

The Deregulation Act 2015

This fact sheet is to provide guidance and advice to landlords about the Deregulation Act 2015 which was introduced on the 1st October 2015.

The Act introduced a number of important changes that affect landlords and tenancies in the private rented sector.

Although the Act is very detailed, the main changes to highlight are:

- **New rules on serving Section 21 Notices to bring a tenancy to an end.**
- **New rules on information that must be provided to tenants prior to their tenancy starting.**
- **New rules designed to prevent retaliatory evictions.**

Full details of the Deregulation Act 2015 can be found at:

www.legislation.gov.uk/ukpga/2015/20/contents/enacted

NEW RULES ON SERVING SECTION 21 NOTICES

Initially the changes affected all new assured shorthold tenancies that started on or after 1st October 2015 but from the 1st October 2018 the rules apply to all existing assured shorthold tenancies as well.

New Section 21 Form 6A

A new 'prescribed' 6A form has been produced by the government. It must be used in its exact form to serve notice to any tenant in order to end their tenancy at the end of their fixed term or periodic tenancy. It is no longer acceptable to write your own notice, you must use the government Form 6A.

Restrictions in serving a Section 21 Notice

Landlords cannot validly serve a Section 21 Notice in the first four months of a tenancy. This only applies to the first fixed term period. If renewed with a new fixed term tenancy the landlord will be able to serve a Section 21 Notice at any point during the renewed tenancy.

The new rules remove the need for a landlord to specify that a tenancy must end on the last day of a rental period. The only exception to this would be where the tenancy started on a periodic basis without any initial fixed term. Different rules apply in this situation.

It must be noted that where a Section 21 Notice requires a tenant to leave during a period they have paid rent for in advance, the tenant is then legally entitled to a refund of the rent paid for the days after they vacate the property.

Expiry of Notice

Section 21 Notices will only be valid for six months from the date of issue. This means you have to use the Section 21 Notice within the six months of when it is served. After six months, it becomes invalid; a new Section 21 Notice will then need to be served.

INFORMATION THAT MUST BE PROVIDED TO TENANTS PRIOR TO THE START OF THEIR TENANCY

Section 21 Notices will not be valid unless the landlord has provided, and can document that they have provided, the following information:

- A current valid gas safety certificate, if applicable.
- A current valid Energy Performance Certificate. This must have a rating of band E or above.
- The Department for Communities and Local Governments 'How to Rent' guide. This must be the current version.
- The relevant information relating to the protection of the tenants' deposit. This will vary depending on which scheme is used.

The above information is commonly referred to as the 'Prescribed Information'. A tenant must be provided with this.

Before being able to enforce any Section 21 Notice, a solicitor and the courts will ask for evidence that the 'Prescribed Information' had been served prior to the start of the tenancy.

RETALIATORY EVICTIONS

Part of the Deregulation Act 2015 is to encourage landlords to keep their property in a decent condition. The Act also provides for tenants to be able to complain about poor and unsafe conditions without fearing eviction.

The landlord is not able to serve a valid Section 21 Notice to gain possession of their property:

- If the tenant has made a written complaint to the landlord or agent about the condition of the property, and the landlord or their agent has not responded by providing an adequate written response* within 14 days, or has responded by serving a Section 21 Notice.
- If the relevant local authority has served the landlord with a Relevant Notice** in respect of the property, where a tenant has complained to them that no adequate written response was received.

**An adequate written response from a landlord or agent should include a description of what action they are going to take to address the issue and the time-scale for this to be done. **A Relevant Notice is an Improvement Notice or an Emergency Remedial Action Notice from the local authority.*

If a Section 21 Notice is served to the tenant before a complaint arises, then this notice is valid and can be relied upon in court.

If the local authority has served an improvement notice, the tenant is protected from eviction for six months from the date of service regardless of whether they have raised the issue with the landlord first.

If a tenant is seeking to have a Section 21 Notice invalidated, they need to have raised the issue with the landlord or agent first.

Where the tenant cannot claim retaliatory eviction

There are circumstances where a tenant would not be able to rely on the rules, such as:

- Where a tenant has failed to use the property in 'a tenant-like manner'. In other-words, the bad condition of the property is due to the tenants' actions and breach of their responsibilities.
- When the Section 21 Notice was served, the property was already genuinely on the market for sale to a third party. *(This excludes any sale to a family member, business partner or anyone directly linked to the business partner.)*
- Where the property was mortgaged before the start of the tenancy, and the mortgage lender wishes to exercise their power of sale and the property needs to be vacant.

