RENTERS (REFORM) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Renters (Reform) Bill as introduced in the House of Commons on 8 November 2023 (Bill 4). A carryover motion and money resolution were passed in the House of Commons on 23 October.

- These Explanatory Notes have been prepared by the Department for Levelling Up, Housing and Communities in order to assist the reader and to help inform debate on the Bill. 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.

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Overview of the Bill

Policies in the Bill

1 The Renters (Reform) Bill (the Bill) will support the government's manifesto commitment to deliver 'a better deal for renters', including by abolishing section 21 evictions and reforming landlord possession grounds. The objective of the Bill is to ensure private renters have access to a secure and decent home and that landlords retain the confidence to repossess their properties where they have good reason to. To this end, the Bill will:

   a. abolish section 21 'no fault' evictions and move to a simpler tenancy structure where all assured tenancies are periodic – aiming to provide more security for tenants and empower them to challenge poor practice and unfair rent increases without fear of eviction;

   b. reform possession grounds so landlords can still recover their property (including where landlords wish to sell their property or move in close family) and aiming to make it easier for landlords to repossess their properties where tenants are at fault, in cases of anti-social behaviour and repeat rent arrears;

   c. introduce a new Ombudsman that private landlords must join. The Ombudsman is intended to provide fair, impartial, and binding resolution to many issues and to be quicker, cheaper, and less adversarial than the court system;

   d. introduce a new Property Portal including a database of residential landlords and privately rented properties in England. This is intended to help landlords understand their legal obligations and demonstrate compliance, provide better information to tenants enabling them to make informed decisions when entering into a tenancy agreement, and assist in targeting councils' enforcement activity where it is most needed;

   e. provide stronger protections against backdoor eviction by ensuring tenants are able to appeal above-market rents including those which are purely designed to force them out. Landlords will still be able to increase rents to market price for their properties; and

   f. give tenants the right to request a pet in their property, which the landlord must consider and cannot unreasonably refuse. The Bill will amend the Tenant Fees Act 2019 so that landlords can require pet insurance to cover any damage to their property.

Structure of the Bill

2 The Bill contains 5 parts and 4 schedules. It makes a number of changes to 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; and making provision for the right to request permission to keep a pet.

4 Part 2 makes provisions for the new Ombudsman and the Private Rented Property Portal.

5 Part 3 makes provisions for a lead enforcement authority to be established.

6 Part 4 contains a placeholder clause, to allow for further government amendments ahead of Report stage in the House of Commons. In the interests of transparency and to allow full examination of this Bill, the placeholder clause is included in the Commentary on provisions section of these

Explanatory Notes.

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

Policy background

Context

8 The private rented sector has doubled in size since 2002 and is now the second largest housing tenure. 4.6 million households rent from a private landlord, which is equivalent to 11 million people and 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 17% in social housing.

9 With this historic growth of the sector, both landlords and tenants have become increasingly diverse. The private rented sector still provides homes for young professionals and students seeking flexibility but, increasingly, families and older tenants are also looking to the sector for a stable and secure home.[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 The government set out detailed reform plans for the private rented sector in the white paper, 'A Fairer Private Rented Sector', which was published in June 2022. Proposals in the white paper were informed by consultations in 2018 and 2019 on tenancy reform; a 2018 consultation that explored the option of a single private rented sector housing ombudsman; and a digital discovery project, conducted by digital consultancy Zaizi, as part of the exploration of the potential benefits of a property portal. They also built on commitments made in the government's 'Levelling Up the United Kingdom' white paper from February 2022, which committed to halve the number of non-decent rented homes by 2030.

11 The private rented sector and Levelling Up white papers set out evidence on the case for change, including that:

a. Section 21 'no fault' evictions have led some 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. Further detail is set out in the private rented sector white paper.

b. The private rented sector has a higher proportion of properties that do not meet standards than other housing tenures. According to the 2022 English Housing Survey, 23% of privately rented properties do not meet the Decent Homes Standard (the government's main metric for decency). This is compared to 12% in the social rented sector. Likewise, hazards that present an imminent risk to health exist in 13% of properties – compared to 5% in the social rented sector. Private rented homes containing these hazards are estimated to cost the NHS £340 million annually (Health Equity in England: The Marmot Review 10

[1] DLUHC 2022 English Housing Survey Headline Report

[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.

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. This covers approximately 80 to 90 private landlords out of an estimated 2.3 million.[4]

12 The private rented sector white paper committed to address these challenges for both landlords and tenants through legislation, including abolishing section 21 'no fault' evictions and reforming landlord possession grounds. It also committed to:

a. require privately rented homes to meet the Decent Homes Standard, with the intention of giving tenants safer, better value homes and improving the appearance of homes in local areas;

b. make it illegal for landlords and agents to have blanket bans on renting to families with children or those in receipt of benefits – to encourage landlords to make decisions about who to rent to, based on individuals' circumstances; and

c. increase councils' investigative powers and introduce a new requirement for councils to report on enforcement activity – with the aim of helping councils and government better target criminal landlords.

13 The government is carefully considering how to implement these policies and intends to bring forward legislation at the earliest opportunity within this Parliament.

Detail of individual policies in the Bill

Abolishing section 21

14 The Bill abolishes section 21 'no fault' 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.

15 Purpose-Built Student Accommodation (PBSA) will be exempt from these changes as long as the provider is registered for government-approved codes, since these tenancies are not assured.

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

[4] This data is an estimate based on data directly provided to DLUHC by the Property Ombudsman and the Property Redress Scheme, as well: Housing Ombudsman Annual Report and Accounts 2020/21.

Lettings by PBSA landlords are governed by the Protection from Eviction Act 1977.

16 The Bill 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

17 The Bill reforms the grounds for possession with the intention of ensuring they are comprehensive, fair, and efficient. As far as possible, the grounds have been defined unambiguously, to seek to offer landlords certainty about whether the ground will be met if going to court. Grounds have also been made mandatory where it has been judged reasonable to do so. This means judges must grant possession if the landlord can prove that the ground has been met.

18 The Bill introduces a new ground for landlords who wish to sell their property and amends the ground for moving in to include close family members. These grounds will not be available to be used in the first 6 months of a new tenancy, mirroring the protection tenants currently receive.

19 The Bill also introduces a new mandatory ground for repeated serious rent arrears. Evictions will be mandatory where a tenant has been in at least two months' rent arrears three times within the previous three years, regardless of the arrears balance at hearing. This seeks to support landlords, while making sure that tenants with longstanding tenancies are not evicted due to one-off financial shocks that occur years apart.

20 The Bill increases the notice period for the existing rent arrears ground to four weeks and retains the mandatory ground in cases where a tenant has two months' arrears at both the time of serving notice and of the hearing. This is intended to ensure that tenants have reasonable opportunity to pay off arrears without losing their home.

21 The Bill also expands the discretionary eviction ground to clarify that any behaviour 'capable' of causing 'nuisance or annoyance' can lead to eviction. The government is also considering how to implement the proposal announced in the March 2023 Anti-Social Behaviour Action Plan to set out the principles that judges must consider when making their decision, such as giving weight to the impact on landlords, neighbours, and housemates, and whether the tenant has failed to engage with other interventions to manage their behaviour.

22 The Bill 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.

23 The Bill 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.

24 The Bill makes consequential changes to Part VII of the Housing Act 1996 to remove reference to section 21 notices, as section 21 is being abolished by this Bill, 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 remove the requirement for a local housing authority to accept a homelessness duty if they are served with a section 21 notice (since such a notice will no longer exist). The Bill also repeals, 'the reapplication duty', as we move to a new tenancy framework.

Rent increases

25 Landlords will be able to raise rents annually to market prices (replicating existing mechanisms) 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), - 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.

Renting with pets

26 The Bill 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. It also amends the Tenant Fees Act 2019 to include pet insurance as a permitted payment. This means landlords will be able to require pet insurance, with the intention of ensuring the costs of any damage to their property is covered.

Landlord redress schemes

27 The Bill 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.

28 The Bill 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.

29 The Bill legislates for a Private Rented Sector Database, which will support the new digital Property Portal service. Landlords will be required to sign up and register all properties they let out, and the Bill provides for local authorities to be able to take enforcement action against landlords who do not meet their obligations to register their properties. The Bill provides for an Operator of the database, who will be the Secretary of State, or an organisation appointed by the Secretary of State. The Bill 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.

Lead Enforcement Authority

30 The Bill 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 (which is defined in Clause 58). 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.

Structure of these notes

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

Effect

32 Details exactly what the clause is going to do.

Background

33 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".

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

Proposed use of power

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

Examples

36 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 Bill.

Legal background

37 A list of legislation referenced or amended by the Bill is as follows (alphabetised)

a. Housing Act 1988

b. Housing Act 1996

c. Housing Act 2004

d. Housing and Planning Act 2016

e. Local Government and Housing Act 1989

f. Protection from Eviction Act 1977

g. Tenant Fees Act 2019

38 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.

39 The Housing Act 1988 sets out the statutory framework for assured and assured shorthold tenancies, including introducing section 21 notices. Assured and assured shorthold tenancies are

the two main tenancy types in the private rented sector and for tenants of private registered providers of social housing.

40 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.

41 An assured shorthold tenancy is a type of assured tenancy. Most new tenancies in the private rented sector 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.

42 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.

43 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.

44 The Housing Act 2004 sought to modernise and improve standards and management of private rented sector properties, including by requiring Houses in Multiple Occupation 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, alongside the Housing Health and Safety Rating System.

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

46 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.

Territorial extent and application

47 Clause 66 sets out the territorial extent of clauses in the Bill, which is England and Wales. The extent of a Bill is the legal jurisdiction of which it forms part of the law; application refers to where it has practical effect. The application of the Bill is England and, in certain minor respects, Wales.

48 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. The matters to which the provisions of the Bill relate are in general either not within the legislative competence of the devolved legislatures, or do not engage the Legislative Consent Motion Convention. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Part 1: Tenancy reform

Chapter 1: Assured Tenancies

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

Effect

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

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

51 Subsections (3) to (7) limit the length of the period of an assured tenancy. Subsection (3) provides that 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 (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. Subsection (6) clarifies that the clause does not restrict landlords and tenants agreeing different terms, but any terms cannot contravene subsections (1) and (3).

Background

52 Tenancy agreements under the Housing Act 1988 can currently be either fixed-term or periodic in nature. In future, all assured tenancies must be 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.

53 The periods of a periodic tenancy can currently be any length. 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 impact as a fixed term – it is necessary to limit the length of these periods.

Clause 2: Abolition of assured shorthold tenancies

Effect

54 Clause 2 removes provisions of the 1988 Housing Act which establish assured shorthold tenancies, so that such tenancies cannot be created in future. This clause 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

55 The Housing Act 1988 introduced assured shorthold tenancies and section 21 'no fault' evictions. This clause 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 Bill or will be made using relevant powers.

Clause 3: Changes to grounds for possession

Effect

56 Clause 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.

57 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) 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, 5, 5A, 5B, 5C, 5D, 6, 6A, 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, 8A, 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.

58 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.

Background

59 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 wishes to amend these sections to provide balance between the interests of landlords and tenants. This includes extending the notice period for rent arrears from two weeks to four weeks and reducing the notice period for serious anti-social behaviour (ground 7A) so landlords are able to make a claim for possession immediately.

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

Clause 4: Form of notice of proceedings for possession

Effect

61 Clause 4 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

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

Background

63 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. Currently, any updates to forms need to be made by statutory instrument, rather than being published.

Clause 5: Statutory procedure for increases of rent

Effect

64 Clause 5 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).

65 Subsection (4) provides that the notice period for a rent increase will increase from one month to two months. 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 First-tier Tribunal (property chamber) ("the Tribunal") or if the landlord and the tenant agree on a different variation of rent. This variation must be lower than the rent proposed in the notice. The Tribunal process is set out in section 14 of the Housing Act 1988.

66 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 via a section 13 notice or if the landlord and tenant agree 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 agreed 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 the determination. This does not affect the ability of landlords to change other terms in the tenancy, including those reducing the rent.

67 Subsection (4C) inserts a new definition of a relevant low-cost tenancy to section 13 of the Housing Act 1988. This subsection 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. This includes tenancies within the Rent Standard as defined by section 69 of the Act. Tenancies offered by private registered providers of social housing that are excluded from the rent standard are not included in the definition of 'relevant low-cost tenancy'. (4C(b) and 4D) also allow for the Secretary of State to make regulations to specify a description of other assured tenancies that meet the definition of 'relevant low-cost tenancy'. This is subject to the negative procedure.

68 Subsection (8) omits section 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 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 determination of the Tribunal.

69 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.

Proposed use of power

70 The provision in subsection (7)(4C)(b) allows 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

71 This clause 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 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.

Clause 6: Challenging amount or increase of rent

Effect

72 Clause 6 amends section 14 of the Housing Act 1988. The section sets out the conditions by which a tenant can submit an application to the First-tier Tribunal (property chamber), to challenge the rent amount in the first six months of a tenancy (replicating the existing mechanisms in section 22 of the Housing Act 1988) or following a section 13 rent increase notice.

