section 138 set out the effect of the Act on the Crown. Measures in the Act and regulations made under it will generally apply to the Crown, barring exceptions for sections 67 and 92 (offences related to the landlord redress scheme and landlord database), and parts of Part 4 Chapter 3. The Crown cannot be prosecuted for offences committed under sections 67 or 92, but it is possible for a financial penalty of up to £40,000 to be imposed on the Crown in lieu of prosecution. The exemption from criminal liability does not extend to persons acting in service of the Crown.

882. Subsection (8) provides that measures which amend existing legislation do not bind the Crown unless the legislation being amended also binds the Crown (and in relation to the 1988 Act, this is subject to section 18).

Section 139: Application to Parliament

Effect

883. Section 63 defines "residential landlord" for the purposes of the private rented sector database and the landlord redress scheme sections in Part 2. Subsections (4)(b) and (6) of section 63 enable the Secretary of State to make the landlord under tenancies of dwellings occupied for the purposes of either House of Parliament (that are periodic or granted for a term less than 21 years), or under licences to occupy such dwellings, a "residential landlord" and therefore subject to the requirements imposed on landlords by Part 2.

884. Subsection (1)(a), (b) and (c) provide that the offences relating to landlord redress schemes and the private rented sector database will not apply to tenancies or licences of dwellings occupied for the purposes of either House of Parliament if such tenancies or licences become subject to Part 2. Relevant persons who breached the regulations in those circumstances would nonetheless still be liable to receive financial penalties as provided for in sections 66 and 91.

885. Chapter 3 of Part 1 (Discrimination relating to children or benefits status: England) does not apply in relation to premises that are occupied for the purposes of either House of Parliament and nor do various sections within Chapter 3 of Part 4 (Investigatory powers).

Background

886. This provision follows precedent set by other legislation that excludes the Houses of Parliament from criminal liability. See, for example, section 131B of the Building Act 1984 (as inserted by section 60 of the Building Safety Act 2022).

Section 140: Regulations

Effect

887. Section 140 clarifies that regulations made under the Act can include consequential, supplementary, incidental, transitional or saving provision. The power to make transitional provision includes the power to make provision that applies in relation to tenancies, licences or occupation contracts (as the case may be) entered into, or advertising begun, before the date on which the regulations come into force.

888. It allows regulations to be made in a different way for different purposes.

889. The section provides that all regulations made under the following sections are to be made by statutory instrument using the affirmative procedure: section 13(2), 30, 39, 48, 54, 63, 64, 65, 77, 82(4), 83(6), 86, 87(2), or 90(2) or 101 or paragraph 32 of Schedule 6 (whether alone or with other provision). With the exception of regulations made under section 111, subsection (3) and Part 5, all other regulations made under this Act are subject to the negative resolution procedure.

890. Regulations made by Welsh Ministers under section 47 must also follow the affirmative procedure in the Senedd Cymru.

891. Regulations made by the Scottish Ministers under the Act (i.e. regulations to extend protection under Scottish law to persons of other descriptions) are subject to affirmative procedure.

892. Subsection (9) provides that any statutory instruments laid under the powers provided for in section 64 will not be treated by Parliament as hybrid instruments.

Background

893. In relation to subsection (9), hybrid statutory instruments affect the private interests of some members of a group more than others in the same group. These instruments are subject to a special procedure which gives those who are negatively affected by them the chance to present their arguments against the instrument to the Lords Hybrid Instruments Committee and then, possibly, to a Select Committee charged with reporting on its merits. This results in a longer Parliamentary process than typical for affirmative statutory instruments.

894. If the Ombudsman is delivered through a phased rollout, the statutory instruments used under section 64 could be considered hybrid, as some landlords may be required to join the Ombudsman before others. De-hybridising the redress provisions will help to prevent delays if a phased rollout is needed, as it will preclude statutory instruments from going through the hybrid procedures. If the rollout of the Ombudsman is deemed to be hybridising, the government intends to engage with stakeholders on any approach that affects the interests of landlords or tenants differently. This would likely only apply in relation to certain phased approaches to delivering the Ombudsman.

Section 141: Power of Welsh Ministers to make consequential provision

Effect

895. Section 141 allows the Welsh Ministers to make provision that is consequential on Part 1 of the Renters' Rights Act.

896. The regulation-making power is conferred by subsection (1). Subsection (2) provides that regulations under this section may amend, repeal or revoke provision made by or under an Act or Measure of Senedd Cymru passed before this Act, or an Act passed before this Act, or later in the same session of Parliament as this Act.

897. Regulations must be made under the affirmative procedure if amending primary legislation (subsection (6)), negative if otherwise (subsection (7)), and are constrained by the legislative competence of the Senedd (subsection (5)).

Proposed use of powers

898. The power will allow the Welsh Ministers to make consequential amendments arising from the Act.

Background

899. Part 1 of the Renters' Rights Act, containing tenancy reform provision, amends existing UK legislation. This section is required to update any references in legislation, to ensure they continue to function following such amendments.

Section 142: Power of Scottish Ministers to make consequential provision

Effect

900. Section 142 allows the Scottish Ministers to make provision that is consequential on Chapter 5 of Part 1 of the Act.

901. The regulation-making power is conferred by subsection (1).

902. Subsection (2) provides that regulations under this section may amend, repeal or revoke provision made by or under an Act of the Scottish Parliament passed before this Act, or an Act passed before this Act, or later in the same session of Parliament as this Act.

903. Regulations must be made under the affirmative procedure if amending primary legislation (subsection (6)), negative if otherwise (subsection (7)), and are constrained by the legislative competence of the Scottish Parliament (subsection (5)).

Proposed use of powers

904. The power will allow the Scottish Ministers to make consequential amendments arising from the Act, for example removing now-defunct terms from other pieces of legislation.

Section 143: Power of Secretary of State to make consequential provision

Effect

905. Section 143 confers a regulation-making power for the Secretary of State to make consequential amendments which arise from this Act. Any regulations that make consequential provision may amend, repeal or revoke an enactment passed before this Act or in the same Parliamentary session as this Act. Regulations made using this power that amend or repeal primary legislation or which make transitional provision which modifies pre-application instruments or provides that they cease to have effect (in whole or in part) are subject to the affirmative procedure. Any other regulations made under this section are subject to the negative procedure.

906. This power includes power to make supplementary, incidental, transitional or saving provision, including in relation to tenancies or licences entered into, or advertising begun, before the date on which the regulations came into force.

Proposed use of power

907. The power will allow the Secretary of State to make consequential amendments arising from the Act, for example removing now-defunct terms from other pieces of legislation (an example is given below to further illustrate this). Any such amendments that involve amending primary legislation are subject to the affirmative procedure.

> ### Example: References to section 21 in other legislation
> After the Act has passed into law, a previously un-noticed reference to section 21 (of the Housing Act 1988) is discovered in the Housing Act 2004. Using this power, the Secretary of State is able to remove the reference to section 21 from the legislation and replace it with a suitable alternative to ensure this section of the Housing Act 2004 continues to function as intended. The use of the affirmative procedure means Parliament is given the opportunity to debate whether this change is appropriate to make.

Section 144: Extent

Effect

908. Section 144 details the territorial extent of the provisions in the Act.

Section 145: Commencement

Effect

909. Subsection (1) provides that this Act, once it receives Royal Assent, comes into force on such day as the Secretary of State may by regulations appoint, subject to subsections (2)-(6) which make specific provision in relation to the coming into force of certain sections, Chapters or Parts. In relation to Part 1 Chapter 1 of the Act, the day that comes into force in relation to a particular tenancy is known as "the commencement date" (please see section 146, subsection(3)).

910. Subsection (2) provides that this Act comes into force for the purpose of making regulations on the day which it is passed.

911. Chapter 4 of Part 1 (Discrimination in the rental market: Wales) comes into force on such day as the Welsh Ministers by order made by statutory instrument appoint.

912. Chapter 5 of Part 1 (Discrimination in the rental market: Scotland) comes into force on such day as the Scottish Ministers by regulations appoint.

913. Subsection (5) provides that Chapter 2 of Part 1 (which outlines tenancies that cannot be assured tenancies), section 59 (which omits Part 3 from the Housing and Planning Act 2016), section 110 (Duty to report), and Chapter 3 of Part 4 (Investigatory Powers) of the Act come into force two months after the day the Act is passed.

914. Subsection (6) provides that section 110 (Lead enforcement authority) and Part 5 (General) comes into force on the day in which this Act is passed.

915. Subsection (7) provides that different days may be appointed under this section for different purposes, subject to subsection (8).

916. Subsection (8) provides a limitation to subsection (7) in relation to the commencement of Chapter 1 of Part 1. It provides that different days may be appointed for different purposes in relation to that Chapter only to the extent that one day is appointed for the purposes of all assured tenancies that are not social housing assured tenancies (defined in subsection (8)). For

assured tenancies that are not social housing assured tenancies the Act will come into force on the same day. This means that there will be one "commencement date" where the Act applies to both new and existing tenancies. Whilst one or more different days may be appointed to commence Chapter 1 Part 1 in relation to social housing assured tenancies.

Background

917. This provision provides for how different provisions of the Act will be commenced.

Section 146 Existing assured tenancies to continue as section 4A assured tenancies

Effect

918. Subsection (1) provides that the commencement of Chapter 1 of Part 1 (where an existing tenancy becomes a section 4A assured tenancy) does not affect the continuation of an existing tenancy on and after the commencement date (as a "section 4A assured tenancy" that is subject to the other provisions of that Chapter). This is to prevent any interpretation that the transition of an existing tenancy into a section 4A assured tenancy is such a significant change so as to end the tenancy. Subsection (2) introduces Schedule 6 which contains transitional provision relating to the application of Chapter 1 of Part 1 to existing tenancies.

919. Subsection (3) defines "the commencement date", as a date appointed by the Secretary of State by regulations on which Chapter 1 of Part 1 comes into force in accordance with section 145 in relation to a particular assured tenancy. In practice, this means that the commencement date will be the same day for most assured tenancies in line with the provision in section 145, subsection (8). It will be from that date that the changes brought about by Chapter 1 of Part 1 will apply to those tenancies (subject to the transitional provisions in Schedule 6). It is possible that a different commencement date or dates will apply to social housing assured tenancies. Subsection (3) also defines an existing tenancy as an assured tenancy which is entered into before the commencement date and a section 4A assured tenancy as an assured tenancy to which section 4A of the 1988 Act (as inserted by section 1 of this Act) applies.

Background

920. This provision provides for how Chapter 1 Part 1 of the Act (assured tenancies) applies to all existing tenancies and new assured tenancies once sections come into force. It also defines what is meant by "the commencement date" which is an important term used in the Act as it is the start date from when provisions in Chapter 1 Part 1 apply to particular descriptions of assured tenancies. Section 145, subsection (8) provides that one day may be appointed to commence Chapter 1 Part 1 in relation to all assured tenancies that are not social housing assured tenancies. In practice, with the possible exception of social housing assured tenancies, the effect of this is that Chapter 1 Part 1 of the Act will come into force in relation to assured tenancies on the same day.

Section 147: Fixed term assured tenancy and statutory periodic tenancy to be treated as single assured tenancy

Effect

921. Subsection (1) provides that, for the purposes of the relevant provisions (listed in subsection (2)), a fixed term assured tenancy and a periodic tenancy that arises on its expiry by virtue of section 5 of the Housing Act 1988 (a "statutory periodic tenancy") are to be treated as a single assured tenancy which started at the beginning of the fixed term. This has implications for when certain timeframes set out in the Act run from, including time periods inserted into section 14 of that Act by section 7 in respect of challenges to rent amounts and increases, the

restrictions on which dates can be specified in section 8 notices using certain possession grounds in the Housing Act 1988 and whether a landlord must re-issue a statement of terms at the end of a fixed term under new section 16(D) of the Housing Act 1988 inserted by section 12. This provision means that the new tenancy system will apply to the tenancy when it becomes a periodic tenancy, but it is not to be treated as a new tenancy starting at the expiry of the fixed term.

922. Subsections (3) to (6) provide an affirmative procedure power so that the Secretary of State can amend the definition of "relevant provisions" in subsection (2) via regulations.

Background

923. This provision provides that when a fixed term assured tenancy expires and it becomes a periodic tenancy according to section 5 of the Housing Act 1988, it is to be treated as a single assured tenancy for the purpose of certain provisions – called "relevant provisions" in the section. This provision means that the new tenancy system will apply to the tenancy when it becomes a periodic tenancy, but it is not to be treated as a new tenancy starting at the expiry of the fixed term.

Section 148: Transitional provision

Effect

924. Section 148 provides that the Secretary of State may, by regulations made by statutory instrument, make transitional or saving provisions in connection with the coming into force of any provision of the Act (subsection (3)).

925. This includes the power to make different provisions for different purposes (subsection (13)), and power to provide for the Act's provisions to apply to tenancies, licences or advertising which began before the section came into force (subsection (7)(a)). It also includes the power to modify the effect of private legal instruments (such as leases, mortgage agreements or insurance contracts) that were entered into before the commencement date, where the Secretary of State is satisfied that such an instrument would not operate appropriately as a result of Part 1, Chapters 1 and 2 of the Act (see subsections (7)(b) and (8)-(11).

926. Subsection (1) allows the Welsh Ministers to make regulations by secondary legislation to make transitional or saving provision in connection with the commencement of Chapter 4 of Part 1 (discrimination in the rental market: Wales). This includes power to state that a provision in Chapter 4, Part 1 to apply with modifications in relation to occupation contracts granted, renewed or continued, or advertising begun before the date on which Chapter 4 of Part 1 comes into force. Subsection (2) allows the Scottish Ministers to make transitional or saving provision by secondary legislation in connection with the commencement of Chapter 5 of Part 1 (discrimination in the rental market: Scotland) along the same lines in relation to existing tenancies.

