

Tenancies (Reform) Bill

CONTENTS

- 1 Preventing retaliatory evictions
- 2 Further exemptions to section 1
- 3 Notice to be provided in relation to periodic assured shorthold tenancies
- 4 Time limits in relation to section 21 notices and proceedings
- 5 Compliance with prescribed legal requirements
- 6 Prescribed form of section 21 notices
- 7 Regulations made under section 21
- 8 Apportionment of rent where tenancy ends before end of a period
- 9 Application
- 10 Extent, commencement and short title

A

B I L L

TO

Protect tenants against retaliatory evictions; to amend the law on notices requiring possession relating to assured shorthold tenancies; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Preventing retaliatory evictions

- (1) A section 21 notice may not be given in relation to an assured shorthold tenancy of a dwelling-house in England within six months beginning with the day of service of a relevant notice in relation to the dwelling-house.
- (2) A section 21 notice given in relation to an assured shorthold tenancy of a dwelling-house in England is invalid if—
 - (a) before the section 21 notice was given, the tenant made a relevant complaint in relation to the dwelling-house to the landlord or the relevant local housing authority, and
 - (b) since the section 21 notice was given, the relevant local housing authority has served a relevant notice in relation to the dwelling-house.
- (3) It is a defence to proceedings for an order under section 21 of the Housing Act 1988 in relation to an assured shorthold tenancy of a dwelling-house in England that—
 - (a) before the section 21 notice was given, the tenant made a relevant complaint in relation to the dwelling-house to the landlord or the relevant local housing authority, and
 - (b) subsection 4 applies.
- (4) This subsection applies if—
 - (a) the relevant local housing authority has not decided whether to inspect the dwelling-house or the common parts,
 - (b) the relevant local housing authority has decided to inspect the dwelling-house or the common parts but has not conducted an inspection,

- (c) the relevant local housing authority has conducted an inspection of the dwelling-house or the common parts but has not decided whether to serve a relevant notice, or
- (d) the relevant local housing authority has decided to serve a relevant notice in relation to the dwelling-house but the relevant notice has not been served. 5
- (5) Subsection (1) does not apply where—
- (a) the relevant notice has been wholly revoked under section 16 of the Housing Act 2004 as a result of the notice having been served in error, 10
- (b) the relevant notice has been quashed under paragraph 15 of Schedule 1 to that Act,
- (c) a decision of the relevant local housing authority to refuse to revoke the relevant notice has been reversed under paragraph 18 of Schedule 1 to that Act, 15
- (d) a decision of the relevant local housing authority to take the action to which the relevant notice relates has been reversed under section 45 of that Act, or
- (e) the relevant notice has been made subject to an order under section 29 of the Senior Courts Act 1981. 20
- (6) References in this section and section 2 to a relevant notice served, or relevant complaint made, in relation to a dwelling-house include a relevant notice served, or complaint made, in relation to any common parts of the building of which the dwelling-house forms a part.
- (7) But subsection (6) applies only if— 25
- (a) the landlord has an estate or interest in the common parts in question, and
- (b) the condition of those common parts is such as to affect the tenant's enjoyment of the dwelling-house or of any common parts which the tenant is entitled to use. 30
- (8) In this section and section 2 a reference to a complaint to a landlord includes a complaint made to a person acting on behalf of the landlord in relation to the tenancy.
- (9) In this section and section 2—
- “assured shorthold tenancy” means a tenancy within section 19A or 20 of the Housing Act 1988; 35
- “common parts”, in relation to a building, includes—
- (a) the structure and exterior of the building, and
- (b) common facilities provided (whether or not in the building) for persons who include one or more of the occupiers of the building; 40
- “dwelling-house” has the meaning given by section 45 of the Housing Act 1988;
- “relevant complaint”, in relation to a dwelling-house, means a complaint made— 45
- (a) to a landlord in writing, or
- (b) to a relevant local housing authority, regarding the condition of the dwelling-house at the time of the complaint;

“relevant local housing authority”, in relation to a dwelling-house, means the local housing authority as defined in section 261(2) and (3) of the Housing Act 2004 within whose area the dwelling-house is located;