73 Subsections (A1), (A2) and (A3) insert provisions so that no application may be made to the Tribunal to challenge the 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. 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 not able to challenge the rent amount in the first 6 months of a tenancy.

74 Subsection (6) omits subsection 14(6) of the Housing Act 1988 which refers to the section 6 process of varying terms of a tenancy and is being repealed by the Bill. It also omits subsection 14(7) of the Housing Act 1988 which removes the provision for the Tribunal to determine when the new rent

will take effect. This is replaced by provision in 14ZB as set out below.

75 Subsection (9) 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 should follow where a tenant has challenged the rent in the first 6 months of the tenancy (14ZA) and where the tenant is challenging a rent increase as set out in section 13 of the 1988 Housing Act (14ZB).

76 Section 14ZA applies when the Tribunal makes a determination of rent when a tenant has challenged the rent amount in the first six months of the tenancy. This section provides that the rent determined by the Tribunal is the new rent payable for the tenancy and takes effect from the date the Tribunal directs. This must not, however, be earlier than the date of application to the Tribunal. The section also sets out that the new rent will be the t rent as determined by the Tribunal. Nothing in this section stops the landlord and tenant agreeing to a lower amount than the Tribunals determine but this should be agreed by the tenant and landlord in writing.

77 Section 14ZB applies when the Tribunal makes a determination of rent when the tenant is challenging a section 13 rent increase under section 14(A3). This section provides that the rent determined by the Tribunal is the new rent payable for the tenancy and takes effect from the beginning of the period specified in the section 13 notice. If it appears to the Tribunal that that would cause undue hardship to the tenant, the new rent will take effect from a date that the Tribunal directs. This must not, however, be later than the date of determination from the Tribunal. Where the landlord has served a section 13 notice, the tenant and landlord 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 13(4A)(c) the landlord and tenant can agree a lower rent than the Tribunal's determination (which may be higher than the original rent or rent increase) and this must be agreed in writing.

Background

78 Section 14 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 Tribunal may determine that this is higher than the proposed rent in the section 13 notice. Should the Tribunal determine a rent higher than what the landlord proposed via section 13, the landlord and tenant can agree in writing to a lower rent. . The ability to challenge a rent amount in the first six months of a tenancy replicates existing provisions in section 22 of the Housing Act 1988.

Clause 7: Right to request permission to keep a pet

Effect

79 Clause 7 adds three new sections, 16A, 16B and 16C, to the Housing Act 1988.

80 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 the number of days within which a landlord must respond to a written request from the tenant.

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

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

83 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.

84 Subsection 16B(5) permits the court to order specific performance of the obligation not to unreasonably refuse a pet if the landlord breaches the implied term.

85 Section 16C (Indemnity and insurance for pets) provides for when a landlord is allowed to require that insurance to cover damage by a pet is purchased. Either the tenant can purchase it, or the landlord can. Where the landlord has taken out the insurance, it provides that the landlord can recoup the reasonable costs of maintaining this insurance, including the premium for a policy that covers only pet damage and any excess fees, from the tenant.

86 Subsection 16C(2) inserts a provision to define 'pet' and 'pet damage' to section 45 (1) of the Housing Act 1988.

Background

87 This clause adds new provision 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 requests to keep a pet, whilst providing a route for landlords to refuse requests to keep a pet when they can give a reasonable justification for why it would not be suitable. Allowing landlords to require insurance to cover pet damage is also a new provision.

Clause 8: Pet insurance

Effect

88 Clause 8 amends section 1(4) of the Tenant Fees Act 2019 to allow landlords to require a tenant keeping a pet to enter into a contract with an insurance company to cover pet damage.

Background

89 Under section 1(3) of the Tenant Fees Act 2019, landlords cannot require tenants to enter into contracts with third parties in respect of their home unless an exemption in section 1(4) applies. The Bill amends section 1(4) to make insurance contracts obtained by the tenant at the landlord's request a further exemption. Currently, insurance costs are not a permitted payment under Schedule 1 of the Tenant Fees Act 2019 and we intend to make provision for such costs to be permitted payments in regulations under section 3(4) of the Act.

Clause 9: Duty to give statement of terms and other information

Effect

90 Clause 9 inserts section 16D (Duty to give statement of terms and other information) into the Housing Act 1988. This places a duty on landlords to provide the tenant with a written statement of terms and information on or before the first day of a tenancy to the tenant. Landlords must state in the written statement of terms where they may wish to use any of the 'prior notice' grounds which are 1B, 2ZA, 2ZB, 4, 5 to 5G, or 18. It also allows for the Secretary of State to make regulations to require which terms and information are required in writing at the start of a tenancy.

Proposed use of power

91 The provision in section 16D(2) will allow the Secretary of State to require other terms or information to be provided in writing as part of the written statement. This will enable Government to reflect future changes to regulation of the PRS consequent from the Bill and allow further consultation on the details of which terms are necessary. Regulations will be subject to the negative procedure.

Background

92 This is a new provision being added to the Housing Act 1988 to require landlords to provide a written tenancy agreement setting out basic information about the tenancy and both parties' responsibilities. The intention of this is for written agreements to help avoid and resolve disputes, and provide evidence if disputes go to court.

Clause 10: Other duties of landlords and former landlords

Effect

93 Clause 10 inserts section 16E (Other duties of landlords and former landlords) into the Housing Act 1988 to prohibit certain actions by a landlord or former landlord of an assured tenancy including misuse of possession grounds. This section does not apply to tenancies of social housing under which the landlord is a private registered provider of social housing.

94 Subsection (2) sets out that landlords are prohibited from purporting to let the property for a fixed term and from purporting to bring the assured tenancy to an end by service of a notice to quit. Landlords are also prohibited from serving a possession notice (or purported possession notice) on the tenant that: uses the incorrect form; specifies a ground that the landlord is not entitled to rely upon; specifies a ground in relation to which prior notice must be given, having failed to give prior notice; or that specifies an earliest date for the beginning of proceedings for possession that is earlier than six months after the start of the tenancy when using the occupation, selling, or redevelopment grounds.

95 Subsections (3) and (4) prohibit a landlord from reletting or remarketing a property within three months of obtaining possession on the ground for occupation or selling; and from authorising a letting agent to market the property within that period. Subsection (5) provides that this prohibition is only applicable if the tenant surrenders the property as a result of a notice without an order for possession being made.

96 Subsections (6) and (7) define 'marketing' for the purposes of subsections (3) and (4). A person markets a property where the property is advertised to let. Letting agents also market a property if they inform any other person that the property is or may be available to let.

97 Subsection (8) defines 'lettings agency work' for the purposes of this new section. Subsection (9) excludes certain activities from that definition (provided that the person doing them does nothing else within the definition of lettings agency work).

98 Subsections (10) and (11) give the Secretary of State power to exclude other activities from the definition of 'lettings agency work' for the purposes of this section via statutory instrument, which is subject to the negative procedure.

Proposed use of power

99 The power at subsection (9) allows the Secretary of State to specify things in the regulations which do not fall under the definition of "letting agency work". This is necessary to allow for government to have discretion to achieve a consistent definition of "letting agency work" across legislation should definitions change in other Acts or in Part 2 of this Bill.

Background

100 This is a new provision being added to the Housing Act 1988 which prohibits a number of actions by landlords or former landlords.

Clause 11: Landlords etc: financial penalties and offences

Effect

101 Clause 11 inserts new sections 16F, 16G, 16H and 16I into the Housing Act 1988 to set out the financial penalties and offences for the breach of the prohibitions in Clause 10 including those relating to the misuse of possession grounds and for not providing a written statement of terms as required by Clause 9.

102 Section 16F (Financial penalties) sets out that a local housing authority will be able to impose a financial penalty if satisfied beyond reasonable doubt that a landlord or former landlord has contravened provisions contained in clauses 9 or 10. Subsections (2) and (3) provide that only one financial penalty may be imposed for each contravention, except where the contravention continues for more than 28 days after a final notice is given or unsuccessfully appealed. The financial penalty imposed is to be determined by the enforcement authority imposing it but must not be more than £5,000 (subsection (4)). Subsection (5) provides for circumstances where a financial penalty cannot be imposed, including where a person has been convicted of an offence in respect of the conduct and where a financial penalty has been imposed under section 16H as an alternative to prosecution. Subsections (6) and (7) enable the Secretary of State to provide guidance on fines that local housing authorities must have regard to when they are undertaking enforcement activity under this section.

103 Section 16G (Offences) provides for the circumstances where a landlord or former landlord will be guilty of an offence and is liable for a fine of up to £30,000 or prosecution. This includes, under subsection (1), where they have served a notice seeking possession specifying a possession ground that they are not entitled to use, either knowingly or recklessly, and the tenant has surrendered the tenancy as a result without an order of possession. Subsection (2) provides that an offence will have been committed when a landlord has (in contravention of new section 16E(3) or (4)) relet or remarketed their property within three months of using the moving or selling grounds or has instructed a letting agent to do so. Subsection (3) creates an offence for continuing breach where a landlord or former landlord receives a financial penalty for prohibited conduct (a "relevant penalty") and continues the same conduct for more than 28 days thereafter. Under subsection (4), a landlord or former landlord is guilty of the repeat breaches offence if they conduct themselves in a manner giving rise to liability to a financial penalty under section 16F within 5 years of receiving a relevant penalty for different conduct, or within 5 years of being convicted of an offence under section 16G. Subsection (5) defines 'relevant penalty' for the purposes of subsections (3) and (4). Subsection (7) states that a person may not be convicted of an offence under subsections (1), (2) or (4) if a financial penalty has been imposed for the conduct in question. The penalty for conviction

under this clause is a fine (subsection (8)).

104 Section 16H (Financial penalties as an alternative to prosecution under section 16G) provides that a local housing authority can impose a financial penalty of up to £30,000 if they are satisfied beyond reasonable doubt that a person has committed an offence under section 16G. Subsection (2) provides that a financial penalty cannot be issued for the same conduct if the person has been convicted of a criminal offence under 16G, if criminal proceedings are ongoing, or if criminal proceedings have taken place and the person has not been found guilty. Subsection (3) provides that the financial penalty is to be determined by the authority imposing it and the maximum financial penalty is £30,000. Subsections (4) and (5) give the Secretary of State powers to issue guidance on fines that local housing authorities must have due regard to when they are undertaking enforcement activity under this section.

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

106 The powers under sections 16F and 16H allow the Secretary of State to issue guidance on the use of fines that local authorities must have due regard to. Guidance allows for flexibility of approach should councils' enforcement priorities change and aims to ensure effective enforcement.

107 The power under section 16I allows the Secretary of State to amend fine levels. This aims to ensure the fines continue to serve as a deterrent and reflects changes to the value of money.

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

Background

109 This is a new provision being added to the Housing Act 1988 to ensure appropriate financial penalties for prohibited behaviour under the new system. It is intended to deter non-compliance and help local authorities proportionately target enforcement activity against those landlords 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. 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 £5,000.

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 as a result. The landlord's brother had never intended to move in, and the property was advertised again immediately - an offence under section 16G(1) – at a higher

rent. If the local housing authority was satisfied beyond reasonable doubt that the landlord had done this, they would have the choice to impose a fine of up to £30,000 as an alternative to criminal prosecution.

Clause 12: Financial penalties: procedure, appeals and enforcement

Effect

110 Clause 12 inserts Schedule 2ZA (Financial penalties under section 16F and 16H) 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 16F or 16H within specific timeframes – within six months of collecting sufficient evidence or, if the person is continuing the conduct, 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.

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

112 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.

113 Paragraph 9 provides for a local housing authority to withdraw a notice of intent or final notice or reduce the fine amount. This must be communicated to the person in writing.

114 Paragraph 10 sets out the appeals process for a person who has been issued a final notice. They may appeal to the First-tier Tribunal within 28 days of the date of the final notice. The Tribunal can confirm, reduce, or cancel the fine – but not increase the fine. 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.

115 Paragraph 11 details the processes local housing authorities should follow to recover unpaid fines. Should a person fail to pay a fine, the local housing authority can recover it through 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.

116 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 relating to the private rented sector.

Background

117 This clause adds a new provision to the Housing Act 1988. It is intended to support local housing authorities with levying fines appropriately and ensuring there is a robust appeals process.

Clause 13: No criminal liability of the Crown under Part 1 of the 1988 Act

Effect

118 Clause 13, which amends section 44 of the Housing Act 1988, the new section 16G, which creates new criminal offences, does not bind the Crown. It is possible under new section 16H for a financial penalty of up to £30,000 in lieu of prosecution to be imposed on the Crown for conduct which would usually make a landlord guilty of an offence under 16G. This exemption from criminal liability does not extend to persons acting in service of the Crown.

Background

119 This clause adds new provision to the Housing Act 1988 to set out how provision in the Bill will apply to the Crown.

Clause 14: Notices to quit by tenants under assured tenancies: timing

Effect

120 Clause 14 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. A tenant's notice to quit relating to an assured tenancy must be given not less than two months before the date on which the notice is to take effect (i.e., the end of a period of the tenancy), unless the landlord and tenant have agreed a shorter notice period in writing.

121 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

122 The amount of notice that a tenant currently has to provide is set out in the tenancy agreement; if this is not specified, it is usually four weeks. This clause amends the Protection from Eviction Act 1977 to specify the amount of notice that a tenant in future needs to provide 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 is intended to provide sufficient notice to the landlord to relet the property as required. A shorter notice period is allowed, if both parties agree in writing – that agreement may be set out in the tenancy agreement or in a separate document. A landlord under an assured tenancy who wishes to obtain possession must give notice in accordance with the requirements of the Housing Act 1988.

Clause 15: Notices to quit by tenants under assured tenancies: other

Effect

123 Clause 15 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.

124 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.

Background

125 To end an assured periodic tenancy, tenants must give a notice to quit. Tenants can currently be required by the tenancy agreement to provide notice to quit in a particular way. This clause provides that such notice must be given in writing, but landlords cannot specify a particular form of written communication.

126 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 tenant. These measures do not affect the rights of both parties to agree together to the tenant surrendering the tenancy.

Clause 16: Limitation on obligation to pay removal expenses

Effect

127 Clause 16 amends section 11(1) of the Housing Act 1988 (payment of removal expenses) so that only private registered providers of social housing are required to pay removal expenses to tenants when the court awards possession under grounds 6 (redevelopment) or 9 (suitable alternative accommodation).

Background

128 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 grounds 6 or 9. When the Bill takes effect, all landlords will use assured tenancies, so this provision is necessary to ensure only private registered providers of social housing are required to pay removal expenses.

Clause 17: Assured agricultural occupancies: grounds for possession

Effect

129 Clause 17 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, and 5A to maintain security of tenure.

Background

130 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.

Clause 18: Accommodation for homeless people: duties of local authority

Effect

131 Clause 18 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.

132 Subsection (2)(b) repeals section 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.

133 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 as set out in Clause 18.

134 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.

135 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 6 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.

136 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 clause 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

137 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.

138 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 6 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 clause.

139 Subsections 2(b)-(d) make further minor amendments as this Bill abolishes section 21 'no fault' evictions, assured shorthold tenancies and fixed-term tenancies and references to them must be removed.

140 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.

141 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 2 year period and, on application for assistance, would be found to no longer have priority need. The Bill 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.

Clause 19: Tenancy deposit requirements

Effect

142 Clause 19 makes a number of amendments to Chapter 4 of Part 6 of the Housing Act 2004. Subsections (2) – (4) make consequential amendments to the Housing Act 2004. The effect of these is to continue the requirement for deposits to be protected to new assured tenancies and tenancies that were assured shorthold tenancies immediately before the extended application date.

143 Subsection (5) substitutes section 215. 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).

144 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:

    i. section 213(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.

    ii. Section 213(6)(a) 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(6)(b) for the provision of this information is not a barrier to obtaining possession).

145 New section 215(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.

146 New section 215(5) disapplies the requirements under subsections (1) – (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 (1) and has been determined, withdrawn or settled by the parties.

147 New section 215(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.

148 New section 215(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

149 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.

150 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.

Clause 20: Consequential amendments

Effect

151 Clause 20 sets out that Schedule 2 of this Bill contains amendments which are consequential to changes made by Chapter 1 of Part 1 of the Bill.

Background

152 This is a new provision.

Chapter 2: Tenancies that cannot be assured tenancies

Clause 21: Tenancies of more than seven years not to be assured tenancies

Effect

153 Subsection (1) amends Schedule 1 of the Housing Act 1988 to add fixed-term tenancies of more than seven years to the list of tenancies that are excluded from the assured tenancy system.

154 Subsection (2) 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.

155 Subsections (3) and (4) makes 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

156 This section excludes leases of 7 years or more from the assured tenancy system. This will allow leases over 7 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.

157 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.

Chapter 3: Penalties for unlawful eviction or harassment of occupier

Clause 22: Penalties for unlawful eviction or harassment of occupier

Effect

158 Clause 22 amends the Protection from Eviction Act 1977.

159 Subsection (2) inserts a new subsection in section 1 of the Protection from Eviction Act 1977 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.

160 Subsection (3) inserts a new section 1A (financial penalty for offence under section 1) in 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 £30,000.

161 New section 1A(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.

162 New section 1A(6) introduces Schedule A1 which makes provision about procedures, appeals, enforcement and proceeds of financial penalties. Schedule A1 is inserted in the Protection from Eviction Act 1977 by Clause 22(4).

163 New section 1A(7), (8) and (9) gives the Secretary of State powers to amend fine amounts via regulations (statutory instrument) to which the negative procedure applies.

Proposed use of power

164 The power in new section 1A allows the Secretary of State to issue guidance on the use of fines that local housing authorities must have due regard to and to ensure the value of fines keeps pace with inflation.

Background

165 This section adds new provision to the Protection from Eviction Act 1977 to enable local housing authorities to issue financial penalties of up to £30,000 for an offence under section 1 of that Act.

Part 2: Residential landlord

Chapter 1: meaning of “Residential Landlord”

Clause 23: Meaning of "residential landlord"

Effect

166 Clause 23 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.

167 Subsections (1) and (2) outline that, for the purpose of this Bill, 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.

168 Subsection (4) confers a 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"; to expand or restrict the scope of a "relevant tenancy"; and to expand or restrict the meaning of "dwelling" to other structures such as vessels or vehicles if they are occupied under a relevant tenancy.

169 Subsection (5) 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 as outlined in Clause 55.

170 Subsections (6) and (7) 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

171 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.

172 The intent is to lay these regulations as soon as possible following Royal Assent to provide the sector with the greatest amount of prior notice as to the scope of the landlord redress schemes and the private rented sector database ahead of roll-out and implementation. 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

173 This is a new provision.

Chapter 2: Landlord Redress Schemes

Clause 24: Landlord redress schemes

Effect

174 Subsection (1) gives the Secretary of State power, by regulations, to require residential landlords as defined in Clause 23 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.

175 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) defines a prospective 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 tenant.

176 To allow for eligible tenants to raise their complaints – as defined under subsection (2)(a) – subsection (4)(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 (4)(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 Clause 57. Subsection (4)(c) sets out that the length of time that former residential landlords must remain members of an approved scheme must be in regulations.

177 Subsection (5) makes clear that prior to making regulations requiring residential landlords as defined in Clause 23 to be members of an approved or designated redress scheme, the Secretary of State must make sure that such a scheme is operational and that residential landlords are eligible to join it. This is so the requirement to be a member would only be triggered by regulation once the relevant redress scheme was established.

178 Subsections (6) and (7) 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 Clause 23. 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 complaints that residential landlords may have against 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.

Proposed use of power

179 The government intends to approve or designate one redress scheme under Clause 24 (the PRS Landlord Ombudsman scheme) and lay regulations via an affirmative procedure in both Houses of Parliament to require prospective, current, and former residential landlords, as defined under Clause 23, to be members of the approved or designated redress scheme. The period in which former landlords are required to remain members of the scheme will be determined in regulations. The conditions of approval of a redress scheme will be set out in regulations made under Clause 25.

180 It is still to be determined if regulations made under this clause will require all intended prospective, current, and former private residential landlords to be members of the approved scheme at the same time, or whether there will be a staggered approach to enable a phased rollout of the redress provision as provided for by Clause 56.

Background

181 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, new homes, and for social housing residents.

Clause 25: Approval and designation of landlord redress schemes

Effect

182 Subsection (1) states that this clause applies when the Secretary of State is seeking to make regulations to require residential landlords to join a landlord redress scheme under Clause 24(1).

183 Subsection (2) requires the Secretary of State to make regulations setting out the conditions that an approved or designated scheme must meet. These conditions must include requiring the scheme to:

a. Subsection (2)(a): appoint an independent individual – approved by the Secretary of State – to be the principal executive in charge of investigating and determining complaints under a scheme. While the clauses make no explicit reference to an 'Ombudsman' or 'Head of Redress', the intent is that this subsection will provide for this or a similar post to be created by the scheme administrator and approved by the Secretary of State.

b. Subsection (2)(b): outline 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.

c. Subsection (2)(c) and (d): define the length of time a tenant will need to give their landlord to resolve their complaint in the first instance before they can escalate to the scheme, and the circumstances in which a scheme might reject a complaint.

d. Subsection (2)(e) and (f): make provision about co-operation with other redress schemes or enforcement bodies in handling tenants' complaints, including provision for joint investigations where appropriate, and for the sharing of information with the Secretary of State and other bodies to facilitate co-operation.

e. Subsection (2)(g) and (h): state if members need to pay a fee for the mandatory redress service and, if so, the amount payable. Where the scheme provides additional voluntary services, the fees charged in respect of these need to meet the full cost of administering them. The fee charged for the mandatory redress service can only be used to fund aspects of the scheme relating to complaints in relation to which there is a duty to be a member.

f. Subsection (2)(i): be able 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.

g. Subsection (2)(j), (k), (l) and (m): provides 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. The regulations allow for this to include expelling a member from a scheme, which will bar a landlord from joining any approved scheme unless they take the steps and meet the conditions set out in regulations to be able to re-join the scheme. The regulations must also specify the circumstances under which the scheme can expel a member, require the 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 Clause 26 if they continue to meet the criteria for mandatory membership under Clause 23.

h. Subsection (2)(n) and (o): makes provision for the transfer of scheme administration to another body, and the closure of an approved scheme. Subsections (4) and (5) allow 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.

184 Subsection (3) clarifies that regulations made under subsection (2) can impose conditions which require an approved or designated redress scheme to continuously meet certain conditions of approval while in operation.

185 Subsection (6) 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. This subsection also allows for a scheme to set fees by reference to the total administration costs of the compulsory aspects of the scheme and that the calculation of a fee is not limited to the costs referable to the member who pays it.

186 Subsection (7) provides that regulations made under Clause 25 may confer a discretion on the Secretary of State or require a scheme to do so. For example, the intention is to set a maximum limit on the level of compensation that may be awarded under a scheme of £25,000.

187 Subsection (8) defines terms for the purposes of distinguishing between compulsory and voluntary aspects of the scheme and between compulsory and voluntary membership.

Proposed use of power

188 Regulations under this clause 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 clause. The intent is for the Secretary of State to approve or designate only one Ombudsman for private landlord redress, for redress provision to be fully funded through proportional and fair landlord membership fees, and for the regulations to include provision for landlords to be expelled from an approved scheme. Expulsion will be a last resort following repeated or serious non-compliance with membership obligations.

Background

189 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.

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

Clause 26: Financial penalties for breach of regulations

Effect

191 Subsections (1)(a) and (2)(a) provide that a local housing authority may impose a financial penalty of up to £5,000 on a person if it is satisfied beyond reasonable doubt that the person has breached the requirement in Clause 24 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.

192 Subsections (1)(b) and (2)(b) provide that a local housing authority may impose a financial penalty of up to £30,000 on a person as an alternative to prosecution, if it is satisfied beyond reasonable doubt that an offence under Clause 27 has been committed.

193 Subsections (3) and (4) provide that more than one penalty may only be imposed for the same conduct – e.g., not signing up to a landlord redress scheme but continuing to meet the definition of "residential landlord" – if that conduct continues for a minimum of 28-days after a final notice is issued and no appeal is made, another financial penalty may be imposed. "Final notice" – as noted in subsection (5)(9)(b) – is defined in paragraph 6 of Schedule 3. 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.

194 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.

195 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.

196 Subsection (8) provides for the Secretary of State to change the maximum amounts of financial

penalties specified in this clause to account for inflation.

197 Subsection (9) clarifies that, for the purposes of Clauses 26 and 27, 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 3.

Background

198 This is a new provision. To ensure that the policy aims are achieved, it is necessary for enforcement action to be effective but proportionate. The imposition of financial penalties for first and subsequent breaches of the requirement for landlords to be members of a redress scheme reflect 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 £5,000. 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.

Clause 27: Offences relating to breach of regulations

Effect

199 Clause 27 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 Clause 26, may be imposed as an alternative to prosecution.

200 Under subsection (1) a person who has received a financial penalty under Clause 24 commits the offence if the conduct in respect of which the penalty was imposed continues for longer than the specified period thereafter.

201 Under subsection (2) a person who has received a financial penalty for breach of regulations under Clause 24 commits the offence if they commit a different breach within the next five years.

202 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 Clause 24 again within five years of the previous conviction, or within five years of receiving the financial penalty in lieu of prosecution.

203 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 3; an appeal has been withdrawn or abandoned; or a penalty was confirmed or amended on appeal.

204 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.

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

206 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 Clause 26, as well as prosecution.

207 Subsection (9) shows the addition of the continuing and repeat breaches offences to section 40 of the Housing and Planning Act 2016, meaning that a tenant or local housing authority may apply for a rent repayment order against the landlord under Chapter 4, Part 2 of the HPA 2016.