927. Subsection (6) ensures that the power to make transitional or saving provisions under subsection (3) by regulations to make such provision by amending or repealing any provision in Part 2 of Schedule 6 to the Act.

928. Subsection (9) ensures that, when regulations under subsection (7)(b) change the effect of private legal instruments made before changes to legislation under section 140 regulations come into force, the parties to those documents can agree a different result instead of the default one provided by the legislation.

929. Any statutory instrument made by the Secretary of State containing regulations falling within subsection (7)(b) will be subject to the affirmative procedure. This power can also be used to amend a transitional provision in Part 2 of Schedule 6 ,but regulations doing this must be subject to affirmative procedure.

930. Circumstances in which the Secretary of State may consider that a private legal instrument will not operate appropriately in consequence of Part 1, Chapters 1 and 2 of the Act are set out in subsection (8) and include if provision within it would be obsolete or impractical, would have an unclear effect, would subject parties to more burdensome obligations than previously, or where it references any enactment as it had effect prior to their amendment by Part 1, Chapters 1 or 2 of the Act.

Section 149: Short title

Effect

931. This section is self-explanatory.

Schedules

Schedule 1: Changes to grounds for possession

Introductory

932. Schedule 1 amends Schedule 2 of the Housing Act 1988, which sets out the grounds for possession (set out in Annex C) for assured tenancies. These specify the reasons that landlords will be able to use to seek possession in the new tenancy system.

Amendments of Ground 1: occupation by landlord or family

Effect

933. Paragraph 2 amends Ground 1 of Schedule 2 of the Housing Act 1988. Ground 1 cannot be used unless the tenancy began at least one year (the "protected period") before the "relevant date" (as defined in paragraph 12, Part 5 (interpretation) of Schedule 2 to the Housing Act 1988 and in this situation means the date specified in the section 8 notice).

934. A court is required to award possession if the landlord requires the property for use as the only or principal home for any of the following:

a. themselves

b. their spouse, civil partner, or person with whom they live as if they were married or in a civil partnership

c. their close family member i.e. their parent, grandparent, sibling, half-sibling, child, or grandchild

d. the child or grandchild of their spouse, civil partner, or person with whom they live as if they were married or in a civil partnership.

Background

935. Under existing Ground 1, a court is required to award possession if the landlord requires the property to live in as their only or principal home. The amendments expand the category of who may live in the vacated property as their home to include close family.

936. Under existing Ground 1 a court is also required to award possession if the landlord has previously lived in the property as their only or principal home regardless of whether they intend to do so now. This requirement is now removed.

937. Under existing Ground 1, landlords are required to have provided prior notice to the tenant that the ground may be used. This requirement is now removed from the revised Ground 1.

New ground for sale of dwelling-house (1A)

Effect

938. Paragraph 3 inserts a new mandatory possession Ground (1A) that is available where the landlord intends to sell a freehold or leasehold interest in the dwelling-house, or to grant a long lease for a term certain over 21 years of the dwelling-house. This ground cannot be used unless the tenancy began at least one year (the "protected period") before the "relevant date" (Ground 1A(c)(i)).

939. Ground 1A(b) provides that the ground cannot be used to obtain possession where the assured tenancy arose at the end of a tenancy under either Schedule 1 to the Rent Act 1977 or section 4 of the Rent (Agriculture) Act 1976.

940. Subparagraph (c)(ii) provides an alternative to the one-year protected period and provides that the ground can be used where a notice of a compulsory acquisition has been published or served and is being sold to an acquiring authority. An "acquiring authority" and what constitutes giving notice of a compulsory acquisition is defined in paragraph 12, Part 5 of Schedule 2 to the Housing Act 1988 (as inserted by paragraph 25 in Schedule 1 to this Act).

941. Subparagraph (d) specifies that this ground is not available to certain social landlords.

Background

942. There is no existing ground for possession under Schedule 2 of the Housing Act 1988 for use where the landlord intends to sell the property.

943. Public or other authorities may compulsorily acquire property (without the consent of the owner) in circumstances where they have been authorised to do so by Parliament, subject to compliance with statutory procedures, and where there is a compelling case in the public interest. Before exercising powers of compulsory acquisition, the relevant public or other authority must comply with required notification procedures and publish a notice of its intention to use its powers of compulsory acquisition in a newspaper and, where applicable, on a website. The authority must also serve notices on persons with an interest in the property which is the subject of the acquisition. The exception to the minimum one year protected period where the property is being sold to an authority with statutory authorisation to compulsorily acquire it will ensure that landlords can respond quickly and provide vacant possession of a property to the relevant acquiring authority. This is necessary to prevent delays occurring in transferring the ownership of the property to an authority, which might impact their ability to deliver, for example, development, regeneration and infrastructure projects in the public interest.

New ground for possession after rent-to-buy agreement (1B)

Effect

944. Paragraph 4 inserts a new Ground (1B) so that a court must award possession when private registered providers of social housing are either selling a freehold or leasehold interest in the property, granting a long lease over 21 years or re-letting to a different tenant under an assured tenancy.

945. Subparagraph (e) specifies that landlords may only use the ground where the defined period stated in the rent-to-buy agreement has expired.

946. Subparagraph (f) stipulates that the landlord must have complied with any terms in the rent-to-buy agreement which require them to offer the sitting tenant the opportunity to buy the property and with any required procedures etc. in the agreement about such an offer.

Background

947. Rent-to-buy schemes provide an affordable home ownership route for tenants. Under the terms of the arrangement, relevant landlords will let a property at a discounted rate of rent (no more than 80% of assessed market rent, inclusive of service charges) for a set period, on the expectation that tenants will use these rent savings to build up a deposit. At the end of the period, the tenant will be offered the opportunity to purchase the property at a price no more than market value before it is offered for general sale.

948. Private registered providers of social housing will be able to use this new selling ground to ensure that rent-to-buy schemes continue to be viable in the new tenancy system. The ground will provide them with a mechanism to gain possession to either sell the property or re-let to a different tenant on an assured tenancy (whether on rent-to-buy terms or not) at the end of the scheme, in line with the terms of the agreement.

Amendments of Ground 2: sale by mortgagee

Effect

949. Paragraph 5 amends Ground 2 of Schedule 2 of the Housing Act 1988.

950. Subparagraph (a) removes the requirement for the mortgage to have started prior to the beginning of the tenancy.

951. Subparagraph (b) removes the requirement for prior notice to have been provided to the tenant that the ground may be used.

Background

952. Ground 2 of Schedule 2 of the Housing Act 1988 requires a court to award possession where a mortgage lender is entitled to exercise a power of sale when repossessing the property and requires vacant possession.

New ground for possession when superior lease ends (2ZA)

Effect

953. Paragraph 6 inserts a new ground so that a court is required to award possession when the landlord holds the interest under a superior tenancy or lease, and that superior lease is coming to an end within 12 months of the date on which the landlord serves the notice to the tenant under section 8 of the Housing Act 1988. The ground can only be used by private registered providers of social housing, landlords who themselves have an agricultural tenancy, supported accommodation providers or companies with at least 50% local authority ownership.

Background

954. There is no existing ground for possession under Schedule 2 of the Housing Act 1988 for use where a superior lease comes to an end. When a superior lease agreement ends, an intermediate landlord may be required to provide vacant possession of dwellings let on assured tenancies. A ground is needed to ensure these intermediate landlords can comply with the terms of their superior lease.

New ground for possession by superior landlord (2ZB)

Effect

955. Paragraph 7 inserts a new ground so that a court is required to award possession when the landlord holds the interest under a superior tenancy or lease, and that superior lease is coming to an end. The ground can only be used by landlords where the superior lease is over 21 years in length.

Background

956. This ground will allow landlords, including those who are private companies or individuals, to take possession where they hold under a superior lease of a fixed term over 21 years. This will enable such landlords, for example those who hold a leaseholder agreement for the property, to comply with the terms of their superior lease to return the dwelling to their own landlord free from subtenancies at the end of their lease.

New ground for possession by superior landlord (2ZC)

Effect

957. Paragraph 7 also inserts a new ground so that a court is required to award possession when the landlord seeking possession was a superior landlord and becomes the direct landlord of the assured tenancy following the ending of a lease superior to the assured tenancy. The ground can only be used where the intermediate landlord prior to the tenancy reverting to the superior landlord was a private registered provider of social housing, had an agricultural tenancy, or was a supported accommodation provider or company with at least 50% local authority ownership. Superior landlords will also be able to rely upon a section 8 notice served by the intermediate landlord under Ground 2ZA to bring a possession claim under this ground by virtue of section 8, subsection (5A) (added by section 4, subsection (3)(f)).

Background

958. When a superior lease agreement ends, an assured tenancy of a dwelling may revert to the superior landlord under section 18 of the Housing Act 1988. There is no existing ground for possession under Schedule 2 of the Housing Act 1988 for use where a superior tenancy has ended. This new ground will allow a superior landlord to end those assured tenancies in certain scenarios.

New ground for possession by superior landlord (2ZD)

Effect

959. Paragraph 7 also inserts a new ground so that a court is required to award possession when the landlord seeking possession was a superior landlord and becomes the direct landlord of the assured tenancy following the ending of a lease superior to the assured tenancy. The ground can only be used where the superior lease was over 21 years in length. Superior landlords can regain possession within six months of the tenancy reverting to them. Superior landlords will also be able to rely upon a section 8 notice served by the intermediate landlord under ground 2ZB to bring a possession claim under this ground by virtue of section 8, subsection (5B) (added by section 3, subsection (3)(f)).

Background

960. When a superior lease agreement ends, an assured tenancy of a dwelling may revert to the superior landlord under section 18 of the Housing Act 1988. There is no existing ground for possession under Schedule 2 of the Housing Act 1988 for use where a superior tenancy has ended. This ground is available for a superior landlord to end those assured tenancies.

Repeal of Ground 3: holiday accommodation

Effect

961. Paragraph 8 removes Ground 3 from Schedule 2 of the Housing Act 1988.

Background

962. Ground 3 of Schedule 2 of the Housing Act 1988 requires the court to award possession if, at some time in the 12 months prior to the tenancy starting, the dwelling-house was used as a holiday let. In practice, this ground facilitated seasonal holiday lets – properties would be let out as a holiday let over summer, and to a private tenant for the rest of the year.

963. The removal of Ground 3 means that the court will no longer be required to award possession on the basis that the property was previously used as holiday let in the 12 months before the start of the tenancy. This will prevent landlords evicting tenants in order to let properties out for short periods of high tourist demand.

964. Under Schedule 1 of the Housing Act 1988, a holiday letting is excluded from being an assured tenancy and will remain excluded from being an assured periodic tenancy. A holiday letting is a tenancy the purpose of which is to confer on the tenant the right to occupy the dwelling-house for a holiday.

Amendments of Ground 4: student accommodation

Effect

965. Paragraph 9 amends the existing Ground 4 to remove the reference to fixed terms and the requirement for landlords to give prior notice to the tenant to use the ground. This has been replaced by new "prior notice" requirements set out in section 12. Prior notice must have been provided to the previous tenant if the current tenancy arose by succession under Case 14 of Schedule 15 to the Rent Act 1977. The ground cannot be used if the tenancy is an assured agricultural occupancy in respect of which the agricultural worker condition, under paragraph 3 of Schedule 3 of the Housing Act 1988, has been fulfilled.

Background

966. Ground 4 requires a court to award possession when, the tenancy is for a fixed term of not more than 12 months, and during the 12 months prior to the start of the tenancy the accommodation was a student letting that is excluded from being an assured tenancy.

967. Under the Housing Act 1988, the court will not grant possession on Ground 4 if the landlord did not give notice in writing to the tenant before the start of the tenancy that possession might be recovered on this ground. Replacement provisions under section 12 of this Act will mean that landlords will be required to include notice in the mandatory written statement of terms that possession might be recovered using this ground, but the court will not be prevented from awarding possession if the landlord failed to comply.

Example: Letting student accommodation to non-students

Some universities let accommodation to non-students during academic holidays, e.g., to conference guests during the summer. The ground allows them to do this whilst guaranteeing that those short-term visitors or tenants can be evicted if needed to house incoming students.

New ground for possession of properties occupied by students (4A)

Effect

968. Paragraph 10 inserts a new ground for possession (Ground 4A) that will allow landlords to recover possession of an HMO or dwelling-house in an HMO let to full-time students, if the relevant date (the date specified in the section 8 notice) is between 1 June and 30 September, in order to re-let the property to full-time students again or to people who the landlord reasonably believes will become full-time students during the tenancy. If the property is let on a joint tenancy, each tenant must be a full-time student when the tenancy is entered into, or, the landlord must reasonably believe they will become full-time students during the tenancy at that point for the ground to be relied upon. If there are individual tenancies between the landlord and each tenant within an HMO, only tenants who meet the student criteria can be evicted.

969. Landlords will be required to provide written notice before the tenancy is entered into of their intention to use the ground on the basis that the current tenants are full-time students (or the landlord reasonably believes they will become so during the tenancy), and the landlord intends to relet the property to new full-time students. Unless this written notice is provided, landlords will not be able to regain possession using the ground.

970. Landlords will not be able to use the ground if the tenancy was agreed more than six months in advance of the date on which the tenant has a right to occupy the dwelling.

971. The final un-numbered subparagraph ensures that Ground 4A is available where a tenancy which was excluded from assured status under paragraph 8 of Schedule 1 of the Housing Act 1988 no longer meets the condition for exclusion and therefore becomes an assured tenancy. It allows landlords of those tenancies to comply with the requirement in paragraph (c) within 28 days of the tenancy becoming assured.

Background

972. There is no existing ground for possession that would allow landlords to guarantee vacant possession of properties rented to students after the end of the academic year so that new groups of full-time students can move in. This new ground allows the annual cycle of student letting to continue. The ground being unavailable for tenancies agreed more than six months in advance will disincentivise tenancies being agreed very early in the academic year, which students can feel pressured into and can lead to them making rushed decisions about who they live with.

Amendment of Ground 5: ministers of religion

Effect

973. Paragraph 11 amends the existing Ground 5 so that the requirement for landlords to have given tenants prior notice before using the ground no longer applies. This has been replaced by new "prior notice" requirements set out in section 12. Prior notice must have been provided to the previous tenant if the current tenancy arose by succession under Case 15 of Schedule 15 of the Rent Act 1977. The ground cannot be used if the tenancy is an assured agricultural occupancy.

Background

974. Ground 5 requires a court to award possession when the property is required to house a minister of religion and the main purpose of the property is to provide a residence for a minister of religion performing the duties of their office.

975. Under the Housing Act 1988, the court would not grant possession on Ground 5 if the landlord did not give notice in writing to the tenant before the start of the tenancy that possession might be recovered on this ground. Replacement provisions under section 12 of this Act will mean that landlords will be required to include notice in the mandatory written statement of terms that possession might be recovered using this ground, but the court will not be prevented from awarding possession if the landlord failed to comply.

New ground for possession for occupation by agricultural worker (5A)

Effect

976. Paragraph 12 introduces a new ground, which will require the court to award possession when a landlord requires the property to house an agricultural worker. The ground can be used to gain possession to house seasonal or permanent agricultural workers (employed by the landlord or, where there are joint landlords, one of the joint landlords). Alternatively, where the employer or contractor is not the landlord, the worker must be working wholly or mainly for the landlord and the landlord must also intend the work to continue for at least six months after the date on the notice.

Background

977. Properties that are on or near to agricultural land are often used to house workers who need to have fast or round-the-clock access to their work. When not needed for housing agricultural workers, these properties can also contribute to rural rented housing supply for other tenants.

978. This new specialist ground will allow landlords to continue to let such properties to both agricultural workers (whether employed or contracted), or other tenants, depending on business need and housing demand.

> ### Example: Letting to a farm worker
> A farmer owns and manages a dairy farm, which comprises a main farmhouse, two cottages, other agricultural buildings and grazing land. They employ someone to help manage the dairy herd and they let one of the farm cottages to the worker. As the farmer owns another cottage on their land but does not currently need it to house workers, they let the cottage to another tenant who is not a farm worker. After 18 months, the farmer decides to expand the dairy herd and needs to hire another worker to help. They need the new worker to live on site, so use this ground for possession to evict the current tenant so that they can house the incoming worker.

New ground for possession for occupation by person who meets employment requirements (5B)

Effect

979. Paragraph 13 introduces a new ground so that a court is required to award possession when a landlord who is a private registered provider of social housing intends for a property to be let to tenants who meet employment-related eligibility criteria.

980. The tenant subject to eviction cannot be a person who already fulfils the specified employment-related eligibility criteria.

Background

981. Some private registered providers of social housing offer employment-related tenancies, such as housing for "key workers", or housing linked to a specific profession or income bracket. These landlords have properties that they generally intend to use for this purpose, but they may also let it to other tenants when it is not needed for that use. Private registered providers will be able to use Ground 5B to evict a tenant who does not meet the relevant eligibility criteria in order to house a tenant who does.

> ### Example: Letting a property to NHS workers
> Alongside providing housing for typical social housing tenants, a private registered provider lets out flats in one of its blocks of housing to NHS workers employed at a local hospital. If there is low demand for this housing from eligible workers, they may let these flats to other tenants. This ground will allow the provider to gain possession of a property when it is needed again to house eligible workers.

Ground 16 to be renumbered as Ground 5C and to be a mandatory ground for possession

Effect

982. Paragraph 14 amends the existing Ground 16 from the Housing Act 1988 and renames it as ground 5C. A court will be required to award possession when the property was let to the tenant as a consequence of the tenant's employment or service in the office of constable, and the tenant's employment has ended (in the case of an employee) , or the property is needed to house a new employee, and the current tenant's tenancy had not been intended to last for the full duration of the tenant's employment (in the case of an employee), or in the case of a constable the tenancy was granted for a particular purpose and the purpose for which it was granted has ended.

983. The landlord must either be the tenant's employer, someone acting on behalf of the employer, or in the case of a constable a person listed in subsection (3).

Background

984. This is a renaming and expansion of Ground 16 of the Housing Act 1988. The existing ground allows a landlord to gain possession when their tenant is also their employee and the tenant's employment has ended. The ground has been expanded to cover the scenario where the current tenant's tenancy had not been intended to last for the full duration of the tenant's employment and to make it also available to landlords who provide accommodation to those tenants who are in service in the office of a constable e.g. police officers.

Example 1: Gaining possession when employment has ended

A shop owner owns both their shop and the flat above it and they let the flat to a person they employ to manage the shop. When this employee's employment ends, the second paragraph (a) of Ground 5C allows the employer (and landlord) to gain possession of the flat if they want to.

Example 2: Gaining possession when the property is needed to house a new employee

An organisation is recruiting new employees and as part of their recruitment drive, they offer affordable rented housing in the local area alongside offers of employment. They expect the employees to move on from this housing after their first year in the job so that the homes can be offered to other new employees. The second paragraph (b) of Ground 5C allows the landlords to gain possession of the property if the current tenants do not move on after the initially agreed time period.

New ground for possession for end of employment requirements (5D)

Effect

985. Paragraph 15 inserts a new ground requiring a court to grant possession when a tenancy agreement between the tenant and a private registered provider of social housing requires that the tenant meets certain employment-eligibility criteria and the tenant no longer meets those criteria.

Background

986. Some private registered providers of social housing offer employment-related tenancies, such as housing for "key workers", or housing linked to a specific profession or income bracket. These landlords have properties that they generally intend to use for this purpose and this new ground allows the landlord to evict tenants who previously met the employment-related eligibility criteria but no longer do. This helps to maintain supply for new eligible workers.

987. The landlord will not need to demonstrate that the housing is needed for a different worker in order to gain possession. This is because some of these types of properties may be let subject to the condition that they can only be occupied by tenants meeting the relevant criteria so the landlord needs to gain possession when the tenant no longer meets those criteria.

> **Example: Tenant no longer meeting employment-related eligibility criteria**
> An NHS trust works in partnership with a private registered provider to develop and let property on NHS-owned land to employees of the trust. This arrangement is based on an agreement that when tenants no longer meet the employment-related eligibility criteria, the housing provider will gain vacant possession of the property to allow for it to respond flexibly to demand from eligible workers.

New ground for possession for occupation as supported accommodation (5E)

Effect

988. Paragraph 16 inserts new Ground (5E) to provide that a court must grant possession where it is needed to return the property to use as supported accommodation, as defined in paragraph 25. The ground can only be applied in cases where the property is usually intended to be used as supported housing, and the current tenancy was not granted for this purpose.

Background

989. Supported housing is accommodation let for the purpose of providing the tenant with care, support or supervision. When the property is not needed for this purpose, it may be used to contribute to general rented housing supply for other tenants and to maintain the financial viability of supported accommodation providers.

990. This new specialist ground will allow landlords to continue to let such properties either as supported accommodation or to other tenants, depending on business need and housing demand.

> **Example: Supported accommodation**
> A supported accommodation provider usually uses a property as supported housing. Due to a temporary reduction in demand, the property was let as a general private rented sector rental without additional support or care services. After eighteen months, the property needs to be returned to use as supported accommodation to house a new tenant with specific support or care needs. The landlord may use this ground for possession to evict the current tenant to make the property available for supported accommodation.

New grounds for possession of dwelling-house as supported accommodation (5F)

Effect

991. Paragraph 17 inserts two new possession grounds (5F and 18) to allow supported accommodation providers to end a tenancy where it is necessary to enable them to continue to operate safely, effectively or otherwise protect the viability of their service. The grounds can only be used by providers of "supported accommodation", as defined in new paragraph 12 of Schedule 2 of the Housing Act 1988 (inserted by paragraph 25).

992. Paragraph 17, subparagraph (1) specifies that a court is required to award possession if the tenancy was originally granted as supported accommodation and the landlord can demonstrate that any of the following conditions apply:

a. The accommodation was provided for the purpose of enabling the tenant to transition to alternative accommodation and the period for which that support was intended to be provided (including any agreed extensions to that period) has ended.

b. Support services are or were provided to the tenant by a third party (either directly contracted by the landlord or separately as in managed accommodation settings), and those services have either ended or the service provider is failing to fulfil their obligations to provide the agreed support. Where the landlord is responsible for contracting support services, they should have made reasonable endeavours to secure alternative support services provision before applying for possession on this ground (this will not apply to managed accommodation).

c. The accommodation or support services were wholly or partly funded by someone other than the landlord or tenant and the funding has ended or dropped away, so it is not reasonable for the landlord to continue providing the placement and/or support services. Where the landlord is responsible for contracting support services, they should have made reasonable endeavours to secure alternative support services provision, before applying for possession on this ground (this will not apply to managed accommodation).

d. A court must also award possession if the landlord's overall financial viability, or the financial viability of the supported accommodation or support services, would be threatened by having to continue the supported accommodation scheme the property is a part of. In this situation, the landlord is to have made reasonable endeavours to secure alternative funding before applying for possession under this ground.

e. The support services provided under the supported accommodation arrangement are not appropriate because they exceed the tenant's actual requirements for care, support or supervision. This will encompass various scenarios including where the tenant's needs have decreased or where someone is temporarily placed in particular supported accommodation because it is available until a more appropriate placement is secured.

f. The support services provided under the supported accommodation arrangement are not appropriate because the tenant does not require any additional support. This will encompass various scenarios including where the tenant's needs have decreased or where someone is temporarily placed in particular supported accommodation because it is available until a more appropriate placement is secured.

g. The support services provided under the supported accommodation arrangement are not appropriate because they do not meet the tenant's requirements for care, support or supervision. This will encompass various scenarios, including where the tenant's needs have decreased or were undisclosed or undiagnosed at the time of placement.

h. The property has physical features and/or adaptations designed to support individuals with specific support needs to live more independently than they otherwise could and the tenant does not need those features.

i. The property is physically unsuitable for the tenant due to their particular requirements for care, support or supervision.

993. Subparagraph (2) introduces a discretionary ground (Ground 18) in cases where the tenancy was originally granted as supported accommodation and the tenant has unreasonably failed to co-operate with the support services provided.

994. Paragraph 25 inserts a new Part 5 with an interpretation paragraph (12) into Schedule 2 of the Housing Act 1988 and includes a definition of "supported accommodation" for the purposes of grounds 5F and 18. This includes accommodation let by housing associations, private registered providers of social housing, registered charities and voluntary organisations, where the tenant receives care, support or supervision. These support services may be provided directly by the landlord, by a third party acting on behalf of the landlord or, in the case of managed accommodation (also defined in newly inserted paragraph 12), procured through arrangements separate to the landlord (for example, support organised by the local authority). The tenant's admittance into occupation of the property must be because they require care, support, or supervision. However, that care, support and supervision does not need to be provided at the property itself; it may take place at another location.

Background

995. The specialist nature of the services provided in supported accommodation means there are some situations in which providers will need to gain possession of properties that are not covered by the other grounds for possession, to enable them to meet the needs of current or prospective tenants. These include ensuring that tenancies are appropriate for residents with particular needs, that the support being provided is suitable or to maintain the viability of schemes. Providers currently use section 21 to secure possession in these circumstances.

Examples: Supported Accommodation

Example 1: Ground 5F(a)

The tenancy was granted for a two-year limited period under the Rough Sleeping Accommodation Programme, to someone with a history of rough sleeping, in order to provide support to move on from rough sleeping. This period has now ended.

Example 2: Ground 5F(e)

A care leaver was granted a supported accommodation placement in order to receive structured personal support, including access to mental health specialists. The Local Authority Supported Accommodation Team responsible for organising the placement have found that the tenant's support needs have reduced so that they are now ready to move on to more independent living and do not require the level of support provided at the placement.

Example 3: Ground 5F(g)

A person with learning difficulties was granted a placement in general needs supported accommodation. Over time, it becomes known that the full extent of their support/care and support needs was not disclosed or understood at the time of placement as they had not historically had access to a formal assessment. As a result, the support available at the current placement is inadequate for their needs and the provider is not set up to provide the kind or level of support required.

Example 4: Ground 5F(h)

A person without mobility issues was temporarily placed in supported accommodation which has specific physical adaptations for a wheelchair-user because it was the most suitable property available at the time. The landlord is now seeking to move the tenant on to alternative accommodation which is better suited to the tenant's actual needs so that they can place a tenant with mobility requirements into the adapted property.

New ground for possession for tenancy granted for homelessness duty (5G)

Effect

996. Paragraph 18 inserts a new possession ground into Schedule 2 of the 1988 Housing Act. This provides that a court must award possession when private landlords and private registered providers of social housing are seeking to end a tenancy for a household who, at some point during their occupation of the property, were owed the main housing duty under section 193 of the Housing Act 1996.

997. Subparagraph (a) specifies that the ground can only be used when the local authority has notified the landlord that the tenancy is no longer required. The local authority will not be required to provide any reason as to why the tenancy is no longer required.

998. Subparagraph (b) places a 12-month limit on the period in which a landlord may use this ground. The 12-month window begins when the local authority informs the landlord they no longer require the tenancy and a notice must be served within 12 months of receiving that information.