“relevant notice” means—

- (a) a notice served under section 11 of the Housing Act 2004 (improvement notices relating to category 1 hazards), 5
- (b) a notice served under section 12 of that Act (improvement notices relating to category 2 hazards),
- (c) a notice served under section 28 of that Act (hazard awareness notices relating to category 1 hazards), 10
- (d) a notice served under section 29 of that Act (hazard awareness notices relating to category 2 hazards), or
- (e) a notice served under section 40(7) of that Act (emergency remedial action);

“section 21 notice” means a notice served under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy). 15

2 Further exemptions to section 1

- (1) Subsections (1) to (3) of section 1 do not apply where the condition of the dwelling-house or common parts that gave rise to the service of the relevant notice, or consideration of whether to serve a relevant notice, is due to a breach by the tenant of— 20
 - (a) the duty to use the dwelling-house in a tenant-like manner, or
 - (b) an express term of the tenancy to the same effect.
- (2) Subsection (3) of section 1 does not apply if the court considers that the relevant complaint is totally without merit. 25
- (3) Subsections (1) to (3) of section 1 do not apply where the dwelling-house is genuinely on the market for sale.
- (4) For the purposes of subsection (3), a dwelling-house is not genuinely on the market for sale if, in particular, the landlord intends to sell the landlord’s interest in the dwelling-house to— 30
 - (a) a person associated with the landlord,
 - (b) a business partner of the landlord,
 - (c) a person associated with a business partner of the landlord, or
 - (d) a business partner of a person associated with the landlord. 35
- (5) For the purposes of subsection (4), references to a person who is associated with another person are to be read in accordance with section 178 of the Housing Act 1996.
- (6) For the purposes of subsection (4), a business partner of a landlord includes a person who is— 40
 - (a) a director, secretary or other officer of a company of which the landlord is also a director, secretary or other officer, or
 - (b) a partner of a partnership of which the landlord is also a partner.
- (7) Subsections (1) to (3) of section 1 do not apply where the landlord is a private registered provider of social housing. 45
- (8) Subsections (1) to (3) of section 1 do not apply where—

- (a) the dwelling-house is subject to a mortgage granted before the beginning of the tenancy,
- (b) the mortgagee is entitled to exercise a power of sale conferred on the mortgagee by the mortgage or by section 101 of the Law of Property Act 1925, and 5
- (c) the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power.
- (9) In subsection (8)–
- (a) “mortgage” includes a charge, and 10
- (b) “mortgagee” includes a receiver appointed by the mortgagee under the terms of the mortgage or in accordance with the Law of Property Act 1925.
- 3 Notice to be provided in relation to periodic assured shorthold tenancies**
- In section 21 of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy), after subsection (4) insert– 15
- “(4ZA) In the case of a dwelling-house in England, subsection (4)(a) above has effect with the omission of the requirement for the date specified in the notice to be the last day of a period of the tenancy.”
- 4 Time limits in relation to section 21 notices and proceedings** 20
- (1) Section 21 of the Housing Act 1988 is amended as follows.
- (2) After subsection (4) insert–
- “(4B) A notice under subsection (1) or (4) may not be given in relation to an assured shorthold tenancy of a dwelling-house in England –
- (a) in the case of a tenancy which is not a replacement tenancy, 25
within the period of four months beginning with the day on which the tenancy began, and
- (b) in the case of a replacement tenancy, with the period of four months beginning with the day on which the tenancy began.
- (4C) Subsection (4B) does not apply where the tenancy has arisen due to 30
section 5(2).
- (4D) Proceedings for an order for possession under this section in relation to a dwelling-house in England may not be begun after the end of the period of six months beginning with the date on which the notice was given under subsection (1) or (4).” 35
- (3) In subsection (6), for “subsection” substitute “subsections (4B)(b) and”.
- 5 Compliance with prescribed legal requirements**
- In section 21 of the Housing Act 1988, after subsection (7) insert–
- “(8) A notice under subsection (1) or (4) may not be given in relation to an assured shorthold tenancy of a dwelling-house in England at a time 40
when the landlord is in breach of a prescribed requirement.