Background

208 This is a new provision. This clause provides for when a landlord has committed a breach of regulations or an offence for which financial penalties, as specified in Clause 26, 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 5 years and has not been appealed. As this is a repeat offence, the local authority issues the landlord with a penalty of up to £30,000.

Clause 28: Decision under a landlord redress scheme may be made enforceable as if it were a court order

Effect

209 If enacted, regulations under subsection (1) would 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 redress scheme, should the threat of expulsion by the scheme provided for under Clause 25 prove insufficient. Before introducing regulations under subsection (1), subsection (2) outlines that the Secretary of State must consult one or more bodies representing landlords and tenants, as well as having discretion to also consult other relevant people.

Proposed use of power

210 The regulations would be subject to the negative resolution procedure. The government will only introduce this measure if it is necessary to achieve the objectives of the legislation, where there is evidence that non-compliance is high and that the expulsion mechanism, provided for under Clause 25, proves to be ineffective at ensuring compliance in all situations. The government will also consult with at least one landlord and one tenant representative body, and any other persons or organisations the Secretary of State deems relevant, before using this power.

Background

211 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.

Clause 29: Guidance for scheme administrator and local housing authority

Effect

212 An approved redress scheme will 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.

213 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.

214 Subsection (1) allows for official guidance on how local authorities and any approved 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. We intend for local housing authorities to take into account the guidance and, by regulations under Clause 25, to require an approved scheme to also take into account this guidance, as outlined in subsections (2) and (3).

Background

215 This is a new provision.

Clause 30: Interpretation of Chapter 2

Effect

216 This provides essential definitions for words and phrases used in Chapter 2, namely for "landlord redress scheme" defined under Clause 24(2), "residential premises" defined under section 1(4) of the Housing Act 2004, and "residential landlord", "residential tenancy" and "residential tenant" defined under Clause 23.

Background

217 This is a new provision.

Clause 31: Housing activities under social rented sector scheme

Effect

218 This clause amends Schedule 2 of the Housing Act 1996. The effect of subsections (2) to (4) will be to prevent residential landlords from being members of a housing ombudsman scheme voluntarily and social providers who also let property in the private rented sector from being required to be members of a housing ombudsman scheme in respect of their private rented sector housing activities. Subsection (3) does provide some discretion by inserting provision into the Housing Act 1996 which would allow a housing ombudsman scheme to consider certain types or categories of complaint in relation to private rented sector activities at the discretion of the Secretary of State.

Background

219 The Housing Ombudsman Service is currently the only redress scheme in the social rented sector to which tenants of social housing providers can complain. It is provided for under section 51 of and Schedule 2 to the Housing Act 1996. Housing providers in the private rented sector can voluntarily join The Housing Ombudsman Service, and some social housing providers who also have properties in the private rented sector currently fall within the scheme's mandatory jurisdiction.

220 This is a new provision. To ensure that all private tenants have equal access to redress and that the new Ombudsman has oversight of the whole sector, this amendment to the Housing Act 1996 removes the jurisdiction of the Housing Ombudsman Service over private residential landlords and the private rented sector housing activities of social housing providers.

Chapter 3: The Private Rented Sector Database

Clause 32: The database

Effect

221 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 bill, or regulatory action such as improvement notices.

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

223 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 clauses 34 and 36.

Background

224 This is a new provision. This clause 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 Privately Rented Property Portal service.

225 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.

Clause 33: The database operator

Effect

226 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.

227 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.

228 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 and 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.

229 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.

230 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

231 The intended use of the powers under this clause 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.

232 The Government intends to lay regulations for this clause via the negative procedure.

Background

233 This is a new provision. This clause 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.

Clause 34: Making entries in the database

Effect

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

235 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 (e) 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. 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. 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 Clause 36.

236 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 Clause 43.

Proposed use of power

237 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, we expect this will include documents such as gas safety certificates and Electrical Installation Condition Reports.

238 The Government intends to lay regulations for this clause via the negative procedure.

Background

239 This is a new provision. The clause 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.

Clause 35: Requirement to keep active entries up-to-date

Effect

240 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.

241 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.

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

Proposed use of power

243 This clause explains that the Secretary of State will provide regulations that require active entries in the database to be kept up-to-date.

244 The Government intends to lay regulations for this clause via the negative procedure.

Background

245 This is a new provision. This clause 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.

Clause 36: Circumstances in which active entries become inactive and vice versa

Effect

246 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.

247 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.

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

Proposed use of power

249 This clause 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.

250 The Government intends to lay regulations for this clause via the negative procedure.

Background

251 This is a new provision. This clause 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 5 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.

Clause 37: Verification, correction and removal of entries

Effect

252 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.

253 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

254 The operating model for the database is designed around an assumption that certain processes can be automated. This means that some of the duties we expect 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.

255 The Government intends to lay regulations for this clause via the negative procedure.

Background

256 This is a new provision. This clause 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 an entry. This entry is invalid, as it does not meet the definition of 'dwelling' as set out in Clause 57. The local housing authority removes the entry, in line with regulations made under this clause. The active landlord entry is retained, as the residential landlord also lets out three other properties which meet the requirements under this chapter.

Clause 38: Fees for landlord and dwelling entries

Effect

257 Subsection (1) explains that this clause applies to regulations set under clauses 34 and 36 that require the payment of a fee for the creation or renewal of landlord and dwelling entries.

258 Subsection (2) states that the fee amount is either (a) to be specified in the regulations or (b) to be determined by the database operator, if provided for in the regulations.

259 Subsection (3) explains that the fee amount (a) may be calculated by reference to costs incurred, or likely to be incurred in (i) the establishment and operation of the database, such as the maintenance of technology and the provision of administrative support to users, (ii) the enforcement of requirements in respect of the database and (iii) other functions of the database operator under this chapter, like the provision of guidance to residential landlords, and can be used for costs unconnected to the fee-payer. Subsection (3)(b) allows that the fee charged for a database entry to become active again after becoming inactive under Clause 36(2)(a) 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.

260 Subsection (4) establishes that the fee is to be payable to the database operator by persons and in circumstances stipulated in the regulations.

261 Subsection (5) states that 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.

262 Subsection (6)(a) explains that subsection (5) does not apply if the Secretary of State is the database operator. Subsection (6)(b) authorises the Secretary of State to pass onto local housing authorities monies collected through fees.

Proposed use of power

263 The powers under this clause will be used to set fees.

264 The Government intends to lay regulations for this clause via the negative procedure.

Background

265 This is a new provision. The Government intends to charge a fee to landlords for registration on the database. This clause outlines the criteria which apply to setting the fee for registration. The fee is either to be specified through regulations or set by the database operator so that it can be amended to reflect the costs involved in operating the database and provide flexibility for the fee to account for other factors such as inflation.

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 Clause 38(3)(b).

Clause 39: Restrictions on marketing, advertising and letting dwellings

Effect

266 Subsection (1) sets out that anybody who is marketing a property as available for rent must not do so unless there are active, publicly viewable entries on the database, both (a) for the landlord or prospective landlord of that property, and (b) for the property that is being advertised. Clause 57 defines what is meant by 'marketing' and provides a definition of letting agents for the purposes of these restrictions. 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 Clause 41.

267 Subsection (3) establishes that all properties being privately let under the criteria set out in Clause 23 must be registered on the database. Paragraphs (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 all requirements.

268 Subsection (4)(a) gives the Secretary of State the power to pass 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. This may allow for the delegation by landlords, to managing agents, of certain aspects of registrations, such as supplying compliance information, and in these instances, the duty may be placed on the agent.

269 Subsection (5) makes clear that any breaches in relation to this clause 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

270 Subsection (4) sets out that the Secretary of State may provide regulations which (a) outline persons other than landlords who are allowed to complete parts of the registration process on the database and (b) absolves a landlord from the duty of registering for a certain period.

271 The Government intends to lay regulations for this clause via the affirmative procedure.

Background

272 This is a new provision. This clause 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. 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 Clause 40 (subsections 1 and 2) and could be subject to a penalty under Clause 47.

Clause 40: Entries in the database relating to banning orders, offences, financial penalties, etc.

Effect

273 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.

274 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.

275 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).

276 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.

277 Subsection (5) set outs that the duty in subsection (1) or 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.

278 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.

279 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.

280 Subsection (8) puts local housing authorities under a duty to include certain information in an entry made under this clause, 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 stipulate such other information which will be contained in an entry made under this clause.

281 Subsection (9) sets out what provisions may be prescribed by any regulations made under subsection (8), including 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.

282 Subsection (10) places local housing authorities under a duty to take reasonable steps to keep any entries made under this clause up-to-date.

283 Subsection (11) signposts to the regulation making power in Clause 43 which will enable entries under this clause to be made available to the public.

284 Subsection (12) defines a 'relevant banning order', in this chapter, as a banning order under Chapter 2 of Part 2 of the Housing and Planning Act 2016 ("the HPA") that was a) made on or after the date clause 40 comes into force, b) bans a person from letting housing (within the meaning of Part 2 of the HPA) in England and c) relates to an offence which was committed when the person was a residential landlord (as defined under clause 23), or when they were marketing a property as available for let in the private rented sector. Subsection (12) also defines a relevant banning order offence, in this chapter, as a banning order offence (as defined in Part 2 of the HPA) committed a) on or after the day on which clause 40 comes into force and b) at a time when the person who committed the offence was a residential landlord (as defined under Clause 23.

Proposed use of power

285 Subsection (4) sets out a power for the Secretary of State to make regulations which may place a duty on local housing authorities to make entries in relation to banning order offences instituted, or financial penalties imposed, by persons other than local authorities. Regulations made by the Secretary of State under subsection (4) will reinforce the power set out on the face of the Bill at clause 40(2) and may elucidate the means for local authorities to obtain information about banning order offences they do not enforce and the process for other persons to notify local housing authorities. The government intends to lay regulations for this power using the negative procedure.

286 Subsection (6) prescribes 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 enforcement, provided they relate to conduct which occurred when the person was a residential landlord. An expansion of the database to include a wider range of offences and regulatory enforcement action, beyond banning order and banning order offence information, would help achieve the database's objective of enhancing intelligence available to local authorities to improve standards and providing information to tenants to allow them to make informed rental decisions. The use of regulations to define these additional offences and enforcement actions will

allow the database to remain relevant, if new relevant offences are introduced or if the private rented sector changes. Any offence information made publicly available via regulation under clause 43(1)(a) would be subject to a rigorous assessment to determine its compatibility with landlords' privacy rights, most notably under Article 8 ECHR. The government intends to lay regulations for this power using the affirmative procedure.

287 Subsection (8)(c) prescribes that the Secretary of State may make regulations which determine what information must be included in an entry under clause 40. Subsection (9) describes that this may include information such as a person's address, dwellings they are the residential landlord of and the offence, financial penalty, or regulatory action the entry is in relation to. The government intends to lay regulations for this power using the negative procedure.

Background

288 This clause places local housing authorities under a duty to make an entry in the database in respect of a) a relevant banning order made by that authority, b) a relevant banning order offence following institution of criminal proceedings by that authority and 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 Housing and Planning Act 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. The clause also grants the Secretary of the 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 instituted 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 do not themselves enforce. There is also a correlating duty placed upon these other relevant authorities to provide local housing authorities with information requested. This clause also gives the Secretary of State the power to make regulations which would permit or require database entries in respect of additional offences or regulatory action, other than banning order offences.

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

Example: Banning order offence information

A local housing authority contacts a relevant agency which enforces banning order offences. The relevant agency complies with the duty it is under by providing 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 is has received from the other agency, including all the information required as set out by regulations.

Clause 41: Allocation of unique identifiers

Effect

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

291 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.

292 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

293 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.

Clause 42: Other duties

Effect

294 Subsection (1) places the following duties on the operator: they must (a) make available a non-digital method 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 Clause 39 and ensure these reports are accessible by 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.

295 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.

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

Background

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

Example: A tenant identifying a property is not registered on the database

A tenant living in the private rented sector hears about the Privately Rented Property Portal 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.

Clause 43: Access to the database

Effect

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

299 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.

300 Subsection (1)(c)(i) clarifies that regulations may be introduced that set out when an entry made under Clause 40 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 at the start of this period, the local authority is under a duty 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, before it is made public. Subsection (1)(c)(iii) indicates that regulations may also specify when such entries are to cease being publicly viewable. Subsection (d) states that regulations may specify the form in which information must be made available by the database operator.

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

302 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.

303 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

304 Regulations will be made to enable certain information contained in active entries, and in entries made under Clause 40, to be published online. 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 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 address and information relating to property standards.

305 The government intends to lay regulations for this clause via the negative procedure.

Background

306 This is a new provision. The clause 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.

Clause 44: Disclosure by database operator etc

Effect

307 Subsection (1) states that the database operator must not divulge private restricted information collected for the database unless in accordance with Clause 43 or if authorised by regulations under this clause.

308 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.

309 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.

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

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

312 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.

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

314 Subsection (8) clarifies that data protection legislation is defined within section (3) of the Data Protection Act 2018 and private information refers to any information in the database that is not made publicly available through (a) the regulations under Clause 43(1) and (b) relates to and identifies a specific person including a corporate body.

315 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

316 This clause 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.

317 The Government intends to lay regulations for this clause via the affirmative procedure.

Background

318 This is a new provision. This clause 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 clause is to provide 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.

Clause 45: Use of information from the database

Effect

319 Subsection (1) limits the use of the database by a lead enforcement authority to activities related to the functions given to them under this Part.

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

tenancies, within this Act and more generally.

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

425 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

426 This is a new provision.

Clause 46: Removal of entries from database

Effect

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

428 Subsection (2) explains that entries under Clause 40 must be removed from the database 10 years after being made.

429 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

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

Clause 47: Financial penalties

Effect

431 Subsection (1) provides that a local authority can impose a financial penalty for breach of a requirement imposed by Clause 39 (restrictions on marketing, advertising and letting dwellings) or committed an offence under section 48 and subsection (2) sets out the maximum fine amounts.

432 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 (b) if 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.

433 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.

434 Subsection (5) sets out that no financial penalty can be imposed in relation to an offence under Clause 48 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.

435 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.

436 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. Subsection (9) clarifies that, for the purposes of Clauses 47 and 48, 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 3.

Proposed use of power

437 To allow the Secretary of State to set out 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

438 This clause 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 Clause 39, or commit an offence related to the database, as set out in Clause 48.

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.

Clause 48: Offences

Effect

439 Subsection (1) states that it is an offence to knowingly or recklessly provide false or misleading information which, in a material respect, falsely indicates compliance with requirements imposed by regulations made under Chapter 3.

440 Under subsection (2) a person who has received a financial penalty for a breach of a requirement imposed by Clause 39(1), (2) or (3) (restrictions on marketing, advertising and letting dwellings), or in lieu of prosecution for any offence under this clause, commits an offence if the conduct in respect of which the penalty was imposed continues for longer than the specified period thereafter.

441 Under subsection (3) a person who has received a financial penalty for breach of a requirement imposed by Clause 39(1), (2) or (3) commits an offence if they commit a different breach within the next five years.

442 Subsection (4) provides that a person who has been previously convicted of an offence under this

clause, or received a financial penalty in lieu of prosecution, commits an offence if they breach a requirement imposed by Clause 39(1), (2) or (3) again within five years of the previous conviction, or within five years of receiving the financial penalty in lieu of prosecution.

443 Subsection (5) describes what is meant by a relevant penalty in subsections (2) to (4). A relevant penalty means a financial penalty where (a) no appeal has been made during the allowed period, (b) an appeal against the penalty was withdrawn or abandoned or (c) the final notice imposing the penalty has been confirmed or altered on appeal.

444 Subsection (6) provides that a person cannot be convicted of an offence under this clause if the conduct which resulted in the offence has already been penalised by way of a financial penalty, unless the conduct constitutes a continuing breach to which subsection (2) applies.

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

446 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.

447 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.

448 Subsection (10) shows the addition of the provision of false and misleading information and continuing and repeat breaches offences to section 40 of the Housing and Planning Act 2016 (HPA), meaning that a tenant or local housing authority may apply for a rent repayment order against the landlord under Chapter 4, Part 2 of the HPA 2016.

Background

449 This clause defines the offences of continuing and repeat breaches of requirements imposed by Clause 39(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 £30,000.

Clause 49: Power to direct database operator and local housing authorities

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

451 Subsection (2) sets out that regulations may require that directions given by the Secretary of State may only be exercised (a) after consulting with the Secretary of State or (b) with the consent of the Secretary of State.

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

Proposed use of power

453 A power to allow the Secretary of State to instruct the database operator and local housing authorities on how to carry out functions imposed on them by the Bill. As usual with such powers, it is not subject to any parliamentary procedure. Parliament has approved the principle of the provisions in the Bill by enacting them.

Background

454 This is a new provision. This clause states that the Secretary of State may give instructions to the database operator about how to carry out its functions, and instructions to local housing authorities about the manner in which they exercise their functions. The intent behind this clause is to allow the Secretary of State to provide direction to the database operator in how it oversees and runs the database, and to local housing authorities on investigation and enforcement.

Clause 50: Entries under section 40: minor and consequential amendments

Effect

455 This clause amends the Housing and Planning Act 2016.

456 Subsection (2) inserts a new subsection into section 28 of the HPA which signposts those referring to rogue landlords in the HPA to the new database to be established under the Renters (Reform) Act 2023.

457 Subsection (3) inserts a new subsection (3) into section 29 of the HPA 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 on to the Database of Rogue Landlords and Property Agents for: banning orders made before the Renters (Reform) Act 2023 comes into force; or b) banning orders made on or after the date the Renters (Reform) Act comes into force where the order does not ban a person from letting a house in England or where the order relates to an offence which was not committed by a residential landlord (as defined in Part 2 of the Renters (Reform) Act).

458 Subsection (4) inserts a new subsection (8) into section 30 of the HPA which defines a banning order offence for the purposes of section 30. The effect of this means that a local housing authority in England only has power to make an entry onto the Database of Rogue Landlords and Property Agents for: a) a banning order offence committed before the Renters (Reform) Act 2023 comes into force; or b) banning order offences committed on or after the day the Renters (Reform) Act comes into force if the offence was not committed by residential landlord (as defined in Part 2 of the Renters (Reform) Act).

Background

459 This clause sets out amendments made to the Housing and Planning Act 2016 (HPA), in relation to Clause 40. 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.

Clause 51: Interpretation of Chapter 3

Effect

460 The definition of database is established in Clause 32.

461 The definition of lead enforcement authority is drawn from Clause 60.

462 The definition of relevant banning order is drawn from Chapter 2 of Part 2 of the Housing and Planning Act 2016. A banning order must be made by the First-tier Tribunal and prohibits a person from letting housing in England, engaging in English letting agency work, engaging in English property management work or two or more of these activities. For the relevant banning order to apply to the database, the banning order must be made on the day or after the day this chapter comes into force.

463 The definition of relevant banning order offence is taken from Chapter 2 of Part 2 of the Housing and Planning Act 2016. A banning order offence refers to an offence outlined by regulations created by the Secretary of State for the Housing and Planning Act 2016. For the relevant banning order offence to apply to the database the banning order must be made on the day or after the day this chapter comes into force at a time when the person committing the banning order offence was a residential landlord.

464 The definition of unique identifier is described in Clause 41.

Background

465 This clause provides a definition of database, lead enforcement authority, relevant banning order, relevant banning order offence and the unique identifier for the purposes of chapter 3 and the Private Rented Sector Database.

Chapter 4 – Part 2: Supplementary Provision

Clause 52: Financial penalties under sections 26 and 47

Effect

466 This clause applies the procedure for imposing, appealing and recovering a financial penalty set out under Schedule 3 to financial penalties imposed under clauses 26 and 47.

Background

467 This is a new provision.

Clause 53: Financial assistance by Secretary of State

Effect

468 This enables the government to provide financial assistance in whatever form necessary to a person carrying out functions under or by virtue of the provisions of Part 2 of the Bill.

469 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.

470 This power might also be used to fund enforcement by local housing authorities, for example, in circumstances where sums recovered from financial penalties that have been imposed under Clauses 26 and 47 are insufficient to meet the costs of enforcement action required.

Background

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

Clause 54: Crown application

Effect

472 Clause 54 states that Part 2 and regulations made under it generally apply to the Crown. The Crown cannot be prosecuted for offences committed under clauses 27 or 48, but it is possible for a financial penalty of up to £30,000 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.

Background

473 This is a new provision.

Clause 55: Application to Parliament

Effect

474 Clause 23 defines "residential landlord" for the purposes of the private rented sector database and the landlord redress scheme clauses in Part 2. Subsections (4)(b) and (5) of Clause 23 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.

475 Paragraphs (a), (b) and (c) of this clause provides 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 Clauses 26 and 47.

Background

476 This is a new provision which 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).

Clause 56: Regulations

Effect

477 This clause clarifies that regulations made under Part 2 of the Bill 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 or licenses entered into, or advertising begun, before the date on which the regulations came into force.

478 It allows regulations to be made in a different way for different purposes or geographical areas to provide, for example, for staged implementation.

479 The clause provides that all regulations made under the following clauses are to be made by statutory instrument using the affirmative procedure: clauses 23, 24, 25, 39(4), 40(6), 43 and 44(2). All other regulations made under this Part are subject to the negative resolution procedure.

Background

480 This is a new provision.

Clause 57: Interpretation

Effect

481 Subsection (1) defines what a "dwelling", "local housing authority" and "residential landlord" are for the purposes of Part 2. "Residential landlord", "residential tenancy" and "dwelling" are defined in Clause 23 subsections (1) and (2).

482 Subsection (2) 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 Clause 23, 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.

483 Subsection (3) explains that subsection (2)(a) will not apply to a person who facilitates an advertisement regarding letting a residential property as part of that business if the business is not doing lettings agency work and the advert was supplied by another entity. 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.

484 Subsection (4) defines letting agency work. A person is conducting lettings agency work when they conduct activities in the course of business to (a) help a prospective landlord find another person to let a private residential property to; or (b) help a prospective residential tenant find a private residential property to rent, as instructed by those persons.

485 Subsection (5) provides examples of activities that should not be considered lettings agency work. If a person receives no instruction from another person to find a prospective tenant for a residential property or a residential property for a prospective tenant but they (a) share information or adverts about residential lets or (b) provide methods for tenants and landlords to establish communication regarding renting a residential property, they will not be considered as conducting lettings agency work.

486 Subsection (6) outlines further circumstances which should not be regarded as lettings agency work.

This subsection states that other activities, or things done by particular persons, will not be held to be conducting lettings agency work as outlined via statutory instrument.

Proposed use of power

487 This clause will be adapted to provide clarification of marketing a residential property and what letting agency work refers to. It contains the potential for certain activities or persons from being exempt from being considered to be conducting lettings agency work in the future if supplemented by secondary legislation.

Background

488 Clause 40 introduces a requirement for privately rented residential property and the landlord of that property to be registered on the database before the dwelling is marketed for let. Clause 24 provides that regulations may require a prospective landlord to become a member of a landlord redress scheme before a tenancy under them is marketed and prohibits such marketing if that is not yet the case. Clause 57 outlines the circumstances in which a person can be considered to be marketing a property with the intention of establishing a residential tenancy and provides a definition of letting agents.

489 Subsections (4), (5) and (6) of this clause outlining the definition of lettings agency work echo the legislation laid out in S83 (7), (8) and (9) of the Enterprise and Regulatory Reform Act 2013, which requires letting agents to be members of a redress scheme.

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: Enforcement Authorities

Clause 58: Enforcement by local housing authorities: general duty

Effect

490 Subsection (1) creates a duty on every local housing authority to enforce the landlord legislation in its area. “The landlord legislation” and “local housing authority” are defined under subsection (4). Subsection (5) sets out the types of activity that constitute enforcement action. Subsection (3) specifies the other provisions that this duty is subject to.

491 Subsection (2) provides that this duty does not prevent a local housing authority from taking enforcement action for breaches that occur outside its area.

492 Subsection (4) defines "the landlord legislation" as 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 and "local housing authority" as a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.

Background

493 This clause provides that enforcement of the prohibitions of the landlord legislation will be the duty of local housing authorities in England. This is a new provision.

Clause 59: Enforcement by local housing authorities: duty to notify

Effect

494 Subsection (1) creates a duty for a local housing authority that proposes to take enforcement action for a breach of 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. 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. 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. The duty is reinstated if a notification is received under subsection (2).

495 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. Subsections (4) and (6) specify when such notifications must be made.

Background

496 This clause 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.

Clause 60: Lead enforcement authority

Effect

497 Subsection (1) gives the Secretary of State the power to appoint a lead enforcement authority, or lead enforcement authorities, for the purposes of any relevant provisions of the landlord legislation. Only a relevant person may be appointed a lead enforcement authority. "The landlord legislation" is defined in Clause 58(4) and "relevant person" is defined in subsection (5).

498 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.

499 Subsections (5) and (6) define various terms used in the lead enforcement authority provisions including "relevant person" which is defined as a combined authority, the Greater London Authority, or a local housing authority.

Background

500 This clause gives the Secretary of State the power to appoint a lead enforcement authority, or lead enforcement authorities, for the purposes of any provisions of the landlord legislation, which is defined in section 58(4).

501 The approach is similar to that taken in existing estate and letting agent legislation. The Estate Agents Act 1979 (EAA) and the Tenant Fees Act 2019 (TFA) each provided the Secretary of State with a power to act as or appoint a lead enforcement authority for the purposes of the EAA and the relevant letting agency legislation (as defined in section 24 TFA) respectively. Powys Council was appointed the lead enforcement authority under the EAA (across the UK), and Bristol City Council was appointed the lead enforcement authority under the TFA (which applies to England only).

Clause 61: General duties and powers of lead enforcement authority

Effect

502 Subsection (1) gives a lead enforcement authority the duty to oversee the operation of the landlord provisions for which it is responsible.

503 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. 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.

504 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 of the landlord legislation for which it is responsible. Subsection (5) provides that local housing authorities must have regard to that guidance.

505 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. The lead enforcement authority's advisory remit does not extend to social housing.

506 Subsections (7) and (8) give the Secretary of State the power to direct a lead enforcement authority on how it uses its functions.

507 Subsection (9) defines "social housing" and "tenancies" for the purpose of this section.

Background

508 This clause sets out the duties and powers of a lead enforcement authority.

509 Over 300 local authorities will be responsible for enforcing the new measures in the Bill, requiring rapid familiarisation with the law. A lead enforcement authority's functions to issue guidance, information and advice to local housing authorities set out in this clause will help local authorities enforce the measures in a consistent way.

Clause 62: Enforcement by the lead enforcement authority

Effect

510 Subsection (1) 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.

511 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. 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. 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). 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.

512 Subsection (6) provides that a local housing 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

513 This clause gives a lead enforcement authority the power to enforce the provisions for which it is responsible, establishes in what circumstance 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.

514 Some local housing authorities may lack the capacity and capability to enforce these measures in particularly complex or high-profile cases. A lead enforcement authority provides an opportunity to create a centre of expertise on the relevant legislation and can act as a backstop for enforcement.

Part 4: Supported and Temporary Accommodation

Clause 63: Government policy on supported and temporary accommodation

Effect

515 The clause requires the Secretary of State to prepare a report setting out the government's policy on safety and quality standards in relation to supported housing and temporary accommodation. This report must set out how these standards will be developed, overseen and enforced, who is responsible for this, how information about local housing authorities' relevant functions should be shared by or with them, and how the Secretary of State proposes to implement this policy.

516 Subsection (3) requires that this report must be published and laid before Parliament within one year of the day on which this section comes into force.

517 Subsection (4) clarifies that the meaning of 'local housing authority' for the purposes of this clause is the same as in Part 2 of the Bill.

Background

518 Supported housing is accommodation that has been made available in conjunction with housing-related support to groups who require help to live independently or to move towards living independently in mainstream housing. Subject to receiving Royal Assent, the Supported Housing (Regulatory Oversight) Bill will introduce various measures that include giving local authorities powers to enforce against poor quality supported housing through a licensing scheme and introducing new National Supported Housing Standards.

519 Temporary accommodation is that provided in pursuance of a local authority homelessness function under Part 7 of the Housing Act 1996. Part 7 sets out several duties and powers for local housing authorities to secure the provision of accommodation temporarily for homeless applicants.

Part 5: General

Clause 64: Meaning of "the 1988 Act"

Effect

520 This clause is self-explanatory.

Clause 65: Power to make consequential provision

Effect

521 Clause 65 confers a regulation-making power for the Secretary of State to make consequential amendments which arise from this Bill. Any regulations that make consequential provision may amend, repeal or revoke an enactment. Regulations made using this power that amend or repeal primary legislation are subject to the affirmative procedure. Any other regulations made under this clause are subject to the negative procedure.

522 This power includes power to make 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

523 The power will allow the Secretary of State to make consequential amendments arising from the Bill, 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 altering primary legislation are subject to the affirmative procedure.

Example: References to section 21 in other legislation

After the Bill 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.

Clause 66: Extent

Effect

524 This clause details the territorial extent of the provisions in the Bill. See Territorial extent and application in Annex A of these explanatory notes for additional detail.

Clause 67: Commencement and application

Effect

525 Subsection (1) provides that Chapter 1 of Part 1 (Assured Tenancies), comes into force on such day as the Secretary of State may by regulations appoint. This is known as the commencement date.

526 Subsection (2) provides that Chapter 1 of Part 1 applies in relation to every assured tenancy entered into on or after the commencement date (subsection 2(a)). It also provides that from the extended application date Chapter 1 of Part 1 applies in relation to every assured tenancy (including those created as assured shorthold tenancies), that (i) was entered into before the commencement date and (ii) continues in effect on the extended application date.

527 Subsection (4) defines "the extended application date", it is a date appointed by the Secretary of State by regulations (subsection (4)(b)) except where an existing assured tenancy created before the commencement date (including those created as assured shorthold tenancies) is converted to a periodic tenancy between the commencement date and the date appointed by the Secretary of State, in which case it is the date on which the tenancy converts.

528 In practice this will mean that there is a two-stage transition to the new tenancy system. In the first stage all new tenancies will be governed by the new rules from the commencement date. In the second stage existing tenancies will transition to the new system on the date appointed by the Secretary of State or on the date they convert to a periodic tenancy if that is earlier.

529 Subsection (5) clarifies that a tenancy "converts to a periodic tenancy" when the tenancy becomes a periodic tenancy on the expiry of a fixed term.

530 Subsection (6) provides that, for the purposes of the relevant provisions, 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, and then became periodic on the expiry of the fixed term. This has implications for when certain timeframes set out in the Bill run from, including time periods inserted into section 14 of that Act by Clause 6 in respect of challenges to rent amounts and increases, the restrictions on letting after using certain possession grounds inserted into the Housing Act 1988 by Clause 10, 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 Clause 9. 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.

531 Subsection (8) states that Chapter 2 of Part 1, which outlines tenancies that cannot be assured tenancies, come into force two months after the Act is passed.

532 Subsection (9) provides that for the purposes of making regulations, Part 2 (residential landlords)

comes into force on the day the Act is passed. It also provides that section 60 (lead enforcement authority) and Part 5 (general) come into force on the day the Act is passed.

533 Subsection (10) provides that Chapter 3 of Part 1 (penalties for unlawful eviction or harassment), Part 2 (for purposes other than making regulations), sections 58 and 59 (relating to enforcement by local housing authorities), section 61 (general duties of lead enforcement authority), section 62 (enforcement by lead enforcement authority) and Part 4 (supported and temporary accommodation) all come into force on such day as the Secretary of State may by regulations appoint.

534 Subsection (11) provides that different days may be appointed under this section for different purposes and subsection (12) provides that regulations under this section are to be made by statutory instrument.

Background

535 This is a new provision which provides for how different parts of the Act will be commenced.

Clause 68: Transitional provision

Effect

536 Clause 68 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 Bill. This includes the power to make different provisions for different purposes, and power to provide for the Bill's provisions to apply to tenancies, licences or advertising which began before the clause came into force.

Clause 69: Short title

Effect

537 This clause is self-explanatory

Schedules

Schedule 1: Changes to grounds for possession

Introductory

538 Schedule 1 amends Schedule 2 of the Housing Act 1988, which sets out the grounds for possession in assured tenancies. These specify the reasons that landlords will be able to seek possession in the new tenancy system.

Amendments of Ground 1: occupation by landlord or family

Effect

539 Paragraph 2 amends ground 1 of Schedule 2 of the Housing Act 1988. Ground 1 cannot be used unless the tenancy has existed for at least 6 months at the date specified in the notice.

540 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:

i. themselves

j. their spouse, civil partner, or person with whom they live with as if they were married or in a civil partnership

k. their close family member i.e. their parent, grandparent, sibling, half-sibling, child, or grandchild

l. the child or grandchild of their spouse, civil partner, or person with whom they live with as if they were married or in a civil partnership

Background

541 Under the existing ground 1 of Schedule 2 to the Housing Act 1988, a court is required to award possession if the landlord requires the property to live in as their only or principal home.

542 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 provision is absent from the new ground 1.

543 Under the previous ground, landlords are required to have provided prior notice to the tenant that the ground may be used. This provision is also absent from the new ground 1.

New ground for sale of dwelling-house (1A)

Effect

544 Paragraph 3 inserts a new ground (1A) so that a court is required to award possession if the landlord intends to sell the dwelling-house. This ground cannot be used unless the tenancy has existed for at least 6 months at the date specified in the notice.

545 Sub-paragraph (b) specifies that ground 1A cannot be used to obtain possession when 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.

546 Sub-paragraph (c)(ii) provides an exception to the six-month restriction on use of the selling ground, following the start of a tenancy, where the property is covered by an operative compulsory purchase order (CPO) as defined by the Acquisition of Land Act 1981 and it is being transferred to the acquiring authority.

547 Sub-paragraph (d) specifies that this ground is not available to certain social landlords.

Background

548 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.

549 A compulsory purchase order (CPO) grants a public or other authority, which has the power to do so, authorisation to acquire land compulsorily (without the consent of the owner) in accordance with statutory procedures. A CPO becomes operative by issue of the notice of confirmation (in accordance with section 26 of the Acquisition of Land Act 1981). Acquiring authorities presently

have three years to exercise their compulsory purchase powers once a CPO has been confirmed, which can be extended in limited circumstances where there is a challenge to the validity of the CPO.

550 The exception to the six-month restriction where the property is being sold transferred under a CPO will ensure that landlords can respond quickly to a CPO, to 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 sale of dwelling-house (1B)

Effect

551 Paragraph 4 inserts a new ground (1B) so that a court must award possession when private registered providers of social housing are selling the property, under a Rent to Buy (or London Living Rent) arrangement.

552 Sub-paragraph (f) specifies that landlords may only use the ground where the defined period stated in the rent-to-buy agreement has expired.

553 Sub-paragraph (g) 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 at the end of this period and any procedures etc. required in the agreement about such an offer.

Background

554 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.

555 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, by providing them with a mechanism to gain possession to sell the property at the end of the scheme, in line with the terms of the agreement.

Amendments of Ground 2: sale by mortgagee

Effect

556 Paragraph 5 amends ground 2 of Schedule 2 of the Housing Act 1988.

557 Sub-paragraph (a) removes the requirement for the mortgage to have started prior to the beginning of the tenancy.

558 Sub-paragraph (b) removes the requirement for prior notice to have been provided to the tenant that the ground may be used.

Background

559 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

560 Paragraph 6 inserts a new ground so that a court is required to award possession when the landlord has a superior lease and that superior lease is coming to an end. 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 (this includes companies owned by more than one local authority, where the combined local authority ownership amounts to between 50% and 100%).

Background

561 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

562 Paragraph 7 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 (this includes companies owned by more than one local authority, where the combined local authority ownership amounts to between 50% and 100%).

Background

563 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. A ground is needed for a superior landlord to end those assured tenancies.

Repeal of Ground 3: holiday accommodation

Effect

564 Paragraph 8 removes ground 3 from Schedule 2 of the Housing Act 1988.

Background

565 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.

566 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.

567 Under Schedule 1 of the Housing Act 1988, a holiday letting is excluded from being assured tenancies and will remain excluded from being periodic tenancies. 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

568 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.

Background

569 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.

570 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 Clause 9 of this Bill 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

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.

Amendment of Ground 5: ministers of religion

Effect

571 Paragraph 10 amends the existing ground 5 so that the requirement for landlords to have given tenants prior notice before using the ground no longer applies.

Background

572 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.

573 Under the Housing Act 1988, the court will 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 Clause 9 of this Bill 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

574 Paragraph 11 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).

Background

575 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.

576 This new specialist ground will allow landlords to continue to let such properties to both agricultural workers, 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

577 Paragraph 12 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 the employment-related eligibility criteria.

578 The tenant subject to eviction cannot be a person who already fulfils the specified employment-related eligibility criteria.

Background

579 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 will 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 NHS workers.

Ground 16 to be renumbered as Ground 5C and to be a mandatory ground for possession

Effect

580 Paragraph 13 amends the existing ground 16 from the Housing Act 1988. A court will be required to award possession when the property was let to the tenant as a consequence of the tenant's employment, and either:

a. the tenant's employment has ended, or

b. 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.

581 The landlord must be the tenant's employer, or someone acting on behalf of the employer.

Background

582 This is an 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.

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

583 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

584 This is a new ground.

585 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 the 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.

586 The landlord does 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

587 Paragraph 14 inserts a 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 24. 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

588 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.

589 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 PRS 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

590 Paragraph 16 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 paragraph 24.

591 Sub-paragraph (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 as "move-on accommodation" 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. 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.

e. 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.

f. 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.

g. 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.

h. The property is physically unsuitable for the tenant due to their particular requirements for care, support or supervision.

592 Sub-paragraph 16(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.

593 Paragraph 24 establishes the definition of supported accommodation for the purposes of clarifying which landlords are eligible to use the grounds. 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 paragraph 24), procured through arrangements separate to the landlord (for example, support organised by the local authority).

Background

594 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 safe 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 as "move-on accommodation" 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(d)

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(f)

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(g)

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

595 Paragraph 17 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 which was granted for the purposes of allowing a local housing authority to deliver the main housing duty under section 193 of the Housing Act 1996.

596 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.

597 Subparagraph (b) places a 12-month limit on the period in which a landlord may serve a notice for possession using this ground. The 12-month window begins when the local authority informs the landlord they no longer require the tenancy.

Background

598 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.

599 This possession ground is only applicable to the main housing duty as defined under section 193 of the Housing Act 1996. It does not apply to other homelessness duties (which include 'interim' and 'relief').