Background

999. Local authorities may work with private landlords and private registered providers of social housing to deliver temporary accommodation for households owed the main housing duty. Once the local authority ends the duty (either by an offer of settled accommodation or for another specified reason) or no longer requires the property to provide temporary

accommodation for that household (for example because a different property has been identified for the household), landlords may seek to evict tenants. This practice ensures a continued supply of temporary accommodation. Landlords must have a clear mechanism to gain possession in these circumstances to enable this practice to continue.

1000. This possession ground is only applicable where the main housing duty as defined under section 193 of the Housing Act 1996 has ever applied. It does not apply to other homelessness duties (which include "interim" and "relief").

New ground for possession of stepping stone accommodation (5H)

Effect

1001. Paragraph 19 inserts a new Ground (5H) for possession that will allow certain landlords of housing schemes, sometimes known as 'stepping stone accommodation", to take possession. Stepping stone accommodation supports tenants who meet specified eligibility criteria and who would otherwise struggle to access the private rented sector.

1002. To make use of this possession ground a landlord must be a registered provider of social housing or a charity. Subparagraph (a) provides that the tenancy must have been granted because the tenant met "eligibility conditions". Eligibility conditions can include:

a. The tenant being in work for which they are paid

b. The tenant actively seeking work for which they will be paid

c. The tenant is either a particular age or within a particular range of ages, which must be in the conditions in the tenancy agreement.

1003. Subparagraph (b) stipulates that the eligibility conditions must be set out in a written tenancy agreement. If a tenancy agreement mentions more than one eligibility condition, then it can stipulate how many conditions a tenant needs to fail to meet before possession can be sought using this ground. However, if the tenancy agreement does not set this out, then if there are two or more conditions, the tenant only needs to have failed to meet one of the mentioned eligibility conditions for the ground to be used.

1004. Subparagraph (c) provides that the ground applies where the tenant no longer meets the eligibility condition(s) or where the tenancy was granted for a period of time to help the tenant transition to independent living and that period has ended.

1005. Subparagraph (d) provides that the rent must be no higher than 80% of market rent (and here "rent" and "market rent" includes service charges).

1006. Subparagraph (e) specifies the types of tenancies where the ground cannot be used.

1007. Where landlords specify eligibility conditions relating to work in tenancy agreements,

1008. Paragraph 19 clarifies that this can include (but is not limited to) references to working for a particular employer or sector, to the salary being paid for the work or to the duration of the contract. It also clarifies that a reference to "work" includes self-employment.

1009. The Secretary of State has the power to change the eligibility conditions included in the legislation, including varying, removing or adding new ones, through regulations made subject to the affirmative resolution procedure. The Secretary of State can also make regulations about the meaning of any eligibility condition.

Proposed use of the power

1010. The power to modify, remove or add eligibility conditions is necessary to ensure the ground is only used in relation to the right types of schemes and is not available for use by landlords to gain possession of other types of housing.

1011. The enabling power in Subparagraph 13(1)(d) allows the Secretary of State using regulations to change the type of landlord to whom ground 5H is available to use. This power is necessary to ensure the ground is only applicable to the targeted landlords.

1012. These regulations are to be made subject to the affirmative resolution procedure.

Background

1013. Some housing schemes currently provide accommodation to enable tenants to make and/or sustain the transition to independent living in the wider private rented sector or to help groups who may otherwise struggle to find private rental accommodation. They are sometimes known as 'stepping stone accommodation" but can have other names. These tenancies will often be at discounted rent and are granted to tenants who meet certain eligibility criteria. This new ground will allow certain landlords to gain possession, where appropriate, to enable them to continue operating these schemes.

Amendments of Ground 6: redevelopment

Effect

1014. Paragraph 20 of Schedule 1 to the Renters' Rights Act amends the existing ground 6 of Schedule 2 of the Housing Act 1988. A court is required to award possession if a relevant landlord wishes to undertake substantial redevelopment of the dwelling-house or a part of a building in which the dwelling-house is located.

1015. Subparagraph (6) inserts new paragraphs (a-c) which set out when ground 6 will be available for use, depending on what conditions are met – general redevelopment conditions, the landlord's acquisition condition, and introduces a new additional RSL condition in paragraph (c) which expands when relevant social landlords may use ground 6. Subparagraph (6) inserts new paragraphs (a-f) which specify the general redevelopment conditions that need to be met to comply with the ground.

1016. Subparagraph (e) specifies that ground 6 cannot be used unless the tenancy began at least 6 months before the relevant date, unless notice of a compulsory acquisition of the land by an acquiring authority was given in respect of the dwelling-house within the previous year, as set out in (e)(ii). An acquiring authority and what constitutes giving notice of a compulsory acquisition is defined in Part 5 of Schedule 2 to the Housing Act 1988 (as inserted by paragraph 25 in Schedule 1 to this Act).

1017. How the landlord's acquisition conditions are to be met is then set out.

1018. Then how the "additional RSL condition" may be met is detailed. There are three scenarios: Case A (where alternative accommodation that meets the specified conditions (security of tenure, affordable, appropriate location, and not overcrowded) is available for the tenant or will be available for the tenant when the order for possession takes effect), case B (where alternative accommodation that meets the specified conditions in case B (affordable, appropriate location, not overcrowded) is being provided temporarily until alternative accommodation which meets the conditions in Case A becomes available), or case C (where landlords are accommodating tenants temporarily in properties that are earmarked for redevelopment).

1019. Paragraph 20 also inserts a table into ground 6 which sets out when it will be available for use, depending on what type of landlord holds the tenancy, what type of tenancy is in place and who wishes to redevelop the property. The table specifies where a "relevant social landlord" can use the ground, including by the landlord seeking possession or a superior landlord for any relevant tenancy. If the dwelling-house is situated within a commonhold unit and the landlord is a unitholder, the landlord can seek possession if the commonhold association is undertaking substantial development. Private landlords can use the ground in any circumstances, if they are intending to undertake the redevelopment themselves.

1020. As mentioned above, a relevant social landlord must meet the "additional RSL condition" to be able to use Ground 6, and there are three routes (Case A, B and C) in which a relevant social landlord may meet the condition.

Background

1021. Previously social landlords could only use ground 6 of the Housing Act 1988 if the superior landlord intended to carry out redevelopment work. The amendments to ground 6 will enable social landlords to take possession where redevelopment work cannot reasonably be carried out without the tenant giving up possession of the dwelling-house. Under the "additional RSL condition" relevant social landlords will be required to provide alternative accommodation which meets certain criteria specified in case A or B, depending on which case applies.

1022. Section 22 of the Act amends section 11 of the Housing Act 1988 (payment of removal expenses in certain cases) so that social landlords are required to pay removal expenses to tenants when the court awards possession under ground 6 (redevelopment). Social landlords are also required to pay reasonable expenses in moving the tenant from alternative accommodation provided temporarily under case B of the "additional RSL condition" in ground 6. Compulsory purchase is a legal mechanism by which certain bodies (known as "acquiring authorities") can acquire land without the consent of the owner. To do so, the body must be authorised by statute, meet set statutory criteria, follow a specified statutory process and be able to demonstrate that the acquisition is in the public interest. It is used, for instance, to support the delivery of a range of development, regeneration and infrastructure projects in the public interest.

1023. The exception to the six-month initial restriction on the use of the redevelopment ground at subparagraph (3) will enable acquiring authorities to make best use of property that is scheduled to be demolished or significantly redeveloped within one year and which cannot be used for long term tenancies without delaying planned works.

New ground for possession of alternative accommodation provided during redevelopment (6A)

Effect

1024. New ground 6A will be available where a tenant has been provided with alternative accommodation by a relevant social landlord while redevelopment affecting the tenant's original home is carried out.

1025. Paragraph 21, subparagraph 1 (c) requires that alternative accommodation is available or will be available for the tenant when the order for possession takes effect and that it consists of either the previous home and is affordable, or other premises and meets the conditions of being affordable, in an appropriate location and not overcrowded. The alternative accommodation must be provided as a separate dwelling with adequate security of tenure.

Background

1026. Ground 6A is a new mandatory ground for possession for relevant social landlords if the court is satisfied that the conditions in ground 6A are met, notably the provision of alternative accommodation in subparagraph 1(c). This supports social landlords to continue to be able to move tenants into alternative accommodation and maximise their use of "decant" accommodation, following the removal of section 21 of the Housing Act 1988.

1027. Section 12 and section 13 of the Renters' Rights Act require prior notice in the written statement of the landlord's intention to be able to recover possession under Ground 6A. If the landlord has not provided prior notice in the written statement, the court may still make an order for possession of the property using Ground 6A, but in that situation the landlord (or someone acting for or purporting to act for them) may be subject to a financial penalty (see new section 16I (financial penalties) inserted by section 15 of the Act). Section 22 of the Act also amends section 11 of the Housing Act 1988 (payment of removal expenses in certain cases) so that social landlords are required to pay removal expenses to tenants when the court awards possession under Ground 6A.

New ground for possession to allow compliance with enforcement action (6B)

Effect

1028. Paragraph 22 inserts a new ground so that the court is required to award possession if the landlord seeking possession needs to end a tenancy because relevant enforcement action has been taken against the landlord and it would be unlawful for them to maintain the tenancy.

1029. The relevant enforcement actions are:

a. The landlord has been issued a banning order under section 16 of the Housing and Planning Act 2016,

b. The landlord has been served an improvement notice under section 11 or 12 of the Housing Act 2004, which specifies that the dwelling-house requires remedial action, and that overcrowding is the reason for the hazard that means remedial action is required,

c. A prohibition order under section 20 or 21 of the Housing Act 2004 prohibiting the use of the dwelling-house, the common parts or any parts of the dwelling-house or common parts, means it would not be possible for the tenancy to continue,

d. The landlord has been refused a licence or has had their licence revoked, where the dwelling-house is a HMO requiring a licence under section 61 of the Housing Act 2004, or,

e. The dwelling house is or is in a house which is required to be licensed under section 85 of the Housing Act 2004 and a licence has been refused or revoked.

f. The dwelling-house is occupied by more than the maximum number of tenants permitted under a licence, where the dwelling-house is an HMO licensed under Part 2 or Part 3 of the Housing 2004.

g. A planning enforcement notice or injunction, where compliance with the order or injunction would not be possible if the tenant continues to occupy the dwelling-house.

Background

1030. There is no existing ground for possession under Schedule 2 of the Housing Act 1988 for use where the landlord requires possession to comply with enforcement action. This new ground will ensure landlords are not left in a position where they are unable to comply with enforcement action.

Amendments of Ground 7: death of tenant

Effect

1031. Paragraph 23 amends the existing Ground 7 of Schedule 2 of the Housing Act 1988. Subparagraph (a) provides that Ground 7 cannot be used where the inheriting person lived in the property as their principal home, immediately before the deceased tenant passed away, apart from two exceptions. Ground 7 will remain available where the deceased tenant had inherited the tenancy via a will or intestacy, or where the tenancy is a "special tenancy". "Special tenancy" is defined as a tenancy of social housing, a rent-to-buy agreement, supported accommodation, temporary accommodation for those who have been deemed statutorily homeless and tenancies that meet some of the criteria for using Ground 5H. The power that will be inserted into the Housing Act 1988 by paragraph 25 of Schedule 1 allows the Secretary of State to amend the definition of "special tenancy". The amendment also removes references to fixed term tenancies.

1032. Subparagraph (b) removes the provision related to long leases, which will now be exempt from being assured tenancies.

Background

1033. Ground 7 of Schedule 2 of the Housing Act 1988 requires a court to award possession if a tenancy has been passed to someone else by will or intestacy (where there is no will) after the death of the previous tenant and the landlord initiates proceedings within 12 months of the death (or 12 months of the landlord learning of the death, if the court agrees to this). These provisions will prevent it from being used where the inheriting tenant lived in the property immediately prior to the deceased tenant's death, apart from in defined circumstances.

1034. Section 31 of this Act excludes tenancies of more than 21 years from the assured tenancy regime, so the provision referring to leases granted for a premium (i.e. long leases) within Ground 7 is no longer required.

Amendments of Ground 8: rent arrears

Effect

1035. Paragraph 24 amends Ground 8 of Schedule 2 of the Housing Act 1988. It increases the threshold for mandatory eviction so that tenants must be in at least three months' or thirteen weeks' arrears at the time notice is served and at the court hearing. As payment periods cannot be longer than monthly, it removes references to quarterly and yearly rent arrears. It also introduces a condition so that if a tenant's arrears are only because a Universal Credit payment that they are entitled to has not yet been paid, the amount due is to be ignored when calculating arrears.

Background

1036. Ground 8 of Schedule 2 of the Housing Act 1988 currently requires a court to award possession if a monthly tenant owes over two months' rent at the time the landlord initiates possession proceedings and at the time of the court hearing (or eight weeks in the case of a weekly or fortnightly tenancy).The universal credit condition will protect benefit claimants who have met the threshold for the mandatory ground only due to the gap between their entitlement being established at the end of their assessment period and their benefits payment arriving. This may happen on a recurring basis if the timing of their payment does not align with the date rent is due.

Example: Missing rent due to the wait for Universal Credit payments

A tenant with a small amount of existing arrears loses their job and applies for Universal Credit (UC). It will not be established if the claimant will receive an award of UC until the end of their monthly assessment period. Any award will then take up to seven days to be paid. It is feasible that in this period they could miss two monthly rent payments, becoming at risk of eviction through no fault of their own. This provision means that the rent missed because of the seven day wait for the UC payment at the end of the monthly assessment period will not be counted when calculating how much arrears the tenant owes, protecting the tenant in this example from mandatory eviction.

Part 5: Interpretation

Effect

1037. Paragraph 25 inserts a new Part 5 into Schedule 2 of the Housing Act 1988. The meanings of "HMO" and "housing association" are to be defined with reference to existing legislation. It defines the following terms: "acquiring authority", "managed accommodation", "support services", and "supported accommodation". It also sets out what is to be considered "giving notice of a compulsory acquisition" for the purposes of Schedule 2 to the Housing Act 1988.

Background

1038. Definitions for these terms are required because, in some situations, the function and availability of some of the grounds for possession under Schedule 2 are determined by provisions linked to these terms, as set out below:

a. the application of the one year- restriction on use of Grounds 1A and 6 month restriction on use of Ground 6 at the start of a tenancy may be determined by whether a "notice of a compulsory acquisition" was given and an "acquiring authority" intends to acquire or redevelop the property.

b. the use of Ground 6B may be determined by whether the housing meets HMO regulations.

c. the use of Ground 5F may be determined by whether a tenant lives in "managed accommodation". The application of Grounds 2ZA, 2ZB, 5E, 5F and 18 is determined by whether the housing meets the definition of "supported accommodation" (which incorporates "support services", as separately defined).

d. the use of Grounds 1, 1A, 2ZA, 2ZB, 4A, 5F, 5G and 6 are linked to a "relevant date". In most cases, this date is the date specified in the section 8 notice, or, for Grounds 2ZA, 2ZB or 5F, the date when that notice is served; but where the court uses its power to dispense with the requirement for notice, the "relevant date" will be the date on which proceedings for possession began.

1039. A definition for "housing association" is required because the definition of '"supported accommodation" in the Act refers to "housing association". A "housing association" is included on the list of specified landlords that may provide 'supported accommodation".

1040. The definitions of "HMO" and "housing association" are taken from the Housing Act 2004 and the Housing Associations Act 1985, respectively.

Part 6: power to amend grounds 2ZA, 2ZC, 5C, 5H and 6B and definition

Effect

1041. This gives the Secretary of State the power, via affirmative statutory instrument, to amend Schedule 2 of the Housing Act 1988 in the following specified ways:

a. To change the descriptions of landlords who may use grounds 2ZA and 2ZC

b. To restrict the use of ground 5C to where the landlord or employer seeking possession is of a specified description

c. To change the descriptions of landlords who may use ground 5H

d. To provide for the use of ground 6B in respect of other enforcement action etc

e. To amend the definition of 'special tenancy" in Ground 7.

f. To amend the definition of 'supported accommodation" or "managed accommodation" as established in paragraph 12 of Part 5.

Proposed use of power

1042. Grounds 2ZA and 2ZC: it is necessary to retain a small amount of flexibility to reflect new business models and legislative commercial arrangements that may also require a ground for possession. The power will allow the government to adjust the scope of landlords who can use the ground as sectors evolve to ensure it is available when it is reasonable while preventing "backdoor" evictions.

1043. Grounds 5C: this is an expanded ground and the scale of its use cannot be known with certainty. The power will be used to limit its use to certain landlords or in relation to certain types of employer and is necessary to prevent potential future abuse if unscrupulous landlords seek to use the ground beyond the circumstances for which it is intended.

1044. Grounds 5H: this power allows the Secretary of State to use regulations to change the type of landlord to whom Ground 5H is available to use. This is necessary to ensure the ground is only applicable to the targeted landlords who operate legitimate schemes.

1045. Ground 6B: The power will be used to expand or amend the list of offences under the ground so that landlords are not unnecessarily penalised for failing to comply with enforcement action because they do not have the relevant ground for possession.

1046. Definitions (Supported and Managed Accommodation): The power will be used to amend the definition of supported accommodation which is relevant to Grounds 2ZA, 2ZC, 5E, 5F and 18. This power will enable the government to respond quickly and flexibly to changes. This is needed to ensure the definition remains fit for purpose so the sector can continue to function effectively and to maintain providers' confidence in operating supported accommodation.

1047. Ground 7: The power allows the Secretary of State to ensure that landlords under certain tenancies can recover possession where those tenancies have been inherited under a will or the intestacy rules and the new tenant was living there immediately before the former tenant's death. The government believes it isn't always appropriate or fair for tenants to succeed to certain tenancies, as the property may be reserved, funded or adapted for particular usages (e.g. housing which is provided as supported accommodation for those with particular needs). This power is required to ensure that new types of specialist tenancy can continue to operate effectively in future.

Background

1048. Ground 2ZA is restricted to agricultural landlords, private registered providers of social housing, supported accommodation providers and companies where a local authority owns at least 50% of the issued share capital. Ground 2ZC is restricted to where the intermediate landlord was an agricultural landlord, private registered provider of social housing, supported accommodation provider or company where a local authority owned at least 50% of the issued share capital before the tenancy reverted under section 18 of the Housing Act 1988. The government has considered it necessary to restrict these grounds to a narrow set of landlords in order to prevent abuse by, for example, unscrupulous landlords seeking to replicate section 21 evictions through creating superior landlord arrangements.

1049. Ground 5C permits landlords to end a tenancy where the tenant is given a tenancy as a consequence of their employment by the landlord and where that employment has ended or when a tenancy granted in consequence of their employment was never meant to last for the duration of their employment by the landlord.

1050. Ground 5E allows landlords to gain possession where it is needed to return the property to use as supported accommodation. The ground can only be applied in cases where the property is usually intended to be used as supported housing and the current tenancy was not granted for that purpose.

1051. Ground 6B provides that landlords can regain possession when they are subject to enforcement action and evicting a tenant is the only way to comply with that enforcement action. This includes, for example, when a property is overcrowded or an HMO licence has been revoked.

1052. Ground 5F provides for supported accommodation providers to end a tenancy in limited circumstances, including where the tenant's needs have changed, the tenancy was provided as "move-on accommodation" or where it is necessary to enable the provider to continue to operate safely or effectively. Use of these grounds will only be available to landlords who provide supported accommodation or managed accommodation.

1053. Ground 7 allows landlords to take possession of a tenancy that has been passed to someone else by will or intestacy (where there is no will). The Act amends this to prevent it being used where the inheriting person lived in the property immediately before the deceased tenant died, unless the tenancy is a "special tenancy".

1054. Ground 18 provides that providers of supported accommodation (as defined in Part 5 of Schedule 2 of the Act), may end a tenancy where the tenant is unreasonably refusing to cooperate with the support services provided. Use of this ground is subject to the discretion of the courts.

Schedule 2: Consequential amendments relating to Chapter 1 of Part 1

Effect

1055. Schedule 2 contains amendments to various enactments that are consequential to Part 1 of the Act. These include, but are not limited to, amendments to the Greater London Council (General Powers) Act 1973, Housing Act 1985, Housing Act 1988, the Local Government and Housing Act 1989, the Housing Act 1996, the Renting Homes (Wales) Act 2016, the Agricultural Holdings Act 1986, the Landlord and Tenant Act 1985, the Capital Allowances Act 2001, the Police Reform Act 2002, the Anti-Social Behaviour Act 2003, the Housing and Regeneration Act 2008, the Localism Act 2011, the Reserve and Auxiliary Forces (protection of

Civil Interest) Act 1951, the Homelessness Act 2002, the Finance Act 2003, the Housing Act 2004, the Housing and Regeneration Act 2008, the Immigration Act 2016, the Homelessness Reduction Act 2017,the Deregulation Act 2015, the Regulatory Enforcement and Sanctions Act 2008, and the Charities Act 2011.

1056. These are minor and technical in nature and are consequential upon the abolition of assured shorthold tenancies, or other changes made by Part 1 of the Act.

Schedule 3: Amendments connected with landlord redress schemes

1057. Schedule 3 makes amendments to the Local Government Act 1974, the Housing Act 1996 and the Building Safety Act 2022 to reflect provision for the establishment of a private rented sector landlord redress scheme under Part 2 of the Renters' Rights Act.

1058. The below wording mirrors the language in Part 2 of the Act which provides for flexibility as to the number of private rented sector landlord redress schemes that can be approved or designated now or in the future – which may only be one.

Local Government Act 1974

1059. Paragraph 2 amends section 33 of the Local Government Act (LGA) 1974.

1060. Subparagraphs (2) and (3) of paragraph 2 insert references to a landlord redress scheme, so that a Local Commissioner under the LGA 1974 will need to consult the head of landlord redress if the Local Commissioner believes a case under investigation by the Local Government and Social Care Ombudsman (LGSCO) includes matters within the remit of any private sector landlord redress scheme.

1061. The Local Commissioner will also need to inform the person who initiated the complaint how to complain to the private rented sector landlord redress scheme, if the Local Commissioner considers this necessary.

1062. Subparagraph (4) inserts subsection (3C). Subsection (3C) provides that the head of landlord redress will need to consult with the appropriate Local Commissioner if the head of landlord redress believes the case under investigation by the private rented sector landlord redress scheme includes matters within the remit of the LGSCO.

1063. Subparagraph (5) inserts a reference to a landlord redress scheme into subsection (4) so that if the landlord redress scheme consults with the Local Commissioner, they may consult on anything relating to the matter under investigation, including the conduct of any investigation and the form, content and publication of any report of the results of the investigation.

1064. Paragraph 3 amends section 33ZA of the LGA 1974. The amendments under paragraph 3 to section 33ZA of the LGA 1974 allow for joint investigations and joint reporting by the Local Commissioner and the private rented sector landlord redress scheme, where the Local Commissioner believes that a case would be within the remit of both ombudsmen and the complainant gives their consent.

1065. Under paragraph 33ZA, two or more Ombudsmen who are listed under these provisions can conduct a joint investigation, where the subject matter of a case comes within the remit of all of them.

1066. Paragraph 4 amends subsection (4) of section 33ZB to provide that the Local Commissioner and the administrator of any private landlord redress scheme can share resources for undertaking collaborative work.

1067. Paragraph 5 amends section 34 by adding definitions of "head of landlord redress" and "landlord redress scheme".

Housing Act 1996

1068. Paragraph 6 amends paragraph 10A to Schedule 2 of the Housing Act 1996. This allows for joint investigations between a social housing Ombudsman operating under the provisions in the Housing Act 1996 and any private rented sector landlord redress scheme, where the social housing Ombudsman believes that a case would be within the remit of both ombudsmen/ redress schemes.

1069. Under paragraph 10A, two or more ombudsmen who are listed under these provisions can conduct a joint investigation, where the subject matter of a case comes within the remit of all of them, with the consent of the complainant.

1070. Sub paragraph (3) inserts sub paragraph (1A), which sets out the meaning of "within the jurisdiction" as used in sub paragraph (1) in relation to a person who investigates complaints under a landlord redress scheme.

Building Safety Act 2022

1071. Paragraph 10 amends Schedule 3 of the Building Safety Act 2022. This adds a landlord redress scheme operating under the provisions of the Renters' Rights Act to the list of relevant schemes in paragraph 3(5). The effect of this is that the Building Safety Regulator and the administrator of any landlord redress scheme must cooperate regarding the exercise of any building function of the regulator and any function of the administrator relating to the scheme.

Background

1072. The Local Government Act 1974, Housing Act 1996 and Building Safety Act 2022 contain existing provisions to allow for relevant ombudsmen and regulatory bodies to work together. This includes provisions for the sharing of information and resources and conducting of joint investigations as set out in the relevant sections and schedules of these Acts.

Example: Private Rented Sector Landlord Ombudsman Service

A tenant complains to a private landlord Ombudsman service, established under the Renters' Rights Act, about their landlord's failure to undertake an urgent repair that is threatening the health and safety of the household. The complainant has also raised the issue several times with their local council and received no response.

The Ombudsman forms the opinion that the LGSCO may want to undertake a joint investigation with them to determine both the poor conduct of the private landlord and the maladministration of the local council together. With the complainant's consent, such a joint investigation takes place and the two ombudsmen schemes work together and a joint report is published.

Schedule 4: Decent homes standard

Part 1: Amendments of Housing Act 2004

Effect

1073. Paragraph 2 amends section 1 of the Housing Act 2004 to specify that Decent Homes Standard (DHS) requirements only apply to unoccupied HMO accommodation if such accommodation is occupied by persons who form a single household, is either let under a relevant tenancy or is supported exempt accommodation, and is not social housing let by a registered provider of social housing.

1074. Paragraph 3 amends section 4 of the Housing Act 2004 to expand the existing provision for inspecting residential premises for hazards to also cover inspections for DHS requirements. This requires local housing authorities, if they consider it appropriate, to inspect qualifying residential premises in their areas to assess whether they meet DHS requirements. Paragraph 3 also amends the 2004 Act to allow regulations made by the Secretary of State about the inspection of residential premises to also cover how to assess compliance with DHS requirements.

1075. Paragraph 4 amends section 5 of the Housing Act 2004 by extending the existing duty on local housing authorities to take enforcement action in respect of Category 1 hazards to also cover failures to meet Type 1 DHS requirements.

1076. Paragraph 6 inserts section 6A into the Housing Act 2004 to make provision for a new financial penalty of up to £7,000 that local housing authorities can issue to landlords if a Category 1 hazard or a failure to meet a Type 1 DHS requirement is present in qualifying residential premises. The penalty can be issued if the local housing authority considers that it would have been reasonably practicable for the landlord to secure the removal of the hazard or the meeting of the requirement. This financial penalty can be issued in addition to enforcement action taken by a local housing authority to discharge their duty under section 5 of the Housing Act 2004. This paragraph also gives the Secretary of State power to make regulations amending the maximum penalty level to reflect inflation.

1077. Paragraph 7 amends section 7 of the Housing Act 2004 by extending the existing local housing authority power to take enforcement action in respect of Category 2 hazards to also cover failures of Type 2 DHS requirements.