- (9) The requirements that may be prescribed are requirements imposed on landlords which relate to –
- (a) the condition of dwelling-houses or their common parts,
 - (b) the health and safety of occupiers of dwelling-houses, or
 - (c) the energy performance of dwelling-houses. 5
- (10) For the purposes of subsection (9)(a), “common parts” has the same meaning as in Ground 13 in Part 2 of Schedule 2.”
- 6 Prescribed form of section 21 notices**
- In section 21 of the Housing Act 1988, after subsection (10) insert –
- “(11) The Secretary of State may by regulations made by statutory instrument prescribe the form of a notice under subsection (1) or (4) given in relation to an assured shorthold tenancy of a dwelling-house in England.” 10
- 7 Regulations made under section 21**
- In section 21 of the Housing Act 1988, after subsection (11) insert – 15
- “(12) A statutory instrument containing regulations made under subsection (8) or (11) is subject to annulment in pursuance of a resolution of either House of Parliament.”
- 8 Apportionment of rent where tenancy ends before end of a period**
- After section 21 of the Housing Act 1988 insert – 20
- “21A Apportionment of rent where tenancy ends before end of a period**
- (1) A tenant under an assured shorthold tenancy of a dwelling-house in England is entitled to an apportionment of rent from the landlord where –
- (a) as a result of an order for possession under section 21 the tenancy is brought to an end before the end of a period of the tenancy, 25
 - (b) the tenant has paid rent in advance for that period, and
 - (c) the tenant was not in occupation of the dwelling-house for one or more whole days of that period. 30
- (2) The apportionment under subsection (1) is to be calculated in accordance with the following formula –
- $$R \times \frac{D}{P}$$
- where –
- R is the rent paid for the final period; 35
 - D is the number of whole days of the final period for which the tenant was not in occupation of the dwelling-house; and
 - P is the number of whole days in that period.
- (3) If the payment of the apportionment of rent described in subsections (1) and (2) has not been made when the court considers whether to make 40

an order for possession under section 21, the court must order the landlord to pay the apportionment of rent to which the tenant is entitled.

- (4) Nothing in this section affects any other right of the tenant to an apportionment of rent from the landlord.”

5

9 Application

- (1) Subject to subsections (2) and (3), a provision of this Act applies only to an assured shorthold tenancy of a dwelling-house in England granted on or after the day on which the provision comes into force.

- (2) Subject to subsection (3), a provision of this Act does not apply to an assured shorthold tenancy that came into being under section 5(2) of the Housing Act 1988 after the commencement of that provision and on the coming to an end of an assured shorthold tenancy that was granted before the commencement of that provision.

10

- (3) At the end of the period of three years beginning with the coming into force of a provision of this Act, that provision also applies to any assured shorthold tenancy of a dwelling-house in England –

15

- (a) which is in existence at that time, and
(b) to which that provision does not otherwise apply by virtue of subsection (1) or (2).

20

10 Extent, commencement and short title

- (1) This Act extends to England and Wales only.

- (2) This Act, other than this section, comes into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint.

- (3) Regulations under subsection (2) may appoint different days for different purposes.

25

- (4) Regulations under subsection (2) may make such transitory, transitional or saving provision in connection with the coming into force of this Act as the Secretary of State considers appropriate.

- (5) This section comes into force on the day on which this Act is passed.

30

- (6) This Act may be cited as the Tenancies (Reform) Act 2015.

Tenancies (Reform) Bill

A

B I L L

To protect tenants against retaliatory evictions; to amend the law on notices requiring possession relating to assured shorthold tenancies; and for connected purposes.

*Presented by Sarah Teather,
supported by
Tessa Munt, Tim Farron, Sir Peter Bottomley, Bob
Blackman, Mr Andrew Smith, Sir Andrew
Stunell, John Healey, Jeremy Lefroy, Mr Philip
Hollobone, Nicola Blackwood and Fiona
Mactaggart.*

*Ordered, by The House of Commons,
to be Printed, 2 July 2014.*

© Parliamentary copyright House of Commons 2014

*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright.*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited