

CROWN TENANCIES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Crown Tenancies Bill as introduced in the House of Commons on 4 July 2016 (Bill 32).

- These Explanatory Notes have been prepared by the Department for Communities and Local Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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Overview of the Bill

- 1 The Crown Tenancies Bill contains measures to bring most Crown tenancies granted after the Bill comes into force within the assured tenancy regime. Crown tenants are generally tenants of the Secretary of State or government departments.

Policy background

- 2 This is a Bill to bring most Crown tenants within the assured tenancy regime. Crown tenants are generally tenants of government departments. Crown tenancies granted by the Department for Transport in relation to properties compulsorily purchased for the purpose of constructing the High Speed Rail London–West Midlands Scheme will continue to be exempt from the assured tenancy regime. There is also an order making power (affirmative resolution procedure) to enable certain other Crown tenancies to be exempted from the assured tenancy regime.

Legal background

- 3 The Housing Act 1988 ('the 1988 Act') governs the provision of tenancies by private landlords. The 1988 Act applies to the vast majority of tenancies granted in England and Wales, with the exception of tenancies granted by local authorities. Section 19A of the 1988 Act provides that the default tenancy is the assured shorthold tenancy. This is now the most common tenancy in the private rented sector.
- 4 Part 1 of Schedule 1 to the Housing Act 1988 lists tenancies which cannot be assured tenancies. Crown tenancies are currently excluded from the assured tenancy regime by virtue of paragraph 11 of Part 1 of Schedule 1 to the 1988 Act. This means that, in terms of security of tenure, the only statutory protection Crown tenants have is that provided by the Protection from Eviction Act 1977 Part 1 (3) which requires that the landlord must give the tenant at least 28 days notice to end the tenancy and must obtain a court order to gain possession.

Territorial extent and application

- 5 The Bill extends and applies to England and Wales only.

Commentary on provisions of Bill

Clause 1: Crown tenancies may be assured tenancies, subject to exceptions

- 6 This clause allows most Crown tenancies to be assured tenancies under the Housing Act 1988. It does this by removing the general exemption that prevents most Crown tenancies being assured tenancies. It also provides that Crown tenancies in relation to properties compulsorily purchased for the purpose of constructing the High Speed Rail London–West Midlands Scheme continue to be exempt from the assured tenancy regime.

Clause 2: Assured tenancies: power to exempt certain Crown tenancies

- 7 This clause allows the Secretary of State to make regulations to add or remove types of Crown tenancy to the list of tenancies that are not part of the assured tenancy regime.
- 8 The clause also provides that the Secretary of State must consult the Welsh Ministers before making the regulations

Clause 3: Ground for possession in relation to certain Crown tenancies

- 9 This clause introduces two new mandatory grounds for possession relating to Crown tenancies. The first is that the Secretary of State has certified that possession of the property is needed for an operational reason in connection with Her Majesty's Armed Forces. The second is that the Welsh Ministers have certified that possession of the property is needed in connection with the exercise by them of functions under the Welsh Development Agency Act 1975 or the Highways Act 1980.

Clause 4: Rent Procedures: exceptions for Her Majesty forces

- 10 This clause amends the relevant provisions of the Housing Act 1988 relating to rent procedures for assured tenancies to prevent their application to Crown tenancies if the Secretary of State has for the time being certified that the interest of the landlord is held for purposes connected with the armed forces.
- 11 Subsection 2 ensures that the provisions in the Housing Act 1988 which relate to rent increases do not apply to such tenancies. Instead, the Ministry of Defence will continue to set rents annually following consideration of recommendations from the Independent Armed Forces Pay Review Body
- 12 Subsection 3 prevents tenants of such tenancies from referring their rent increases for assessment to the relevant tribunal. Instead, such tenants who wish to raise issues with their rent will continue to do so through the existing Ministry of Defence complaints and appeals arrangements.

Clause 5: Definition of Crown tenancies

- 13 This clause inserts a definition of "Crown tenancy" into the Housing Act 1988.

Clause 6: Extent

14 This clause provides that the provisions of the Bill extend to England and Wales only.

Clause 7: Commencement

15 This clause provides for commencement of the provisions of the Bill. Clauses 6, 7 and 8 come into force on the day on which the Act is passed. The other provisions come into force on a day appointed by the Secretary of State.

Clause 8: Short title

16 This clause sets out the short title for the Bill on receiving Royal Assent as the Crown Tenancies Act 2017.

Commencement

- 17 Clauses 6, 7 and 8 come into force on the day on which the Act is passed. The other provisions come into force on a day appointed by the Secretary of State.

Financial implications of the Bill

- 18 The Bill imposes no costs on any public sector organisation and is not expected to represent any significant change to public service manpower and there are no tax implications.

Compatibility with the European Convention on Human Rights

- 19 This is a Private Members' Bill and the Minister is not required to give a statement of compatibility with the Human Rights Act 1998 ("HRA 1998"), in accordance with section 19(1)(a) of that Act. Nevertheless, we have concluded that the Bill is compatible with the ECHR.

Related documents

- 20 The following documents are relevant to the [Bill/Act] and can be read at the stated locations:

- House of Commons Hansard Written Answers for 18 July 2013
<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130718/text/130718w0005.htm#1307198001078>
- Giving Crown Tenants Greater Protection - Consultation July 2015
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447260/consultation_crown_tenants.pdf

Annex A - Territorial extent and application

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| Provision | England | | Wales | | Scotland | | Northern Ireland | |
|-----------|--|--|--------------------------------------|----------------------|--------------------------------------|------------------------------|--------------------------------------|--|
| | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Legislative Consent Motion required? | Extends to Scotland? | Legislative Consent Motion required? | Extends to Northern Ireland? | Legislative Consent Motion required? | |
| Clause 1 | Yes | Yes | Yes | No | No | No | No | |
| Clause 2 | Yes | Yes | Yes | No | No | No | No | |
| Clause 3 | Yes | Yes | Yes | No | No | No | No | |
| Clause 4 | Yes | Yes | Yes | No | No | No | No | |
| Clause 5 | Yes | Yes | Yes | No | No | No | No | |
| Clause 6 | Yes | Yes | Yes | No | No | No | No | |
| Clause 7 | Yes | Yes | Yes | No | No | No | No | |
| Clause 8 | Yes | Yes | Yes | No | No | No | No | |

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Ordered by the House of Commons to be printed, 8 December 2016

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS

LONDON - THE STATIONERY OFFICE LIMITED

Printed In the United Kingdom by The Stationery Office Limited

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