1078. Paragraph 9 amends the power in section 9 of the Housing Act 2004 that allows the Secretary of State to issue guidance to local housing authorities to provide for this guidance to cover assessment of compliance with DHS requirements and imposition of financial penalties, as well as inspection of premises, assessment of hazards, and enforcement under Chapter 1 of Part 1 of the Housing Act 2004. Local housing authorities must have regard to any such guidance.

1079. Paragraphs 10 to 31 amend Chapters 2 and 3 of the Housing Act 2004 to allow existing enforcement tools for hazards and the associated offences to also apply to failures to meet DHS requirements in qualifying residential premises:

a. Paragraphs 11 to 15 amend the provisions in the Housing Act 2004 for serving improvement notices for Category 1 and Category 2 hazards to enable these to also be served for failures to meet Type 1 and Type 2 DHS requirements respectively. An improvement notice is a notice requiring the person on whom it is served to undertake remedial action in relation to hazards or failures to meet DHS requirements within a specified timescale. Paragraph 15 amends section 19 of the Housing Act 2004

to provide for situations where a person upon whom an improvement notice for a DHS failure is served ceases to hold the relevant interest (or fall within the relevant description) that qualified them for service in the first place. If a landlord served with an improvement notice does not retain their interest in the property – for example, if they have sold it – the person who has taken on their interest will become liable instead.

b. Paragraphs 16 to 19 amend the provisions in the Housing Act 2004 for serving prohibition orders for Category 1 and Category 2 hazards to enable these to also be served for failures to meet Type 1 and Type 2 DHS requirements respectively. A prohibition order can prohibit or set restrictions on the use of premises, including dwellings, HMOs, buildings containing flats or temporary accommodation for the homeless, or the external common parts of such buildings.

c. Paragraphs 20 to 22 amend the provisions in the Housing Act 2004 for serving awareness notices for Category 1 and Category 2 hazards to enable these to also be served for failures to meet Type 1 and Type 2 DHS requirements respectively. Awareness notices advise the person on whom they are served that a hazard or failure to meet a DHS requirement exists in the premises concerned. The Schedule amends the Housing Act 2004 to change the name "hazard awareness notice" to "awareness notice".

d. Paragraphs 21 and 22 insert provisions into the 2004 Act to specify that such notices issued in respect of residential premises in Wales are still to be known as "hazard awareness notices".

e. Paragraphs 23 and 24 amend the offences of failing to comply with an improvement notice and failing to comply with a prohibition order in the Housing Act 2004. As a result of the amendments in this Schedule, these offences can apply to failures to meet DHS requirements, as well as hazards.

f. Paragraphs 26 to 29 amend the Housing Act 2004 to allow local housing authorities to use types of emergency measures available for Category 1 hazards (emergency remedial action and emergency prohibition orders) for failures to meet Type 1 DHS requirements.

1080. Paragraph 33 amends section 250 of the Housing Act 2004 to provide that regulations made under sections 2A and 2B of that Act (inserted by section 100 of the Act) to specify DHS requirements and change the meaning of "relevant tenancy" can apply to tenancies or licences entered into before the date on which these regulations come into force.

1081. Paragraph 34 inserts Schedule A1 into the Housing Act 2004 to set out the following procedures in respect of financial penalties issued under section 6A (inserted by paragraph 6 of this Schedule):

a. Paragraphs 1 and 2 of Schedule A1 impose a requirement that a local housing authority, before imposing a financial penalty on a person under section 6A, must issue a notice of intent within six months of having sufficient evidence. Paragraph 3 lists the information the notice must contain, including the amount of the proposed penalty and information about the person's right to make representations.

b. Paragraph 4 of Schedule A1 provides that a person who is given a notice of intent has the right to make written representations about it to the local housing authority within 28 days.

c. Paragraphs 5, 6, 7 and 8 of Schedule A1 provide for what happens after the end of the period in which the person can make written representations. The local housing authority must decide whether to issue a penalty and the amount. If they decide to issue a penalty, they must give the person a final notice. This must set out information including the reasons for imposing the penalty, how to pay the penalty, information about rights of appeal and the consequences of failure to comply with the notice.

d. Paragraph 9 of Schedule A1 provides for a local housing authority to withdraw a notice of intent or a final notice, or to reduce the amount. This must be communicated to the person in writing.

e. Paragraph 10 of Schedule A1 sets out the appeals process for a person who has been issued with a final notice. They may appeal to the Tribunal within 28 days of being given the final notice. The Tribunal can confirm, vary, or cancel the fine. Varying the fine means the Tribunal can either reduce the fine or increase it up to the statutory maximum fine as stipulated in subparagraph (6). If a person appeals, the final notice is suspended until the appeal is determined, withdrawn or abandoned. The appeal may take into account additional evidence of which the enforcement authority was unaware.

f. Paragraph 11 of Schedule A1 details the processes local housing authorities should follow to recover unpaid penalties. Should a person fail to pay a penalty, the local housing authority can recover it under a county court order. In county court proceedings, a signed certificate by the chief finance officer of the local housing authority confirming the amount has not been paid is conclusive evidence of that fact.

g. Paragraphs 12, 13 and 14 of Schedule A1 provide that local housing authorities may use the proceeds of financial penalties towards costs and expenses associated with carrying out enforcement functions relating to the private rented sector.

1082. Paragraph 35 inserts Paragraph A1 into Schedule 1 of the Housing Act 2004 to specify who will be served with improvement notices and awareness notices in relation to failures to meet DHS requirements. Paragraph A1 specifies that, for properties let under a relevant tenancy, such notices must generally be served on the landlord who has an agreement with the tenant(s) of the property but provides flexibility for local housing authorities to serve notices on superior landlords or licence holders in certain circumstances. Subparagraph (4) of Paragraph A1 specifies who must be served with enforcement notices for supported housing where Subparagraph (3) does not apply. Paragraph 35 also inserts Paragraph B1 to specify who must be served with enforcement notices in respect of both hazards and failures to meet DHS requirements for temporary homelessness accommodation.

1083. Paragraph 36 amends Schedule 2 of the Housing Act 2004 to require local housing authorities, for qualifying residential premises let under a relevant tenancy, to serve copies of prohibition orders on any person who is a landlord or superior landlord in relation to the tenancy. Paragraph 36 also inserts provisions to specify that prohibition orders in respect of hazards must be served on landlords of temporary homelessness accommodation, if not covered by other provisions in Schedule 2.

1084. Paragraph 37 amends Schedule 3 of the Housing Act 2004 to allow local housing authorities to undertake works to remedy DHS failures and recover costs if a landlord has failed to comply with an improvement notice.

Proposed use of power

1085. Paragraph 3 amends the power in subsection 4(4) of the Housing Act 2004 to allow regulations to also make provision about the manner of assessing whether qualifying residential premises meet DHS requirements. This aims to ensure that local housing authorities, who are the bodies that will conduct inspections, are clear about how to carry them out and that there is a consistent approach throughout England.

1086. The power under paragraph 6 allows the Secretary of State to amend fine levels. This aims to ensure that the fines continue to serve as a deterrent and that their level reflects changes to the value of money.

1087. Paragraph 9 amends the power in section 9 of the Housing Act 2004 to allow statutory guidance for local housing authorities to cover assessment of DHS requirements and financial penalties under Chapter 1 of Part 1 of the Housing Act 2004. This aims to ensure that local authorities will have detailed, practical information on how to discharge their responsibilities.

1088. Regulations made and guidance issued under the provisions in this Schedule will be subject to the negative procedure.

Background

1089. Part 1 of the Housing Act 2004 provides for a system for assessing hazards in residential premises and for local housing authorities to take enforcement action in respect of properties containing hazards. Part 1 of this Schedule amends Part 1 of the 2004 Act to provide for enforcement of DHS requirements for private rented sector properties in England (those defined as "qualifying residential premises" in section 2B of the 2004 Act, inserted by section 100 of the Act). This integrates provisions for enforcement of Type 1 and Type 2 DHS requirements (those specified by regulations made under section 2A of the 2004 Act, inserted by section 100 of the Act) into the enforcement framework for hazards.

1090. The effect of the provisions in this Schedule will be to place a legally enforceable duty on landlords to ensure their properties meet the DHS. A breach of any element of the DHS can result in sanctions against the landlord – both a fine and enforcement action for the most serious breaches (a Category 1 hazard or the failure to meet a Type 1 DHS requirement) and enforcement action for other breaches (the failure to meet a Type 2 DHS requirement).

Example: Financial Penalty

A local housing authority inspects a privately rented home after receiving a complaint from the tenant. It identifies a Category 1 hazard in the property and determines that it would have been reasonably practicable for the landlord to have removed the hazard. The local housing authority can fine the landlord up to £7,000 in addition to taking enforcement action such as issuing an improvement notice or prohibition order.

Example: Failure to meet DHS requirement

A local housing authority inspects a privately rented home and identifies a failure to meet a Type 2 DHS requirement set out in regulations. The local housing authority will have a power to take enforcement action: it could issue an improvement notice requiring the landlord to remedy the failure within a specified time period, a prohibition order stopping the property from being occupied until the failure is remedied, or an awareness notice to make the landlord and tenants aware of the failure. If the local housing authority issues an improvement notice or prohibition order and the landlord fails to comply, they could be prosecuted or, in the case of an improvement notice, receive a fine as an alternative to prosecution. Fines of up to £30,000 can be imposed under the relevant provisions in the Housing Act 2004. The government intends to use secondary legislation to increase this to £40,000 to reflect inflation since this financial penalty was introduced and be consistent with the fines for similar offences in the Act.

Part 2: Amendment of other Acts

Effect

1091. Part 2 of this Schedule makes consequential amendments to a number of other Acts to reflect the changes made to the Housing Act 2004.

Schedule 5: Financial penalties

Notice of intent

1092. Paragraphs 1 and 2 impose a duty on a local housing authority to issue a notice of intent before imposing a financial penalty on a person under sections 40, 57, 66 or 91, within specific timeframes: within six months of having sufficient evidence or, if the person is continuing the conduct, at any time during that period or within six months of the conduct ending. Paragraph 3 provides for the information the notice must include, including the amount of the proposed penalty and information about the person's right to make representations.

Right to make representations

1093. Paragraph 4 provides that a person who is given a notice of intent has the right to make written representations about it to the local housing authority within 28 days beginning on the day after the day the notice of intent was given to the person.

Final notice

1094. Paragraphs 5, 6, 7 and 8 provide for what happens after the end of the period in which the person can make written representations. The local housing authority must decide whether to issue a penalty and the amount. If they decide to issue a penalty, they must give the person a final notice. This must set out information including the reasons for imposing the penalty, how to pay the penalty, information about rights of appeal and the consequences of failure to comply with the notice.

Withdrawal or amendment of notice

1095. Paragraph 9 provides for a local housing authority to withdraw at any time a notice of intent or a final notice, or to reduce the amount. This must be communicated to the person in writing.

Appeals

1096. Paragraph 10 sets out the appeals process for a person who has been issued with a final notice. They may appeal to the Tribunal within 28 days starting on the day after the final notice is given to them. They may appeal either the decision to impose the financial penalty or its amount. The Tribunal can confirm, reduce, or cancel the fine. Varying the fine means the Tribunal can either reduce the fine or increase it up to the statutory maximum fine which the local housing authority could have imposed. If a person appeals, the final notice is suspended until the appeal is determined, withdrawn or abandoned. The appeal may take into account additional evidence of which the enforcement authority was unaware.

Recovery of financial penalty

1097. Paragraph 11 details the processes local housing authorities may follow to recover unpaid penalties. Should a person fail to pay a penalty, the local housing authority can recover it under a county court order. In county court proceedings, a signed certificate by the chief finance officer of the local housing authority confirming the amount has not been paid is conclusive evidence of that fact.

Proceeds of financial penalties

1098. Paragraphs 12, 13 and 14 provide that local housing authorities may use the proceeds of financial penalties towards costs and expenses associated with carrying out enforcement functions under the Act or otherwise relating to the private rented sector.

Background

1099. This schedule sets out the process for a local housing authority to impose a financial penalty on a person and applies to sections 40, 57, 66 or 91. This includes the means for a person to appeal, how an unpaid penalty is recovered and how the income from penalties may be used. This process follows the precedent of Schedule 3 to the Tenant Fees Act 2019 and is similar to the process in Schedule 1 to the Housing and Planning Act 2016.

Schedule 6: Part 1 - Application of Chapter 1 of Part 1 to existing tenancies: transitional provision

Background

1100. This schedule provides for how the provisions in Chapter 1 of Part 1 (Assured Tenancies) apply in relation to existing tenancies.

Tenancies which become periodic on the commencement date

Effect

1101. Paragraph 1 provides that where the fixed term of an existing tenancy expires immediately before the commencement date, the amendments made by Chapter 1 of Part 1 do not apply in relation to the tenancy until immediately after the first periodic term has begun.

Section 1: start of deemed rent period for existing tenancies

Effect

1102. Paragraph 2 provides for how section 4A of the 1988 Act (inserted by section 1), which deals with rent periods, should be read for existing tenancies.

1103. Where a tenancy was created before the commencement date, this section allows any ongoing period of the tenancy to end before the limits on period length in section 4A apply. After the ongoing period ends, the terms of the tenancy cannot provide for periods which are longer than 28 days, unless the tenancy is monthly. If terms contravene this, the tenancy will have monthly periods beginning either on the day after the ongoing period ends or the commencement date as applicable.

1104. This paragraph also provides that in subsection (6) "R" is the rent due for the last period of the tenancy before the new provisions apply.