> **Example: Temporary accommodation**
>
> The nature of temporary accommodation means that a local authority may need to end the tenancy for a range of reasons. The local authority may require the tenant to move from one accommodation to another before a permanent offer is made, or they may need to evict households that are made a suitable offer of settled accommodation but refuse the offer.

Amendments of Ground 6: redevelopment

Effect

600 Paragraph 18 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.

601 Subparagraph (3) inserts a new subparagraph (aa) which specifies that ground 6 cannot be used unless the tenancy has existed for at least 6 months at the date specified in the notice. An exception is made where the landlord was authorised to acquire the property by a compulsory purchase order (CPO) - meaning the land was included in a CPO which was confirmed and has been acquired by the relevant acquiring authority (i.e. the authority authorised to acquire the land by the CPO) - within the previous year. This includes cases where land was included in the CPO but was voluntarily sold to the acquiring authority.

602 Subparagraph (6) specifies that a relevant landlord is defined as the landlord seeking possession unless that landlord is a social landlord. If the landlord is a social landlord, the superior landlord must be undertaking substantial redevelopment. 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.

Background

603 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.

604 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 to allow compliance with enforcement action (6A)

Effect

605 Paragraph 19 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.

606 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 House of Multiple Occupation (HMO) requiring a licence under section 61 of the Housing Act 2004 or a house required to be licensed under section 85 of that Act.

e. 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

Background

607 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.

Amendments of Ground 7: death of tenant

Effect

608 Paragraph 20 amends the existing ground 7 of Schedule 2 of the Housing Act 1988. Sub-paragraph (a) gives the landlord 24 months rather than 12 to initiate proceedings. Sub-paragraph (b) removes the provision related to long leases, which will now be exempt from being assured tenancies.

Background

609 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). Establishing whether succession has taken place can take a significant amount of time. This change will give more time for landlords to use the ground.

610 Clause 21 of this Bill excludes tenancies of more than seven years from the assured tenancy regime, so the provision within ground 7 is no longer required.

Amendments of Ground 8: rent arrears

Effect

611 Paragraph 21 amends ground 8 of Schedule 2 of the Housing Act 1988 so that if a tenant's arrears are only because a Universal Credit payment that they are entitled to has not yet been paid, they cannot be evicted.

Background

612 Ground 8 of Schedule 2 of the Housing Act 1988 requires a court to award possession if a tenant owes over 2 months' rent at the time the landlord initiates possession proceedings and at the time of the court hearing. This change will protect benefit claimants who have met the mandatory ground only in 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 no savings loses their job and applies for Universal Credit (UC) the next day. 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 5 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 5 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.

New ground for possession for repeated rent arrears (8A)

Effect

613 Paragraph 22 inserts a new ground for repeated serious rent arrears. A court is required to award possession if, over a period of three years:

a. where rent is payable monthly, at least two months' rent was unpaid for at least a day on three separate occasions.

b. where rent is payable for a period shorter than a month, at least eight weeks' rent was unpaid for at least a day on at least three separate occasions.

614 The second unnumbered paragraph specifies that the ground will not be met if the arrears are only because a benefit payment that the tenant is entitled to has not yet been paid, as with the change to ground 8.

Background

615 Tenants could previously avoid eviction by paying a nominal amount under the arrears threshold for ground 8. The repeated arrears ground will allow landlords to evict when tenants are frequently in arrears.

> Example: Repeat rent arrears
>
> A tenant falls two months behind on rent and the landlord initiates proceedings under Ground 8. The tenant pays off their arrears so they owe £1 less than two months' rent on the day of their court hearing. As such, possession is not granted. A few months later the tenant misses another rent payment, taking them over the 2 months' arrears limit. The next year, the tenant misses two rent payments and the landlord initiates proceedings for eviction. Possession is granted by the court. Landlords will not be required to have served notice or begin possession proceedings using ground 8 on each of the three occasions to use the ground (although they may have), as long as the tenant has breached the relevant arrears threshold three times within three years.

Amendments of ground 14: anti-social behaviour

Effect

616 Paragraph 23 widens ground 14 of Schedule 2 of the Housing Act 1988 to include behaviours "capable of causing" nuisance or annoyance.

Background

617 Landlords previously had to demonstrate that behaviour was "likely to cause" a nuisance or annoyance. This is being widened to include "capable of causing" so that a wider range of behaviours can be considered by the court. The ground is discretionary, so judges must consider whether eviction is a reasonable and proportionate response to the behaviour in question.

Part 5: Interpretation

Effect

618 Paragraph 24 inserts a new Part 5 into Schedule 2 of the Housing Act 1988. The meanings of "compulsory purchase order" (CPO), "HMO" and "housing association" are to be defined with reference to existing legislation. It also defines the following terms: "managed accommodation", "support services" and "supported accommodation".

Background

619 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 6-month restriction on use of grounds 1A and 6 at the start of a

tenancy may be determined by whether a "CPO" is in place.

b. the use of ground 6A 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).

620 A definition for "housing association is required because the definition of "supported accommodation" in the Bill refers to "housing association". A "housing association" is included on the list of specified landlords that may provide "supported accommodation".

621 The definitions of "CPO", "HMO" and "housing association" are taken from the Acquisition of Land Act 1981, the Housing Act 2004 and the Housing Associations Act 1985, respectively.

Part 6: power to amend grounds 2ZA, 2ZB, 5C and 6A and definition

Effect

622 Paragraph 24 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 2ZB

b. To restrict the use of ground 5C to where the landlord or employer seeking possession is of a specified description

c. To provide for the use of ground 6A in respect of other enforcement action etc

d. To amend the definition of "supported accommodation" or "managed accommodation" as established in paragraph 12 of Part 5.

Proposed use of power

623 2ZA and 2ZB: 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.

624 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.

625 6A: 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.

626 Definitions (Supported and Managed Accommodation): The power will be used to amend the definition of supported accommodation which is relevant to grounds 2ZA, 2ZB, 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.

Background

627 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 2ZB 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.

628 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.

629 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.

630 Ground 6A 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.

631 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.

632 Ground 18 provides that providers of supported accommodation (as defined in Part 5 of Schedule 2 of the Bill), 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 Part 1

Housing Act 1988

Effect

633 Schedule 2 makes consequential amendments to the Housing Act 1988 and Housing Act 1996 to reflect the abolition of fixed term tenancies and the introduction of new grounds for possession.

634 Paragraph 2 amends section 1A of the Housing Act 1988 to address long leases in Wales, which currently are still attached to the framework set out by the 1988 Act (other Welsh leases having been

removed by the Renting Homes (Wales) Act 2016).

635 Paragraph 3 amends section 5 of the Housing Act 1988, which details how tenancies can be ended. References to section 21 no fault evictions, demotion orders and fixed term tenancies are removed, and detail on how fixed term tenancies and statutory periodic tenancies can be ended is removed.

636 Paragraph 4 removes section 6 of the Housing Act 1988 entirely, as this section refers to statutory periodic tenancies which are abolished.

637 Paragraph 5 amends section 9 of the Housing Act 1988 by removing a reference to section 21 preventing a court exercising discretion in possession proceedings as section 21 is repealed.

638 Paragraph 6 amends section 10A of the Housing Act 1988 by removing a reference to fixed term tenancies.

639 Paragraph 7 amends section 24 of the Housing Act 1988 by removing a reference to assured shorthold tenancies which are abolished.

Background

640 As this Bill abolishes section 21 'no fault' evictions, assured shorthold tenancies, fixed term tenancies and demoted tenancies, references to them must be removed.

Housing Act 1996

Effect

641 Paragraph 9 amends section 175 of the Housing Act 1996 to make changes to the way local housing authorities assess the point at which a person is threatened with homelessness.

642 The repeal of subsection 175(5) of the Housing Act 1996 will remove the provision that provides for a person to be considered as threatened with homelessness if they have been served with a valid notice under section 21 of the Housing Act 1988 for their current home that expires in 56 days or less and they have no other accommodation available.

643 A local housing authority will assess whether someone is threatened with homelessness under section 175(4) of the Housing Act 1996, which states that a person is threatened with homelessness if it is likely they will become homeless within 56 days.

644 Paragraph 10 removes the requirement for local housing authorities to consider if an applicant is owed the reapplication duty. The reapplication duty, if owed, ensures that interim accommodation is available for the applicant's occupation regardless of whether the applicant has a priority need. The local housing authority will instead assess the applicant's current circumstances to decide if they have priority need and are therefore owed the interim accommodation duty under section 188.

645 Paragraph 11 amends section 193A(4) of the Housing Act 1996 to remove the requirement that an offer must be of an assured shorthold tenancy for a period of at least 6 months and replaces it with a requirement that an offer must be of an assured tenancy. This is in relation to section 193A, Part 7 of the Housing Act 1996 which describes the requirements that must be met if a local housing authority is to end the relief duty because an applicant has refused a final accommodation offer or

a final part 6 offer at the relief stage and where the section 193 (main housing duty) would not apply.

646 Paragraph 12 amends section 195(6) of the Housing Act 1996 by removing the provision that a local housing authority cannot bring the prevention duty to an end (even if the 56 days have passed) where both a valid section 21 notice has been served that will expire in 56 days or has already expired and the applicant remains in the property with no other accommodation available.

647 Paragraph 13 amends section 209(2) of the Housing Act 1996 by removing the provision that allows a landlord to notify a tenant that they have an assured shorthold tenancy where a local housing authority has made arrangements with the landlord to discharge an interim duty. A landlord can only notify the tenant that the tenancy provided is an assured tenancy.

648 Paragraph 14 removes the definition of an assured shorthold tenancy from the table in section 218 of the Housing Act 1996 which shows provisions defining or otherwise explaining expressions used in Part 7 of the Housing Act 1996.

Background

649 This schedule makes consequential amendments to Part 7 of the Housing Act 1996 to remove or replace references to assured shorthold tenancies, fixed-term tenancies and section 21 notices, which provisions within this Bill are set to abolish. The schedule also makes consequential amendments to Part 7 of the Housing Act 1996 following the repeal of the reapplication duty as set out in section 193 of the Housing Act 1996. Part 7 of the Housing Act 1996 sets out the duties owed by a local housing authority to someone who is homeless or threatened with homelessness.

Renting Homes (Wales) Act 2016

Effect

650 Paragraph 15 makes saving provision in respect of certain tenancies in Wales which were once assured tenancies, so that changes that the Bill makes to the Schedule 2 Housing Act 1988 grounds for possession do not also apply to them.

Background

651 Since the coming into force of provision made by the Renting Homes (Wales) Act 2016, there have been no assured tenancies in Wales (see section 239 Renting of the Homes (Wales) Act 2016). By virtue of provision made in that Act, the landlord may still claim possession of certain 'converted contracts' in Wales which used to be assured tenancies under grounds set out in the Housing Act 1988 which this Bill amends. Absent this saving provision, changes the Bill makes in respect of assured tenancies would therefore also impact those Welsh tenancies. This provision avoids that outcome.

Schedule 3: Financial penalties

Notice of intent

652 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 clauses 26 or 47 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

653 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.

Final notice

654 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

655 Paragraph 9 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.

Appeals

656 Paragraph 10 sets out the appeals process for a person who has been issued with a final notice. They may appeal to the First-tier Tribunal within 28 days of being given the final notice. The Tribunal can confirm, reduce, or cancel the fine, but cannot increase the fine. 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

657 Paragraph 11 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.

Proceeds of financial penalties

658 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 relating to the private rented sector.

Background

659 This schedule sets out the process for a local housing authority to impose a financial penalty on a person and applies to clauses 26 and 47. 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 4: Application of Chapter 1 Part 1 to existing tenancies: transitional provision

Background

660 This schedule provides for how the provisions in Chapter 1 of Part 1(Assured Tenancies) apply in relation to existing tenancies.

Section 1: start of deemed rent period for existing tenancies

Effect

661 Paragraph 1 provides for how section 4A of the 1988 Act (inserted by Clause 1), which deals with rent periods, should be read for existing tenancies.

662 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 extended application date as applicable.

663 This section also provides that in subsection (5) "R" is the last period of the tenancy before the new provisions apply.

Section 2: application in relation to a deemed continuing tenancy

Effect

664 Paragraph 2 states that the amendments made by Chapter 1 of Part 1 do not apply to a deemed continuing tenancy until immediately after it is converted to a periodic tenancy.

Section 2: tenancy remains an assured shorthold tenancy until disposal of section 21 notice given prior to application date

Effect

665 Paragraph 3 provides that where a valid section 21 notice has been issued before the extended application date, the tenancy will remain an assured shorthold tenancy and the section 21 notice will remain valid until proceedings in reliance on the notice become time-barred or conclude. Until then, the amendments made by Chapter 1 of Part 1 do not apply in relation to the tenancy. This section defines "time-barred" as prohibited by section 21(4D) or (4E) of the 1988 Act.