Section 2: claim form for section 21 possession proceedings already requested, as well as for section 21 possession proceedings not already requested

Effect

1105. Paragraph 3 provides that where a valid section 21 notice has been issued before the commencement date, the tenancy will remain an assured shorthold tenancy and the section 21 notice will remain valid until proceedings in reliance on the notice have concluded. Until then, the amendments made by Chapter 1 of Part 1 do not apply in relation to the tenancy.

1106. Paragraph 4 relates to possession proceedings that have not been commenced immediately before the commencement date. This provides that section 21 of the 1988 Act continues to have effect during the period in which the landlord can bring proceedings (or until any proceedings are concluded). However, the landlord will have from the commencement date, a maximum of three months to commence those possession proceedings.

Section 3(2)(g): saving of section 7(7) in relation to tenancies where fixed term ends before commencement date

Effect

1107. Paragraph 3 provides that section 7(7) of the Housing Act 1988 continues to apply after the commencement date, despite it being omitted by section 3, subsection (2)(g) of this Act. This means a court order for possession on grounds relating to a fixed term tenancy which has come to an end is applicable to a tenancy that is converted to a periodic tenancy on the commencement date.

Section 6: no effect on rent increases before commencement date

Effect

1108. Paragraph 6 provides that the amendments made by section 6 do not affect the validity of any rent increase for an existing tenancy before the commencement date which was made in reliance of a provision which was at the time binding on the tenant.

Sections 12, 13 and 15: provision of information in writing

Effect

1109. Paragraph 7 provides for how provision of information in writing is to be treated for existing tenancies (those entered into before the commencement date). If an existing tenancy is wholly or partly in writing, neither landlords nor their contractors will have to issue an updated statement of terms. Instead, under subparagraphs (2) and (3), landlords and their contractors are responsible for providing tenants with information in writing regarding the changes made by this Act as is required by regulations made by the Secretary of State. This must be done within a month of the commencement date.

1110. Where an existing tenancy agreement is wholly oral, the obligation to provide a written statement of terms needs to be met within a month of the commencement date.

1111. Regulations in this paragraph may make different provision for different purposes, will be made via statutory instrument and are subject to the negative procedure.

Section 15: no liability in respect of conduct before commencement date

Effect

1112. Paragraph 8 means that any conduct engaged in before the commencement date will not result in a financial penalty under sections 16I or 16K of the 1988 Act (inserted by section 13) and will not count as an offence under section 16J.

Section 20: no effect on notice to quit given before commencement date

Effect

1113. Paragraph 9 provides that the amendment made by section 20 does not affect the validity of any notice given under section 5 of the Protection from Eviction Act 1977 in relation to an existing tenancy before the commencement date.

Section 24: existing opt-out notices for assured agricultural occupancies

Effect

1114. Paragraph 10 provides that where tenancies have been "opted-out" from being an assured agricultural occupancy under the Housing Act 1988, those tenancies continue to be "opted-out" as assured periodic tenancies on the commencement date.

Section 26: tenancy deposits

Effect

1115. Paragraph 11 states the amendments made by section 26 do not apply to existing assured tenancies that were not assured shorthold tenancies immediately before the commencement date.

Section 27: tenant fees

Effect

1116. Paragraph 12 provides for existing tenancies that were previously assured tenancies (and not assured shorthold tenancies) to continue to remain out of scope of the Tenant Fees Act 2019, until the date at which the Renters' Rights Act applies to them.

Background

1117. Prior to amendments that will be made to it by the Renters' Rights Act, the Tenant Fees Act 2019 does not currently apply to assured tenancies that are not assured shorthold tenancies.

Schedule 1: student accommodation ground

Effect

1118. Paragraph 13 makes various modifications to possession Ground 4A to ensure it can be used in respect of existing tenancies. For example, it provides that where existing tenancies transition to the new system, landlords can provide "prior notice" of their intention to rely on Ground 4A within one month of the commencement date. This can be done either on the basis that the tenant met the test the provision sets out for student status (the "student test") when the existing tenancy was originally entered into; or that the tenant meets that test at the point at which the landlord provides that "prior notice" via a written statement, or both.

1119. Paragraph 13 further modifies Ground 4A for existing tenancies which meet the definition of a "qualifying student tenancy". For those tenancies, Ground 4A is further modified so as to remove the two requirements that the dwelling-house must be an HMO (or in an HMO) and that the date specified in the notice served by the landlord under section 8 of the Housing Act 1988 falls between 1 June and 30 September. An existing tenancy will be a "qualifying student tenancy" if the landlord, a person appointed to act on the landlord's behalf, or a person managing the building, is a member of a specified housing management code of practice approved under section 233 of the Housing Act 2004. The power to specify the relevant code can be exercised in regulations by the Secretary of State.

Background

1120. The modification to Ground 4A is to ensure that landlords of student tenancies which would be exempted from the assured tenancy regime pursuant to paragraph 8 of Schedule 1 to the Housing Act 1988, were they created after commencement of Part 1 Chapter 1 of the RRA, can end existing tenancies as they will be able to when they are exempted.

Schedule 1: stepping stone accommodation ground

Effect

1121. Paragraph 14 makes provision for landlords with existing tenancies who wish to use Ground 5H. It provides that paragraph (b) of Ground 5H applies to existing tenancies as though it included the stipulation that the written statement was given to the tenant before the commencement date.

Schedule 1: redevelopment ground

Effect

1122. Paragraph 15 makes provision for landlords with existing tenancies who wish to use Ground 6. It stipulates that the landlord must provide notice within one month after the "commencement date" rather than before the tenancy was entered into. Without this, social landlords under these tenancies would not be able to comply with the requirement in case C, paragraph (c) of the "additional RSL condition" in ground 6.

Claim form for section 8 possession proceedings already requested / not requested / not requested

1123. Paragraphs 16 and 17 ensure that valid section 8 notices issued prior to the commencement date, where the proceedings had been commenced but not concluded or had not been commenced but have not become time-barred, continue to be valid after the commencement date. This is until proceedings have been concluded or become time-barred.

1124. This means that such proceedings would continue to be determined under the provisions of the unamended 1988 Housing Act. Possession proceeding may not be begun after the end of the applicable period. Applicable period is defined as the period of twelve months included in the notice under section 8 of the 1988 Act in accordance with subsection (3)(c) of that section, or the period of three months beginning with the commencement date, if this three month period ends before the twelve month period mentioned in paragraph (a). Until such proceedings are concluded or become time-barred, the amendments made by Chapter 1 of Part 1 of the Act would not apply to the tenancy.

Interpretation

1125. Paragraph 18 defines the terms "commencement date" and "existing tenancy" used in the Schedule.

Schedule 6: Part 2 – Existing instruments which permit or require letting etc

Effect

1126. Paragraph 19 sets out key definitions for the purposes of Part 2 of Schedule 6, including definitions of "residential premises", the types of instrument to which Part 2 applies, what constitutes an "affected dwelling-house" for the purposes of Part 2, and what constitutes a "relevant" assured tenancy within the meaning of Part 2 both before and after commencement. Part 2 applies to leases of residential premises that were entered into before the commencement date, or on or after commencement under a contract entered into before that date. It applies to mortgages and insurance contracts entered into before commencement, or on or after commencement by acceptance of an offer made before commencement, and to section 106 obligations entered into before commencement.

1127. Paragraph 20 allows the parties to the instruments defined in paragraph 19 to vary or modify those instruments and makes the effects of provisions in Part 2 on those instruments subject to such variations or modifications.

1128. Paragraphs 21 and 23 ensure that, where a type of instrument defined in paragraph 19 permits or requires an affected dwelling-house to be let on a type of assured tenancy that is abolished by Chapter 1 of Part 1 of the Act, it may be let on a relevant assured tenancy.

1129. Paragraphs 22 and 24 ensure that, where a type of instrument defined in paragraph 19 permits or requires an affected dwelling-house to be let on a relevant assured tenancy, the terms of the instrument relating to the letting will remain the same after commencement as long as they are not inconsistent with any other provision in the Act or in regulations made under it.

1130. Paragraph 25 ensures that, where section 106 planning obligations require an affected dwelling-house to be let on a type of assured tenancy abolished by Chapter 1 of Part 1 of this Act, that requirement will be satisfied by letting it on a relevant assured tenancy.

1131. Paragraph 26 ensures that, where a section 106 planning obligation requires an affected dwelling-house to be let on a relevant assured tenancy, the terms of the instrument relating to the letting will remain the same after commencement as long as they are not inconsistent with any other provision in the Act or regulations made under it.

1132. Paragraph 27 provides that, where a section 106 planning obligation to which Part 2 of Schedule 6 applies met the requirements under regulation 122(2) of the Community Infrastructure Levy ("CIL") Regulations 2010 before commencement, any effect of Part 2 is to be disregarded when considering whether it continues to meet those requirements after commencement.

1133. Paragraph 28 ensures that where a lessee has sublet a property, the sublease has become a relevant assured tenancy by virtue of Part 2 of Schedule 6, and the lessee is unable to return the dwelling-house to the lessor at the end of the lease free of the relevant assured tenancy, this will not constitute a breach of the lease.

1134. Paragraph 29 clarifies that in Part 2 of Schedule 6 references to a type of instrument defined in paragraph 19, and references to the terms in such an instrument, include the terms of any agreement relating to the instrument and any document or communication giving or refusing consent for letting in relation to a type of tenancy.

1135. Paragraph 30 clarifies that, where appropriate, references to letting an affected dwelling-house are or include references to subletting it under any lease or inferior lease of those premises.

1136. Paragraph 31 explains how Part 2 of Schedule 6 applies where (i) an instrument gives discretion whether to let an affected dwelling-house but requires it to be let under a tenancy of a particular description if it is let; and, (ii) there are two or more affected dwelling-houses in relation to the instrument.

1137. Paragraph 32 allows the Secretary of State to make regulations disapplying or modifying the effect of Part 2 of Schedule 6 on specified descriptions of the types of instrument defined in paragraph 19.

1138. Paragraphs 33 sets out the meaning of "permitting" letting as used in Part 2 of Schedule 6.

1139. Paragraph 34 sets out definitions of terms used in Part 2 of Schedule 6.

Background

1140. Part 2 of Schedule 6 ensures that landlords will not be prevented from letting their residential dwellings where they were able to do so prior to commencement of Chapter 1 of Part 1 of the Act and that the terms of pre-commencement superior leases, mortgages, insurance contracts and section 106 planning obligations will not be breached by letting on a relevant assured tenancy.

1141. It will ensure that mortgage borrowers will not be in breach of their mortgage terms if they let their property on a relevant assured tenancy where they were able to let on other types of assured tenancy prior to commencement of Chapter 1 of Part 1 of the Act.

1142. It will ensure that landlords, who have purchased an insurance policy prior to commencement of Chapter 1 of Part 1 of the Act that requires the use of any other type of assured tenancy agreement other than a relevant assured tenancy, will not be deemed to have breached their policy terms if they let using a relevant assured tenancy.

1143. It will ensure that where existing section 106 planning obligations require the letting of residential premises on a type of assured tenancy abolished by Chapter 1 of Part 1 of the Act, developers/landowners will not be found in breach of their obligations if they let on a relevant assured tenancy. Additionally, it will ensure that the CIL regulation 122(2) requirement will continue to be met by a section 106 planning obligation after Chapter 1 of Part 1 of the Act comes into force regardless of the effect of Part 2 of Schedule 6.

1144. It will also ensure that where a landlord has an existing sub-lease that becomes a relevant assured tenancy by virtue of Part 2 of Schedule 2, they will not be found in breach of their own lease if they do not return the property to their landlord free of the relevant assured tenancy.

1145. Finally, the Secretary of State has power to make regulations disapplying or modifying the effect of Part 2 of Schedule 6 to account for the varied nature and wording of the instruments to which it applies, for example, if there are unforeseen consequences of its effects on such instruments.

Commencement

1146. Commencement is provided for by section 145. The Act will mostly come into force on such day as the Secretary of State may appoint by regulations ((2)), except for the following provisions set out in section 145, subsection (5): Chapter 2 of Part 1 (Tenancies that cannot be assured tenancies), sections 59, 110 and Chapter 3 of Part 4 (investigatory powers) which come into force two months after Royal Assent. Chapter 4 of Part 1 comes into force on such day as the Welsh Ministers by order made by statutory instrument appoint. Chapter 5 of Part 1 comes into force on such day as the Scottish Ministers may by regulations appoint. Otherwise, the rest of the Act for the purposes of making regulations, section 111, and Part 5 come into force on the day of Royal Assent.

Subject matter and legislative competence of devolved legislatures

1147. The main subject matter of this Act is the law of housing, which is an area of devolved legislative competence in Scotland, Wales, and Northern Ireland.

1148. The majority of the Act's provisions apply only to England. This is because they concern dwellings or tenancies in England. However, the prohibition of discrimination against renting to tenants with children or who receive benefits in Part 1 Chapters 4 and 5 will also apply to Wales and Scotland respectively, as will certain provisions within Part 5 (General). Section 30 (Powers of Secretary of State in connection with Chapter 1), section 105 (Unlicensed HMOs and houses: offences), section 106 (Service of improvement notices on landlords and licensors), and section 141 (Power of Welsh Ministers to make consequential provision) apply to Wales, but not to Scotland. There are also a handful of consequential and saving provisions within Part 2 which apply there, as do certain provisions relating to redress schemes (section 76 and Schedule 3). Section 142 (Power of Scottish Ministers to make consequential provision) apply to Scotland, but not to Wales.

1149. A Legislative Consent Motion was requested from both the Welsh and Scottish Governments. Legislative consent was granted by the Scottish Parliament on 19 February 2025 and by the Senedd Cymru on 20 May 2025.