Section 3(2)(c): saving of section 7(7) in relation to tenancies where fixed term ends before application date

Effect

666 Paragraph 4 provides that section 7(7) of the Housing Act 1988 continues to apply after the extended application date, despite it being omitted by section 3(2)(c) 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 extended application date.

Section 5: no effect on rent increases before application date

Effect

667 Paragraph 5 provides that the amendments made by section 5 do not affect the validity of any rent increase for an existing tenancy before the extended application date which was binding for the tenant and under which the rent for a particular period of the tenancy would or might be more than the rent for an earlier period.

Sections 9 and 11: provision of information in writing

Effect

668 Paragraph 6 provides for how provision of information in writing is to be treated for existing tenancies (agreements entered into before the extended application date). If an existing tenancy is wholly or partly in writing, landlords will not have to issue an updated statement of terms. Instead, landlords must provide their tenants with information in writing regarding the changes made by this Act as is required by regulations made by the Secretary of State under subparagraph (2).

669 Where an existing tenancy agreement is wholly oral, the obligation to provide a written statement of terms will apply from the extended application date.

Proposed use of power

670 The power allows the Secretary of State to specify what information in writing landlords must give to tenants on existing tenancies. It is the government's intention that this power is likely to be used to provide a standard information sheet. This power is subject to the negative procedure.

Section 11: no liability in respect of conduct before application date

Effect

671 Paragraph 7 means that any conduct engaged in before the extended application date will not result in a financial penalty under sections 16F or 16H of the 1988 Act (inserted by section 11) and will not count as an offence under section 16G.

Section 14: no effect on notice to quit given before application date

Effect

672 Paragraph 8 provides that the amendment made by Clause 14 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 extended application date.

Section 19: tenancy deposits

Effect

673 Paragraph 9 states the amendments made by Clause 19 do not apply to existing assured tenancies that were not assured shorthold tenancies immediately before the extended application date.

Interpretation

674 Paragraph 10 defines the terms used in the Schedule.

Commencement

675 The Bill will come into force on such day or days as the Secretary of State may appoint by regulations, except for the following provisions. Chapter 2 of Part 1 (Tenancies that cannot be assured tenancies) comes into force two months after the Act is passed. Part 2 (for the purposes of making regulations), section 60, and Part 5 come into force on the day on which the Act is passed.

Financial implications of the Bill

676 The Department has undertaken an Impact Assessment of the economic impacts of the measures in the Bill on those affected by the reforms, including landlords, letting agents and tenants. This has been published on the Parliament website..

Parliamentary approval for financial costs or for charges imposed

677 A money resolution is required for the Bill. Such a resolution is required where the Bill authorises new charges on the public revenue - broadly speaking, new expenditure. A money resolution is needed for this Bill partly because of the functions of the Secretary of State under Part 2 of the Bill, which will involve government expenditure. The Secretary of State may be the administrator of a landlord redress scheme or the operator of a private rented sector database. The Secretary of State may also make payments to others under Clause 11 (new section 16I) and Clause 53 of the Bill. Another reason why a money resolution is needed is because of the enforcement functions which are conferred in relation to civil penalties and offences under the Bill. These functions are conferred on local housing authorities and will be taken into account by the Secretary of State in determining the amount of revenue support grant paid to them under Part 5 of the Local Government Finance Act 1988.

678 A ways and means resolution is also required for the Bill. A ways and means resolution is required where a bill authorises new charges on the people – broadly speaking, new taxation or other similar charges. The Bill requires a ways and means resolution as the fees payable under landlord redress schemes and in relation to the private rented sector property portal can exceed the costs of services provided to the person paying the fee(s), as a result of clause 25(6)(e) and 38(3).

679 The Bill also requires any excess funds received from civil penalties that are not used by local authorities to be paid to the Secretary of State, who will pay them into the Consolidated Fund (paragraph 13 of the new Schedule 2ZA in Clause 12, paragraph 13 of the new Schedule A1 in Clause 22 and paragraph 13 of Schedule 3 to the Bill). Any penalties received by the Secretary of State as lead enforcement authority will also be paid into the Consolidated Fund. There is also the possibility of fees under Part 2 of the Bill being paid into the Consolidated Fund because of Clause 38 (5). The ways and means resolution for the Bill will therefore also need to authorise the making of these

payments into the Consolidated Fund.

Compatibility with the European Convention on Human Rights

680 The Secretary of State for Levelling Up, Housing and Communities, Michael Gove, has made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with the Convention rights.

Compatibility with the Environment Act 2021

681 The Secretary of State for Levelling Up, Housing and Communities, Michael Gove, is of the view that the Renters (Reform) Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

682 The following documents are relevant to the Bill and can be read at the stated locations:

a. A fairer private rented sector White Paper

b. A new deal for renting: government response

c. Overcoming the barriers to longer tenancies in the private rented sector: government responses

d. Strengthening consumer redress in the housing market: summary of responses and government's response

e. The Levelling Up, Housing and Communities Select Committee report on reforming the private rented sector

f. Government response to the Levelling Up, Housing and Communities Select Committee report on reforming the private rented sector

g. Consequential changes to the homelessness legislation: government response to consultation

Annex A - Subject matter and legislative competence of devolved legislatures

683 The main subject matter of this Bill is the law of housing, which is an area of devolved legislative competence in Scotland, Wales and Northern Ireland.

684 The majority of the Bill's provisions apply only to England. This is usually because they concern dwellings or tenancies in England. Saving provision is made in respect of Wales by two provisions within Schedule 2. No legislative consent motion is required for these, or any other provisions, within the Bill.

Territorial extent and application in the United Kingdom

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 process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
1 (Tenancy Reform)							
Clause 1	Yes	No	No	No	No	No	No
Clause 2	Yes	No	No	No	No	No	No
Clause 3	Yes	No	No	No	No	No	No
Schedule 1	Yes	No	No	No	No	No	No
Clause 4	Yes	No	No	No	No	No	No
Clause 5	Yes	No	No	No	No	No	No
Clause 6	Yes	No	No	No	No	No	No
Clause 7	Yes	No	No	No	No	No	No
Clause 8	Yes	No	No	No	No	No	No
Clause 9	Yes	No	No	No	No	No	No
Clause 10	Yes	No	No	No	No	No	No
Clause 11	Yes	No	No	No	No	No	No
Clause 12	Yes	No	No	No	No	No	No
Clause 13	Yes	No	No	No	No	No	No
Clause 14	Yes	No	No	No	No	No	No
Clause 15	Yes	No	No	No	No	No	No
Clause 16	Yes	No	No	No	No	No	No
Clause 17	Yes	No	No	No	No	No	No
Clause 18	Yes	No	No	No	No	No	No
Clause 19	Yes	No	No	No	No	No	No
Clause 20	Yes	No	No	No	No	No	No
Clause 21	Yes	No	No	No	No	No	No

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 process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Schedule 2	Yes	In Part	No	No	No	No	No
Clause 22	Yes	No	No	No	No	No	No
2 (Residential Landlords)							
Clause 23	Yes	No	No	No	No	No	No
Clause 24	Yes	No	No	No	No	No	No
Clause 25	Yes	No	No	No	No	No	No
Clause 26	Yes	No	No	No	No	No	No
Clause 27	Yes	No	No	No	No	No	No
Clause 28	Yes	No	No	No	No	No	No
Clause 29	Yes	No	No	No	No	No	No
Clause 30	Yes	No	No	No	No	No	No
Clause 31	Yes	No	No	No	No	No	No
Clause 32	Yes	No	No	No	No	No	No
Clause 33	Yes	No	No	No	No	No	No
Clause 34	Yes	No	No	No	No	No	No
Clause 35	Yes	No	No	No	No	No	No
Clause 36	Yes	No	No	No	No	No	No
Clause 37	Yes	No	No	No	No	No	No
Clause 38	Yes	No	No	No	No	No	No
Clause 39	Yes	No	No	No	No	No	No
Clause 40	Yes	No	No	No	No	No	No
Clause 41	Yes	No	No	No	No	No	No
Clause 42	Yes	No	No	No	No	No	No

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 process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 43	Yes	No	No	No	No	No	No
Clause 44	Yes	No	No	No	No	No	No
Clause 45	Yes	No	No	No	No	No	No
Clause 46	Yes	No	No	No	No	No	No
Clause 47	Yes	No	No	No	No	No	No
Clause 48	Yes	No	No	No	No	No	No
Clause 49	Yes	No	No	No	No	No	No
Clause 50	Yes	No	No	No	No	No	No
Clause 51	Yes	No	No	No	No	No	No
Clause 52	Yes	No	No	No	No	No	No
Clause 53	Yes	No	No	No	No	No	No
Schedule 3	Yes	No	No	No	No	No	No
Clause 54	Yes	No	No	No	No	No	No
Clause 55	Yes	No	No	No	No	No	No
Clause 56	Yes	No	No	No	No	No	No
Clause 57	Yes	No	No	No	No	No	No
Part 3 (Lead Enforcement Authority)							
Clause 58	Yes	No	No	No	No	No	No
Clause 59	Yes	No	No	No	No	No	No
Clause 60	Yes	No	No	No	No	No	No
Clause 61	Yes	No	No	No	No	No	No
Clause 62	Yes	No	No	No	No	No	No

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 process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Part 4 (Supported and temporary accommodation)							
Clause 63	Yes	No	No	No	No	No	No
Part 5 (General)							
Clause 64	Yes	No	No	No	No	No	No
Clause 65	Yes	Yes	No	No	No	No	No
Clause 66	Yes	Yes	No	No	No	No	No
Clause 67	Yes	Yes	No	No	No	No	No
Clause 68	Yes	Yes	No	No	No	No	No
Schedule 4	Yes	No	No	No	No	No	No
Clause 69	Yes	Yes	No	No	No	No	No

Annex B: Grounds for possession

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 6 months of a new tenancy.	2 months
1A	Sale of dwelling-house	The landlord wishes to sell the property. Cannot be used for the first 6 months of a new tenancy.	2 months
1B	Sale of dwelling-house under rent-to-buy	The landlord is a private registered provider of social housing and the tenancy is under a rent-to-buy agreement.	2 months
2	Sale by mortgagee	The property is subject to a mortgage and the lender exercises a power of sale requiring vacant possession.	2 months
2ZA	Possession when superior lease ends	The landlord's lease is under a superior tenancy that is ending. Can only be used by private registered providers of social housing or agricultural landlords.	2 months
2ZB	Possession by superior landlord	After a superior 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 or agricultural landlord.	2 months
4	Student accommodation	In the 12 months prior to the start of the tenancy, the property was used to house students. Can only be used by specified exempted educational establishments.	2 weeks
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 someone who will be employed by them as an agricultural worker.	2 months
5B	Occupation by person who meets employment requirements	A social landlord holds the property for use by tenants meeting requirements connected with their employment and it is required for that purpose.	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 by a new employee	2 months
5D	End of employment requirements	A social landlord must have granted the tenancy because of the tenant's employment	2 months

		eligibility (e.g., key workers) and they no longer meet those criteria.	
5E	Occupation as supported accommodation	The property is held for use as supported accommodation and is required for that purpose.	4 weeks
5F	Dwelling-house occupied as supported accommodation	The tenancy is for supported accommodation and either the support has ended, or it is no longer safe or viable to continue to provide the accommodation or support service.	4 weeks
5G	Tenancy granted for homelessness duty	The tenancy was granted to support a local authority's housing duty under the Housing Act 1996 but is no longer required.	4 weeks
6	Redevelopment	The landlord wishes to demolish or substantially redevelop the property which cannot be done with the tenant in situ.	2 months
6A	Compliance with enforcement action	The landlord is subject to enforcement action and needs to regain possession to become compliant.	2 months
7	Death of tenant	The tenancy was passed on by will or intestacy. Possession proceedings must begin no later than 24 months after death.	2 months
7A	Severe ASB/Criminal Behaviour	The tenant has been convicted of a specified criminal offence or has breached a relevant order put in place to prevent anti-social behaviour.	Landlords can begin proceedings immediately
7B	No right to rent	At least one of the tenants (but not all) has no right to rent under immigration law.	2 weeks
8	Rent arrears	The tenant has at least 2 months' rent arrears both at the time notice is served and at the time of the possession hearing.	4 weeks
8A	Repeated rent arrears	The tenant has been in at least 2 months' rent arrears at least three times within the last three years.	4 weeks
Discretionary Grounds			
9	Suitable alternative accommodation	Suitable alternative accommodation is available for the tenant.	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.	2 weeks
13	Deterioration of property	The tenant 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 capable of causing, nuisance or annoyance to the landlord or anyone living in, visiting or in the locality of the property, or 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.	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.	2 weeks
15	Deterioration of furniture	The tenant has caused the condition of the furniture to deteriorate.	2 weeks
17	False statement	The tenancy was granted due to a false statement.	2 weeks
18	Supported accommodation	The tenancy is for supported accommodation and the tenant is refusing to engage with the support.	4 weeks

RENTERS (REFORM) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Renters (Reform) Bill as introduced in the House of Commons on 8 November 2023 (Bill 4).

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