Annex A – Hansard References

1150. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	11 September 2024	
Second Reading	9 October 2024	Vol 754, Col 332.
Public Bill Committee	22 October 2024	First Sitting
	22 October 2024	Second Sitting
	29 October 2024	Third Sitting
	29 October 2024	Fourth Sitting
	31 October 2024	Fifth Sitting
	31 October 2024	Sixth Sitting
	5 November 2024	Seventh Sitting
	5 November 2024	Eighth Sitting
Report and Third Reading	14 January 2025	Vol 760, Col 191
House of Lords		
Introduction	15 January 2025	Vol 842
Second Reading	4 February 2025	Vol 843, Col 606
Committee of the Whole House	22 April 2025	Vol 845, Col 553
	22 April 2025	Vol 845, Col 630
	24 April 2025	Vol 845, Col 775
	24 April 2025	Vol 845, Col 818
	28 April 2025	Vol 845, Col 996
	6 May 2025	Vol 845, Col 1478
	6 May 2025	Vol 845, Col 1560
	12 May 2025	Vol 845, Col 1970
	14 May 2025	Vol 845, Col 2187
	14 May 2025	Vol 845, Col 2252
	15 May 2025	Vol 845, Col 2392
Report	1 July 2025	Vol 847, Col 598
	1 July 2025	Vol 847, Col 675
	7 July 2025	Vol 847, Col 1120
	15 July 2025	Vol 847, Col 1723
Third Reading	21 July 2025	Vol 848, Col 34

Stage	Date	Hansard Reference
House of Commons		
Commons Consideration of Lords Amendments	8 September 2025	Vol 772, Col 635
House of Lords		
Lords Consideration of Commons Amendments and / or Reasons	14 October 2025	Vol 849, Col 185
House of Commons		
Commons Consideration of Lords Message	22 October 2025	Vol 773, Col 993
Royal Assent	27 October 2025	Vol 774, Col 61 Vol 849

Annex B – Progress of Bill Table

1151. This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
1	1	1	1	1	1
2	2	2	2	2	2
3	4 ('section 3: Sections 1 and 2: effect on superior leases" on introduction moved to 'schedule 6, Part 2: - Existing instruments which permit or require letting etc.")	4 ('section 3: Sections 1 and 2: effect on superior leases" on introduction moved to 'schedule 6, Part 2: - Existing instruments which permit or require letting etc.")	4 ('section 3: Sections 1 and 2: effect on superior leases" on introduction moved to 'schedule 6, Part 2: - Existing instruments which permit or require letting etc.")	3	3
4	5	5	5	4	4
5	6	6	6	5	5
6	7	7	7	6	6
7	8	8	8	7	7
8	n/a (added 'section 8: Prohibition of rent in advance after lease entered into (except initial rent)")	n/a (added 'section 8: Prohibition of rent in advance after lease entered into (except initial rent)")	9	8	8
9	n/a (added 'section 9: Prohibition of rent in advance before lease entered into")	n/a (added 'section 9: Prohibition of rent in advance before lease entered into")	10	9	9
10	9 (renamed to 'section 10: Repayment of rent paid for days after tenancy ends")	9 (renamed to 'section 10: Repayment of rent paid for days after tenancy ends")	11	10	10
11	10	10	12	11	11
12	12	12	14	13	12
13	13	13	15	14	13
14	14	14	16	15	14

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
15	15	15	17	16	15
16	16	16	18	17	16
17	17	17	19	18	17
18	18	18	20	19	18
19	n/a (added ‘section 19: Guarantor not liable for rent payable after tenant’s death”)	n/a (added ‘section 19: Guarantor not liable for rent payable after tenant’s death”)	21	20	19
20	19	19	22	21	20
21	20	20	23	22	21
22	21	21	24	23	22
23	22	22	25	24	23
24	23	23	26	25	24
25	24	24	27	26	25
26	25	25	28	27	26
27	26	26	29	28	27
28	27	27	30	29	28
29	28	28	31	30	29
30	29	29	32	31	30
31	30 (renamed to ‘section 31: Long tenancies and financial services products “)	30 (renamed to ‘section 31: Long tenancies and financial services products “)	33	32	31
32	31 (renamed to ‘section 32: Accommodation for homeless people or students”)	31 (renamed to ‘section 32: Accommodation for homeless people or students”)	34 (renamed to ‘section 32: Accommodation for homeless people or students”)	33	32
33	32	32	35	34	33
34	33	33	36	35	34
35	34	34	37	36	35
36	35	35	38	37	36
37	36	36	39	38	37
38	37	37	40	39	38
39	38	38	41	40	39
40	39	39	42	41	40

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
41	40	40	43	42	41
42	41	41	44	43	42
43	42	42	45	44	43
44	43	43	46	45	44
45	44	44	47	46	45
46	45	45	48	47	46
47	46	46	49	48	47
48	47	47	50	49	48
49	48	48	51	50	49
50	49	49	52	51	50
51	50	50	53	52	51
52	51	51	54	53	52
53	52	52	55	54	53
54	53	53	56	55	54
55	54	54	57	56	55
56	55	55	58	57	56
57	56	56	59	58	57
58	57	57	60	59	58
59	58	58	61	60	59
60	59	59	62	61	60
61	60	60	63	62	61
62	n/a (added ‘section 62: Student accommodation that is not an HMO”)	n/a (added ‘section 62: Student accommodation that is not an HMO”)	n/a (added ‘section 62: Student accommodation that is not an HMO”)	63	62
63	61	61	64	64	63
64	62	62	65	65	64
65	63	63	66	66	65
66	64	64	67	67	66
67	65	65	68	68	67
68	66	66	69	69	68
69	67	67	70	70	69
70	68	68	71	71	70
71	69	69	72	72	71
72	70	70	73	73	72

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
73	71	71	74	74	73
74	72	72	75	75	74
75	73	73	76	76	75
76	74	74	77	77	76
77	75	75	78	78	77
78	76	76	79	79	78
79	77	77	80	80	79
80	78	78	81	81	80
81	79	79	82	82	81
82	80	80	83	83	82
83	81	81	84	84	83
84	82	82	85	85	84
85	83	83	86	86	85
86	84	84	87	87	86
87	85	85	88	88	87
88	86	86	89	89	88
89	87	87	90	90	89
90	88	88	91	91	90
91	89	89	92	92	91
92	90	90	93	93	92
93	91	91	94	94	93
94	92	92	95	95	94
95	93	93	96	96	95
96	94	94	97	97	96
97	95	95	98	98	97
98	96	96	99	99	98
99	97	97	100	100	99
100	98	98	101	101	100
101	n/a (added ‘section 101: The standard of MOD accommodation”)	n/a (added ‘section 101: The standard of MOD accommodation”)	n/a (added ‘section 101: The standard of MOD accommodation”)	n/a (added ‘section 101: The standard of MOD accommodation”)	n/a (added ‘section 101: The standard of MOD accommodation”)
102	99	99	102	102	101
103	100	100	103	103	102
104	101	101	104	104	103
105	102	102	105	105	104

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
106	103	103	106	106	105
107	104	104	107	107	106
108	105	105	108	108	107
109	106	106	109	109	108
110	107	107	110	110	109
111	108	108	111	111	110
112	109	109	112	112	111
113	110	110	113	113	112
114	111	111	114	114	113
115	112	112	115	115	114
116	113	113	116	116	115
117	114	114	117	117	116
118	115	115	118	118	117
119	116	116	119	119	118
120	117	117	120	120	119
121	118	118	121	121	120
122	119	119	122	122	121
123	120	120	123	123	122
124	121	121	124	124	123
125	122	122	125	125	124
126	123	123	126	126	125
127	124	124	127	127	126
128	125	125	128	128	127
129	126	126	129	129	128
130	127	127	130	130	129
131	128	128	131	131	130
132	129	129	132	132	131
133	130	130	133	133	132
134	131	131	134	134	133
135	132	132	135	135	134
136	133	133	136	136	135
137	134	134	137	137	136
138	135	135	138	138	137
139	136	136	139	139	138
140	137	137	140	140	139

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
141	138	138	141	141	140
142	139	139	142	142	141
143	140	140	143	143	142
144	141	141	144	144	143
145	142	142	145	145	144
146	143	143	146	146	145
147	144	144	147	147	146
148	145	145	148	148	147
149	146	146	149	149	148
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3
Schedule 4, Part 1	Schedule 4, Part 1	Schedule 4, Part 1	Schedule 4, Part 1	Schedule 4, Part 1	Schedule 4, Part 1
Schedule 4, Part 2	Schedule 4, Part 2	Schedule 4, Part 2	Schedule 4, Part 2	Schedule 4, Part 2	Schedule 4, Part 2
Schedule 5	Schedule 5	Schedule 5	Schedule 5	Schedule 5	Schedule 5
Schedule 6, Part 1	Schedule 6 (renamed to ‘section 1, Part 1 – Application of Chapter 1 to existing tenancies”)	Schedule 6 (renamed to ‘section 1, Part 1 – Application of Chapter 1 to existing tenancies”)	Schedule 6 (renamed to ‘section 1, Part 1 – Application of Chapter 1 to existing tenancies)”	Schedule 6, Part 1	Schedule 6, Part 1
Schedule 6, Part 2	n/a (added ‘schedule 2, Part 2 – Existing instruments which permit or require letting etc.”)	n/a (added ‘schedule 2, Part 2 – Existing instruments which permit or require letting etc.”)	n/a (added ‘schedule 2, Part 2 – Existing instruments which permit or require letting etc.”)	Schedule 6, Part 2	Schedule 6, Part 2

Annex C – Grounds for possession

1152. This table shows the grounds for possession that a landlord can use to evict a tenant as set out in Schedule 2 of the Housing Act 1988 and amended by this Act.

Ground		Summary	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
1A	Sale of dwelling-house	The landlord intends to sell the property. Cannot be used for the first 12 months of a new tenancy.	4 months
1B	Sale of dwelling-house under rent-to-buy	The landlord is a private registered provider of social housing, the tenancy is under a rent-to-buy agreement and the landlord intends to sell a freehold or leasehold interest or grant a lease of over 21 years or an assured tenancy to someone else.	4 months
2	Sale by mortgagee	The property is subject to a mortgage and the lender intends to exercise a power of sale requiring vacant possession.	4 months
2ZA	Possession when superior lease ends	The landlord's lease is under a superior lease or 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
2ZB	Possession when superior lease ends	The landlord's lease is under a superior lease or 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
2ZC	Possession by superior landlord	After an intermediate lease or 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
2ZD	Possession by superior landlord	After an intermediate lease or tenancy ends, the 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
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
4A	Properties rented to students for occupation by new students	A HMO is let to full-time students and is required for a new group of students in line with the academic year. Cannot be used if the tenancy was agreed more than six months in advance of the tenancy starting (i.e. the tenant moving in). Cannot be used if tenants not given "prior notice" of landlord's intent to potentially rely upon the ground before the tenancy began.	4 months

Ground		Summary	Notice Period
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
5A	Occupation by agricultural worker	The landlord requires possession to house an agricultural worker, either as an employee or self-employed worker for the landlord.	2 months
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
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 for a new employee. Alternatively, the dwelling was let as a consequence of the tenant's service in the office of constable for a purpose related to that service and that purpose has been fulfilled or the tenancy is no longer needed for that purpose.	2 months
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
5E	Occupation as supported accommodation	The property is held for use as supported accommodation and is now required for that purpose and the current tenant did not enter the tenancy for the purpose of receiving care, support or supervision.	4 weeks
5F	Dwelling-house occupied as supported accommodation	The tenancy was let as supported accommodation and one of the circumstances set out in the ground is satisfied, making the accommodation no longer needed, viable or suitable for that purpose or for the tenant.	4 weeks
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
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, in work or actively seeking work) 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
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 a kind listed in the table in the Ground. A relevant social landlord who intends to carry out redevelopment work and seeks possession on Ground 6 either through case A or B will need to provide alternative accommodation that meets specific conditions set out in case A or B and is either available or will be available when an order for possession takes effect.	4 months

Ground		Summary	Notice Period
6A	Decant Accommodation	The tenant has been provided with alternative accommodation by a relevant social landlord while redevelopment affecting the tenant's original home is carried out.	4 months
6B	Compliance with enforcement action	The landlord is subject to enforcement action and needs to regain possession to become compliant. Under this ground, the court will be allowed to require the landlord to pay compensation to the tenant when ordering possession.	4 months
7	Death of tenant	The tenancy was passed on by will or intestacy, and proceedings began within the requisite period of 12 months. The ground can only be used if the new tenant wasn't living in the property immediately before the previous tenant died, the previous tenant also inherited the tenancy or it is a 'special tenancy", e.g. a social housing tenancy, supported accommodation, accommodation provided due to homelessness duties.	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 injunction 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.	Landlords can begin proceedings immediately
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
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
Discretionary Grounds			
9	Suitable alternative accommodation	Suitable alternative accommodation is available for the tenant or will be when the possession order takes effect	2 months
10	Any rent arrears	The tenant is in any amount of arrears.	4 weeks
11	Persistent arrears	The tenant has persistently delayed paying their rent.	4 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
13	Deterioration of property	The tenant or a person living with them has caused the condition of the property to deteriorate.	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.	Landlords can begin proceedings 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
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

Ground		Summary	Notice Period
15	Deterioration of furniture	The tenant or a person living with them has caused the condition of the furniture to deteriorate.	2 weeks
17	False statement	The tenancy was granted due to a false statement made knowingly or recklessly by the tenant or someone acting at their instigation.	2 weeks
18	Supported accommodation	The tenancy is for supported accommodation and the tenant is unreasonably refusing to engage with the support.	4 weeks

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